

**Date: 20070730**

**Docket: T-795-06**

**Citation: 2007 FC 795**

**Ottawa, Ontario, July 30, 2007**

**PRESENT: The Honourable Madam Justice Simpson**

**BETWEEN:**

**THE MINISTER OF CITIZENSHIP AND IMMIGRATION**

**Applicant**

**and**

**GHOLAMREZA BEHBAHANI**

**Respondent**

**REASONS FOR JUDGMENT AND JUDGMENT**

[1] On March 10, 2006, a Citizenship Judge (the Judge) approved the Respondent's application for citizenship (the Decision). The Minister of Citizenship and Immigration (the Minister) has appealed the Decision under subsection 14(5) of the *Citizenship Act*, R.S. 1985, c. C-29 (the Act) on the basis that the Judge failed to provide the Minister with reasons for the Decision.

[2] The requirement for such reasons is found in subsection 14(2) of the Act. It states:

14. (2) Forthwith after making a determination under subsection (1) in respect of an application referred to therein but subject to section 15, the citizenship judge shall approve or not approve the application in accordance with his

14. (2) Aussitôt après avoir statué sur la demande visée au paragraphe (1), le juge de la citoyenneté, sous réserve de l'article 15, approuve ou rejette la demande selon qu'il conclut ou non à la conformité de celle-ci et

determination, notify the Minister accordingly and provide the Minister with the reasons therefor.

[my emphasis]

transmet sa décision motivée au ministre.

[je souligne]

[3] The Decision is attached as Schedule “A” to these reasons. It does not explain why the Respondent was given citizenship even though he did not meet the statutory residency requirement (he was twenty-two days short) and even though, after repeated requests, he did not provide Citizenship and Immigration with his expired passports.

[4] In the circumstances of this case, reasons should have, *inter alia*, described any documents the Respondent brought to the hearing and their impact on the Decision and should have indicated the residency test the Judge used and explained why he decided that the residency requirements in section 5 of the Act had been met.

[5] In my view, because the box provided for reasons on Schedule “A” is blank and because there are no other statements or endorsements which explain the Judge’s thought process, the Judge failed to discharge his duty under subsection 14(2). While Schedule “A” meets the notice requirement, it does not satisfy the requirement to provide reasons.

**JUDGMENT**

**UPON** reviewing the material filed and hearing the submissions of counsel for both parties in Vancouver, BC on April 10, 2007;

**AND UPON** being advised that the Judge is still a Citizenship Judge.

**THIS COURT ORDERS AND ADJUDGES** that, for the reasons above, the appeal is allowed and the file is referred back to the Judge who made the Decision. He is hereby ordered to provide the Minister with written reasons for the Decision, in accordance with these reasons within ninety (90) days of this order.

“Sandra J. Simpson”

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JUDGE

Immigration and Citizenship Canada / Immigration Canada  
**SCHEDULE "A"**  
**AVIS AU MINISTRE DE LA DÉCISION DU JUGE DE LA CITOYENNETÉ**  
**Article 5**

**OFFICE TO THE MINISTER OF THE CITIZENSHIP JUDGE**  
**Section 5**

File no. - N° de dossier  
 2769935  
 SPMIS - N° de client  
 55973001  
 Application  
 23 June 2006  
 C.I.B. / C.C.B.A.  
 15 April 2006  
 R.C.A.P. / R.C.C.  
 03 May 2006  
 Expiry date - Date de l'expiration  
 10 March 2006  
 Citizenship no. - N° de citoyenneté  
 AD159791  
 Type of delay - Type de retard  
 1402  
 Total minutes - Minutes totales  
 287  
 Original minutes - Minutes originales  
 1073

**PART I**  
**PARTIE I**

Judge - Juge Shinder Punwall	
Applicant's name - Nom de famille <b>BERGAMANI</b>	Given name(s) - Prénom(s) <b>GHOLAMREZA</b>
Date of birth - Date de naissance <b>07 February 1948</b>	File number - Le dossier complet # of pages - N° de pages (Date of receipt) - (Date de réception)
Citizenship BMS 1000 or FRC NO. N° de MBI 1000 ou de la CRI? : <b>W320536001</b> Date issued - Date de délivrance : <b>30 August 1998</b> Date of original entry - Date d'entrée initiale : _____ Date of final - Date de départ : <b>03 September 2004</b>	Other Data Fields - Autres données : _____ Comments - Commentaires : _____

<input checked="" type="checkbox"/> Yes / Oui	<input type="checkbox"/> No / Non	complied with paragraph 5(1)(a) (application) a été soumis en vertu de l'article 5(1) a) (demande)
<input checked="" type="checkbox"/> Yes / Oui	<input type="checkbox"/> No / Non	complied with paragraph 5(1)(a) (app.) aux dispositions de l'article 5(1) a) (app.)
<input type="checkbox"/> Yes / Oui	<input type="checkbox"/> No / Non	complied with paragraph 5(1)(c) (residence) aux dispositions de l'article 5(1) c) (résidence)
<input checked="" type="checkbox"/> Yes / Oui	<input type="checkbox"/> No / Non	complied with paragraph 5(1)(d) (language) aux dispositions de l'article 5(1) d) (langue)
<input checked="" type="checkbox"/> Yes / Oui	<input type="checkbox"/> No / Non	complied with paragraph 5(1)(e) (knowledge) aux dispositions de l'article 5(1) e) (connaissances)
<input type="checkbox"/> Yes / Oui	<input type="checkbox"/> No / Non	under a removal order sous le coup d'une mesure de renvoi
<input type="checkbox"/> Yes / Oui	<input type="checkbox"/> No / Non	the subject of a declaration by the Governor in Council under Section 23. objet d'une déclaration du gouverneur en conseil selon l'article 23
<input type="checkbox"/> Yes / Oui	<input type="checkbox"/> No / Non	subject to a prohibition under Section 22. visé par une interdiction selon l'article 22

**ATTESTATION**

The statements made herein are true and correct and I confirm that I have not been subject to immigration or criminal proceedings since I filed my application for citizenship.

Applicant's signature - Signature du demandeur

Subscribed before me at - Attesté devant moi à : **Vancouver**

Place - Lieu

Date : **10/10/2006**

Signature of Judge - Signature du juge : **[Signature]**

**ASSERMENTATION**

Les déclarations faites dans le présent sont exactes et conformes à la vérité et je confirme que, depuis ma demande de citoyenneté, je n'ai pas été sujet de procédures criminelles ou d'immigration.

Appointement

Subscribed before me at - Attesté devant moi à : **Vancouver**

Place - Lieu

Date : **10/10/2006**

Signature of Judge - Signature du juge : **[Signature]**

Date of decision rendered - Date de la décision rendue D J M Y A	Date of decision rendered - Date de la décision rendue D J M Y A	Signature of judge - Signature du juge
Reasons - Motifs		

**DECISION / DÉCISION :** The application for Canadian citizenship / La demande de citoyenneté canadienne

It is granted / Elle est accordée  
 It is not granted / Elle n'est pas accordée

Signature of Citizenship Official - Signature de l'agent responsable de la citoyenneté : **[Signature]**  
 Date : **10/10/2006**

**PART II**  
**PARTIE II**

**CITIZENSHIP OFFICIAL'S DECISION**  
**DÉCISION D'UN(E) RESPONSABLE DE LA CITOYENNETÉ**

Decision seen / Décision vue	Citizenship granted / Attribuer de la citoyenneté	<input type="checkbox"/> 5(1)	<input type="checkbox"/> 3(4)	Date : <b>10/10/2006</b>
Signature of Citizenship Official - Signature de l'agent responsable de la citoyenneté				

Canada

**FEDERAL COURT**  
**SOLICITORS OF RECORD**

**DOCKET:** T-795-06  
**STYLE OF CAUSE:** MCI v. Gholamreza Behbahani  
**PLACE OF HEARING:** Vancouver, BC  
**DATE OF HEARING:** April 10, 2007  
**REASONS FOR JUDGMENT:** SIMPSON J.  
**DATED:** July 30, 2007

**APPEARANCES:**

Ms. Liliane Bantourakis FOR THE APPLICANT  
Mr. Lorne Waldman FOR THE RESPONDENT

**SOLICITORS OF RECORD:**

Mr. John H. Sims, Q.C. FOR THE APPLICANT  
Mr. Lorne Waldman FOR THE RESPONDENT