Federal Court  Cour fédérale

Date: 20090727

Docket: IMM-4338-08

Citation: 2009 FC 749

Ottawa, Ontario, July 27, 2009

PRESENT: The Honourable Frederick E. Gibson

BETWEEN:

Y. Z.

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

REASONS FOR ORDER AND ORDER

Introduction

[1] These reasons follow the hearing of an Application for Judicial Review of a decision of a Pre-Removal Risk Assessment Officer (the "Officer") whereby the Officer concluded:

> Based on the totality of evidence, I find the applicant devoid of any credibility. It is my finding that the applicant's story is a fabrication concocted for providing a basis for [his or her] refugee claim and an attempt to circumvent Canada's refugee determination system. For the same reasons that I find the applicant not credible for my

> negative finding I also find that the applicant does not face more than a mere possibility of persecution in [the applicant's state of nationality] nor is [he or she] more likely than not to face a danger of torture, or a risk to life, or a risk of cruel and unusual treatment or punishment.
> ...
>
> After careful review of all the evidence, this application for protection under sections 96 and 97 of the *Immigration and Refugee Protection Act* is rejected.
>
> [heading omitted; portions in brackets modified]

The decision under review is dated the 22nd of April, 2008, and was communicated to the Applicant on the 1st of October, 2008.

Preliminary Matter

[2] At the close of the hearing of this Application for Judicial Review, the Court and counsel for the Applicant engaged in a discussion of whether it would be appropriate and in the best interests of justice to delete from these reasons and the Court's order flowing from these reasons all personal identifiers with respect to the Applicant, and all identifiers of his or her state of nationality (hereinafter the Applicant's "home state"), formally a component of the Soviet Union, given the role that the Applicant alleges that he or she played as a member of the Soviet Union, and later Russian, military between 1980 and 1996, and the impact that that role had, and may again have, if he or she is required to leave Canada and his or her "story" turns out to be true and not the "fabrication" that the Officer determined it to be.

[3] Counsel for the Applicant urged that these reasons and order be "sanitized". The basis of his concern on behalf of the Applicant will become apparent from a review of later paragraphs of

these reasons. Counsel for the Respondent, after consultation with his client, advised the Court that the Respondent does not oppose suppression of the Applicant's identity in the published reasons and order.

[4] In *Sierra Club of Canada v. Canada (Minister of Finance)*[1] Justice Iacobucci, for the Supreme Court of Canada, wrote at paragraph 53 of his reasons:

> Applying the rights and interests engaged in this case to the analytical framework in *Dagenais* and subsequent cases discussed above, the test for whether a confidentiality order ought to be granted in a case such as this one should be framed as follows:
>
> A confidentiality order under Rule 151 should only be granted when:
>
> a) such an order is necessary in order to prevent a serious risk to an important interest, including a commercial interest, in the context of litigation because reasonably alternative measures will not prevent the risk; and
>
> b) the salutary effects of the confidentiality order, including the effects on the right of civil litigants to a fair trial outweigh its deleterious effects, including the effects on the right to free expression, which in this context includes the public interest in open and accessible court proceedings.

[5] Applying the foregoing test to the facts or allegations in this matter, particularly in light of the position taken by counsel for the Respondent, I am satisfied that the salutary effects of modifying these reasons to delete personal identifiers and identifiers of the Applicant's home state outweigh its deleterious effects, including the public interest in open and accessible Court proceedings. In the result, without formal motion before the Court, the Applicant is identified in the

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1 [2002] 2 S.C.R. 522.

style of cause of these reasons and in the related order simply as “Y. Z.”, the identity of his or her home state has been suppressed and other consequential changes have been made throughout the reasons.

[6] Masculine pronouns will be used throughout the balance of these reasons. That use is for convenience and readability only, and is not intended to reflect the gender of the Applicant.

Background

[7] The Applicant alleges that he was born and apparently raised in one of the Republics that comprised the Union of Soviet Socialist Republics. He is 47 years of age, having been born in early 1962. He alleges that, in 1980, he joined the military forces of the former Soviet Union and trained and served as a military security officer, first in the Soviet Union military, and later in the Russian military, until his medical discharge in 1996. He alleges that, at the time of his discharge, he was bound to the Russian military not to move beyond the geographical limits of the former Soviet Union for a period of 10 years.

[8] Upon his discharge, the Applicant alleges that he returned to his home and to his wife in his home state where he became known to the Security Service of that state. He alleges that he was repeatedly summoned for questioning by that Service, given his background in the Soviet and later Russian military. He also alleges that, as an entrepreneur in his home state, he was targeted for violent extortion by members of the criminal underworld. He alleges fear of the same threats to his safety and well being if he is required to return to his home state.

[9] The Applicant obtained a visitor's visa to come to Canada and arrived in Canada on the 12th of September, 1998. His visitor's visa was valid to the 13th of March, 1999. He overstayed and, at that point if not earlier, found himself in breach of his obligation to the Russian military not to move beyond the geographical limits of the former Soviet Union. By reason of this, he alleges a fear at the hands of Russian authorities.

[10] The Applicant filed a claim for refugee protection on the 26th of September, 2000. For whatever reason, the Applicant alleges that it was by reason of misconduct on the part of the representative who filed his refugee claim, the claim was not pursued. It was declared abandoned on the 5th of June, 2002. The fact of the declared abandonment did not come to the Applicant's attention until late in 2004.

[11] The Applicant's application for the Pre-Removal Risk Assessment, the decision on which gives rise to this Application for Judicial Review, was filed on the 7th of November, 2007. It was later supplemented by, among other things, an "expert statement" and a psychological assessment.

[12] The "expert statement"[2], dated the 17th of December, 2007, was provided by Peter H. Solomon, Jr., who described his expertise in the following paragraphs:

> a. I am a Professor in the Department of Political Science, cross-appointed to the Faculty of Law and the Centre of Criminology, and a member of the Centre for European, Russian and Eurasian Studies, all at the University of Toronto. I am specialized in Soviet and post-Soviet

[2] Tribunal Record, Volume 1, pages 96 to 103.

> government and law for forty years. My experience includes a year at the Law Faculty of Moscow State University as well as many research trips to Russia as a guest of the Institute of State and Law in Moscow, and participation in judicial reform projects, in both Russia and [the Applicant's home state], which I have visited a number of times in the past two years. My research has focused upon courts, criminal justice and law enforcement in the USSR and its successor states, including [the Applicant's home state].
>
> b. As further evidence of my qualifications to offer an expert opinion on this matter, attached hereto is my curriculum vitae. Note that I am fluent in Russian and follow closely both the popular press and legal journals of Russia and of [the Applicant's home state] in the Russian language, in hard and internet versions. I am familiar with the application of [the Applicant] to remain in Canada on the basis of a preremoval risk assessment.
>
> ...

[13] The psychological assessment[3] was provided by Gerald M. Devins, Ph.D., C. Psych., who describes himself as a consulting and clinical psychologist.

[14] Dr. Devins wrote:

> I hold the Ph.D. in Clinical Psychology and am a Registered Psychologist in Ontario. I have been in independent practice since 1982. In addition, I am Professor of Psychiatry and Psychology at the University of Toronto, Head of Psychosocial Oncology and Palliative Care Research at the University Health Network, a Senior Scientist in the Ontario Cancer Institute, and Senior Scientist and Deputy Head in the division of Behavioural Sciences and Health for the Toronto General Research Institute. I am Associate Editor of two scholarly journals, *Assessment* and the *Journal of Psychosomatic Research*, and am appointed to the editorial boards for several others. My scholarly work focuses on stress, coping and cultural factors as they shape the psychosocial impact of disease. Honors include recognition as a Fellow of the Canadian and American Psychological

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[3] Tribunal Record, Volume 1, pages 104 to 108.

> Associations and career awards from the National Health Research and Development Program (Health Canada, 1985-1995), Medical Research Council of Canada (1986-2001), and Canadian Institutes of Health Research (2001-2006).
> ...

[15] Under the heading "TEST BEHAVIOUR AND VALIDITY OF THE INTERVIEW DATA", Dr. Devins writes:

> [The Applicant] cooperated fully. [He or she] established eye contact with the interviewer and responded directly to the questions. Bags appeared beneath [his or her] eyes. The interview was stressful for [the Applicant]. [His or her] face was flushed and [he or she] wiped it with the palm of [his or her] left hand. [He or she] sat quietly and very still. [He or she] sighed repeatedly and throughout the interview. [He or she] experienced flashbacks and emotional despair ("and it's accompanied with that sense of helplessness"). [He or she] developed a headache. Concentration problems rendered it difficult to focus. [The Applicant's] responses were credible and internally consistent. Nonverbal behaviour and emotional display were congruent with the themes presented in response to the questions. I believe the information [he or she] provided was valid and reliable. [The Applicant's] experiences in [his or her home state] were traumatic. Deleterious after-effects persist. [His or her] distress intensified after [he or she] learned that [his or her] application for Refugee status had been abandoned.
>
> [portions in brackets modified]

[16] Finally, Dr. Devins concluded under the heading "CLINICAL IMPRESSION":

> [The Applicant] satisfies diagnostic criteria for major depressive episode of moderate severity (296.22) in the American Psychiatric Association's *Diagnostic and Statistical Manual of Mental Disorders* (4th ed., *DSM-IV*). [He or she] presents significant stress-response symptoms (e.g., hyperarousal, intrusive ideation). [He or she] requires treatment by a mental health professional. [His or her] condition can improve with appropriate care guaranteed freedom from the threat of deportation. Should [he or she] be refused, [his or her] symptoms will intensify and [his or her] suffering will increase.
>
> [portions in brackets modified]

The Decision Under Review

[17] On the 17th of April, 2008, the Officer interviewed the Applicant for two hours. The Applicant was accompanied at the interview by counsel. An interpreter was also present throughout the interview. At the opening of the interview, counsel for the Applicant reminded the Officer of the existence of the psychological report that was before the Officer and highlighted the Applicant's difficulties with dates and details.

[18] In the Officer's "Notes to file" leading to his or her conclusion quoted earlier in these reasons, the Officer wrote:

> An oral hearing was held on 17 April 2008. At the outset of the hearing credibility was recognized as the determinative issue. The applicant's involvement in the Russian military was an issue closely linked to credibility and formed part of the assessment of the truthfulness of [his or her] assertion that because [he or she] was in the Russian military [he or she] was privy to sensitive and classified information that would place [him or her] at risk upon return to [his or her home state].
>
> I made a general finding of a lack of credibility. Accordingly, I determined that, on a balance or probabilities, the applicant did not establish a well-founded fear of persecution in [his or her home state]. I have valid reasons to arrive at a finding due to inconsistencies, contradictions, embellishments and implausibilities that arose in the applicant's evidence, for which the applicant could not offer satisfactory explanations.
> ...
> I had the opportunity to observe the claimant's demeanour and the manner in which [he or she] responded to questions for two hours. [His or her] testimony was markedly evasive with unrelated responses even to simple questions. [He or she] was often repeating the same responses to different questions. The applicant's testimony was wavering and ambiguous. I recognized that the demeanour of an

> applicant should not be the sole criterion on which to assess credibility. Nonetheless, in conjunction with determinative credibility findings, the demeanour can be of help to sense the lack of truth to the story that is being narrated. I am guided by the Federal Court, which has ruled that demeanour can be one of the factors that a fact finder can consider while assessing the credibility of a witness. The Federal Court of Appeal in *Wen*, said, in part, the following:
>
> > ... we also observe that the adverse finding was based as well on the appellant's answers being "confusing" and "evasive." This assessment of personal demeanour ought to [not] to be interfered with [by] the Court which lacks the advantages available to the triers of fact.
>
> I do not find the applicant's story that [he or she] is sought by [security] authorities in [the Applicant's home state] or criminal elements to be credible. I find that the applicant fabricated certain elements of [his or her] declaration to bolster [his or her] refugee protection claim.
>
> [some text omitted, portions in brackets modified]

The reference to "*Wen*" in the foregoing quotation is to *Wen v. Canada (Minister of Employment and Immigration)*[4].

[19] After detailing his or her credibility concerns, the Officer went on to note the "expert statement" and psychological assessment that were before him or her. The Officer wrote:

> In support of the PRRA application, counsel submitted a comprehensive package of documentation that included submissions authored by Peter H. Solomon Jr., ... and Gerald N. Devins ... . I accept the expertise of Professor Solomon and Dr. Devins. However, I find they are not experts on the applicant's personal circumstances. Moreover, they have relied on the testimony of the applicant which I have determined, as outlined above, to not be credible. Furthermore, I find that their submissions do not overcome my findings with respect to the applicant's credibility. Counsel also submitted a package of media documentation relating to the country

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4 (1994), 48 A.C.W.S. (3d) 1000; [1994] F.C.J. No. 907 (QL) (F.C.A.).

> conditions in both Russia and [the Applicant's home state]. While very insightful, I find that the information does not identify the personal circumstances of the applicant. Furthermore, I find that the documentation is general in nature and does not relate to the applicant specifically and no comment has been made on the value of this material in relation to the personal circumstances of the applicant. Both the applicant and Counsel do not provide sufficient evidence of a personalized risk. In this regard, I am guided by the recent decision in *Kaba v. Canada*:
>
> > Contrary to what was alleged by the applicant, documentary evidence on a country is insufficient to warrant a positive risk assessment since the risk must be personal:
> >
> > [...] That said, the assessment of the applicant's potential risk of being persecuted if he were sent back to his country must be individualized. The fact that the documentary evidence shows that the human rights situation in a country is problematic does not necessarily mean there is a risk to a given individual.
>
> Following the hearing, Counsel submitted post-hearing, additional documentation in an attempt to address the discrepancies between the applicant's written declaration and the information revealed in [his or her] oral hearing. I have conscientiously reviewed Counsel's submissions. I do not find counsel's submissions to overcome my findings with respect to credibility. The applicant was provided many opportunities, in the two-hour hearing, to relay and elaborate on all details of [his or her] refugee claim.
>
> [footnote omitted, portions in brackets modified]

The reference to *Kaba v. Canada* is to a matter before this Court, the citation for which appears below[5].

[5] 160 A.C.W.S. (3d) 524; 2007 FC 647.

[20] At the close of the hearing before the Officer, counsel for the Applicant requested an opportunity to pose questions to his client in "redirect" examination to clarify aspects of the interview in which counsel believed there had been some confusion or misunderstanding. The request was denied. That being said, counsel was provided a brief opportunity to provide post-hearing documentation in support of the Applicant's claim. As noted by the Officer in the foregoing quotation, counsel availed of the opportunity provided and post-hearing materials were taken into account by the Officer.

The Issues

[21] In a Further Memorandum of Argument filed on behalf of the Applicant, counsel described the issues on this Application for Judicial Review, in addition to the issue of standard of review, in the following terms:

a) Whether the Officer erred in law by misunderstanding the nature and relevance of the psychological report, and failing to take it into account when assessing the applicant's testimony.

b) Whether the Officer erred in law by making credibility and plausibility findings without regard to the evidence and/or on the basis of no evidence.

c) Whether the Officer based his or her decision on erroneous findings of fact that he or she made in an unreasonable, perverse or capricious manner or in bad faith or without regard to the evidence before him or her.

d) Whether the Officer made an unreasonable decision.

I am satisfied that the second and third issues quoted from the Applicant's Further Memorandum can be subsumed within the fourth of such issues.

Analysis

a) Standard of Review

[22] Except with respect to questions of pure law and issues of fairness, it is now well settled, and it was not in dispute between counsel on this Application for Judicial Review, that the standard of review of a decision such as this, reflecting as it does a conclusion on a pre-removal risk assessment application that the applicant is simply not credible, is "reasonableness" with substantial deference being owed to the decision-maker in respect of his or her weighing of the evidence that is before him or her. It is further well settled that, for a decision to be reasonable, there must be justification, transparency and intelligibility within the decision-making process and the decision must fall within a range of possible, acceptable outcomes which are defensible in respect of the facts and the law. The Supreme Court of Canada has recently clarified in *Khosa*[6] that it is possible that there may be more than one reasonable outcome and what is important is that the process and the outcome demonstrate justification, transparency and intelligibility and that, if the foregoing test is satisfied, a reviewing court should not substitute its own view of a preferable outcome.

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6 *Canada (Minister of Citizenship and Immigration) v. Khosa*, 2009 S.C.C. 12, at paragraph 59.

[23] On a thorough and sensitive review of the totality of the material before the Court on this Application for Judicial Review, I am satisfied that no pure question of law or issue of procedural fairness arises.

b) Misunderstanding the nature and relevance of the psychological report and failure to take it into account when assessing the Applicant's testimony.

[24] On this issue, counsel for the Applicant relied heavily on *Hassan v. Canada (Minister of Citizenship and Immigration*)[7] where Justice Evans, then of this Court, wrote at paragraphs 19 to 22 of his reasons:

> In this case, as I have indicated, the credibility of the applicant's testimony was fundamental to the panel's decision. The panel explained its finding by reference to the contradictions in the applicant's evidence and to the slow and confused answers that he gave to questions. Indeed, on reading the transcript I can confirm that the applicant's evidence was on occasion quite incoherent.
>
> However, in making its finding the panel did not come to grips in its reasons with the content of the medical report that had been submitted to it. In my opinion this report was both cogent and relevant to the finding of credibility. The deficiencies in the applicant's testimony that lead the panel to find that it was not credible are also consistent with the psychiatric and other problems from which the report states that Mr. Hassan suffers, the treatment that he is receiving for them and the results of the tests administered to Mr. Hassan by the psychologist.
>
> I do not wish to be understood to be saying that the panel's finding of non-credibility was unreasonable in light of the medical report. Not at all. <u>What I do say is that the reasons for decision ought to have indicated clearly that, in assessing the applicant's credibility, the panel explicitly addressed the content of that report</u>.
>
> To be sure, the panel did state in the introductory portion of its reasons that it had considered the various items of evidence before it,

[7] (1999), 174 F.T.R. 288; 91 A.C.W.S. (3d) 450 (F.C.).

> including the medical report submitted on behalf of the applicant. However, given the cogency of that report, its relevance to the panel's finding of non-credibility and the central importance of credibility to the outcome, the Refugee Division ought to have gone further than this. It was obliged to explain how it dealt with it in the context of making its non-credibility finding: ...
>
> [emphasis added, citation omitted]

[25] I am satisfied that, on the face of the Officer's reasons, the Officer "... explicitly addressed the content of ... [the report of Dr. Devins that was before him or her]". That report made no reference to treatment that the Applicant was receiving or to the results of tests administered to the Applicant by the psychologist. Rather, it appears to be nothing more than a report of a single interview with the Applicant and a review of a "narrative" provided by counsel. The report was specifically addressed, not at the opening of the reasons of the Officer, but well into the body of those reasons. I am satisfied that the decision in *Hassan*, is entirely distinguishable.

[26] Counsel for the Applicant further relied on the decision of my colleague, Justice Russell, in *Yilmaz v. Canada (Minister of Citizenship and Immigration)*[8] where he wrote at paragraphs 79 and 80 of his reasons:

> Yet, nevertheless, Dr. Devins in his August 22, 2002, assessment does not make it clear that the Applicant shows symptoms that "corroborate that [his] experiences in Turkey were traumatic and that the after-effects continue to exert a deleterious impact." Perhaps most convincing is Dr. Devins' reference to various cognitive of difficulties that he says "are common consequences of the disorganizing effects of traumatic stress." He is clear that these cognitive difficulties "reflect the severity of [the Applicant's] chronic

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[8] 2003 FC 1498, 38 Imm. L.R. (3d) 289.

> stress-response symptoms. They do not indicate an attempt to evade or obfuscate."
>
> In the Decision the Member: "does not accept the resultant diagnosis" because the Member "does not accept that the incidents actually took place ... ." In my opinion, bearing in mind the reservations already expressed about Dr. Devins' final diagnosis and the way it was arrived at, the Member could have rejected it for valid reasons. But the only reason the Member gives for rejecting it that she did not accept that the events actually took place. In my opinion, this does miss the whole point of what the Applicant was trying to show by submitting a post-hearing psychological assessment. The Member clearly closed her mind to the "cognitive difficulties" referred to in the assessment and whether they could account for the obvious problems that the Applicant had had in constructing a convincing persecution narrative.

Once again, I am satisfied that the foregoing is distinguishable.

[27] Further, here, the Officer did not "...clearly close[ed] her mind to the 'cognitive difficulties' referred to in the assessment ...". With the assessment before him or her, the Officer indicates in her reasons for decision that she had the assessment in mind, took it into account and chose to exercise his or her own judgment based, not only on the Applicant's demeanour in the interview before him or her, but also on the inconsistencies, contradictions, embellishments and implausibilities that arose from the Applicant's evidence for which the Applicant offered no satisfactory explanation and for which the Officer found no satisfactory explanation in Dr. Devins' report.

[28] Finally, on this issue, counsel referred the Court to *C.A. v. Canada (Minister of Citizenship and Immigration)*[9] where my colleague, Justice Teitelbaum, wrote at paragraph 12 of his reasons:

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[9] [1997] F.C.J. No. 1082 (QL), August 19, 1997.

> The Board's assessment of credibility in this instance is linked to its consideration of the psychological and medical evidence. Certainly, this is not the case of a Board "ignore[ing]" the evidence as occurred in *Galindo v. Minister of Employment and Immigration*, ... The Board did in fact refer to the medical evidence of PTSD. However, it failed to give this evidence the proper weight or recognition on the crucial issue of credibility. Admittedly, there is a presumption that a decision-maker takes into account all of the evidence provided and that there is no need to explicitly refer to each piece of evidence: (*Hassan v. Canada (Minister of Employment and Immigration* ...)). However, in this instance, the Board in fact mischaracterized the medical evidence because it did not highlight the effects of PTSD on the applicant's credibility when credibility was the linchpin of its decision.
>
> [citations omitted]

On the facts of this matter, I am satisfied that the Officer appropriately and explicitly explained his or her justification for preferring his or her own assessment of the Applicant's credibility despite the expert advice of Dr. Devins that was before him or her.

[29] Counsel for the Respondent referred me to the decision in *Garay Moscol et al. v. Canada (Minister of Citizenship and Immigration*)[10] where my colleague, Justice Martineau, wrote at paragraph [10] of his reasons:

> The case law emphasizes that the RPD must take into account the fact that a claimant's psychological state can sometimes explain the omissions in the claimant's story at the port of entry or the lack of details or confusion regarding dates referred to in the claimant's testimony, hence the responsibility to examine the general scope of a psychological report before too hastily determining that a claimant is not credible... . But it must also be established to the Court's satisfaction that there is a certain connection with the "cognitive errors that are referred to in the psychologist's report ..." and the inconsistencies or omissions identified by the RPD in the impugned decision. Considering the record as a whole, including the contents of the psychological report in question, I do not believe that the

[10] 2008 F.C. 657 (CanLII, May 26, 2008).

> RPD's mere omission to comment on the applicant's psychological state in its decision amounts in this case to an error in law justifying that the decision be set aside and the matter referred to the RPD to reweigh the evidence.
>
> [citations omitted]

[30] Once again, on the facts of this matter, the Officer did not simply omit to comment on the Applicant's psychological state and the Devins report in his or her decision. The Officer did acknowledge the report before him or her and, I am satisfied, reasonably explained his or her reasons for rejecting it in favour of his or her own assessment of the testimony and demeanour of the Applicant before him or her.

[31] In the result, I am satisfied that the Applicant simply cannot succeed on this ground against a standard of review of reasonableness.

c) *Was the decision of the Officer that is here under review reasonably open to him or her?*

[32] I am satisfied that, in summary, the answer to this issue question must be "yes". It may not have been the decision that another Officer or this Court might have reached on the very sympathetic evidence that was before the Officer. That being said, if that evidence is found not to be credible, for good and sufficient reasons adequately explained, as I am satisfied was the case here, it is not for this Court to substitute its own interpretation of the Applicant's evidence and, more particularly, of its credibility, for that of the Officer who had the opportunity to observe and to hear the testimony of the Applicant over the course of an extensive direct interview. I find no basis to conclude that the Officer ignored or failed to adequately take into account any element of the totality of the evidence that was before him or her.

Conclusion

[33] For the foregoing reasons, this Application for Judicial Review will be dismissed.

[34] An unsigned copy of these reasons and this Order was distributed in advance to counsel solely for the purpose of providing them an opportunity to comment on the steps taken to suppress the Applicant's identity and the identity of his or her home state.

Certification of a Question

[35] At the close of hearing, counsel were advised of the Court's conclusion that this Application for Judicial Review must be dismissed. Neither counsel recommended certification of a question. The Court itself is satisfied that the determination here under review is based upon the unique facts of this matter and that no serious question of general importance that would be dispositive of an appeal from its conclusion herein arises. In the result, no question will be certified.

ORDER

THIS COURT ORDERS AND ADJUDGES that:

1. Of the Court's own motion, the style of cause herein is amended to that appearing on these Reasons for Order and Order.

2. This Application for Judicial Review is dismissed.

3. No question is certified.

"Frederick E. Gibson"
Deputy Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	IMM-4338-08
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APPEARANCES:

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