Federal Court  Cour fédérale

Date: 20101209

Docket: T-2-10

Citation: 2010 FC 1260

[UNREVISED CERTIFIED ENGLISH TRANSLATION]

Ottawa, Ontario, December 9, 2010

PRESENT: The Honourable Mr. Justice Shore

BETWEEN:

MARIAM SHUBEILAT

Applicant

and

MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

REASONS FOR JUDGMENT AND JUDGMENT

I. Introduction

[1] In its interpretation of the concept of residence set out in paragraph 5(1)(*c*) of the *Citizenship Act*, R.S., 1985, c. C-29 (Act), and of the case law, the Court identified three different approaches that can be taken by a citizenship judge:

> [10] This Court's interpretation of "residence" can be grouped into three categories. The first views it as actual, physical presence in Canada for a total of three years, calculated on the basis of a strict counting of days (*Pourghasemi (Re)*, [1993] F.C.J. No. 232 (QL) (T.D.)). A less stringent reading of the residence

> requirement recognizes that a person can be resident in Canada, even while temporarily absent, so long as he or she maintains a strong attachment to Canada (*Antonios E. Papadogiorgakis (Re)*, [1978] 2 F.C. 208 (T.D.). A third interpretation, similar to the second, defines residence as the place where one "regularly, normally or customarily lives" or has "centralized his or her mode of existence" (*Koo (Re)*, [1993] 1 F.C. 286 (T.D.) at para. 10).
>
> [11] I essentially agree with Justice James O'Reilly in *Nandre*, above, at paragraph 11 that the first test is a test of physical presence, while the other two tests involve a more qualitative assessment:
>
> > Clearly, the Act can be interpreted two ways, one requiring physical presence in Canada for three years out of four, and another requiring less than that so long as the applicant's connection to Canada is strong. The first is a physical test and the second is a qualitative test.
>
> (Emphasis added.)

(*Mizani v. Canada (Minister of Citizenship and Immigration)*, 2007 FC 698, 158 A.C.W.S. (3d) 879).

[2] It is also trite law that a citizenship judges may apply any of these three approaches, as he or she sees fit:

> [12] It has also been recognized that any of these three tests may be applied by a Citizenship Judge in making a citizenship determination (*Lam v. Canada (Minister of Citizenship and Immigration)*, [1999] F.C.J. No. 410 (T.D.) (QL)). For instance, in *Hsu v. Canada (Minister of Citizenship and Immigration)*, 2001 FCT 579, [2001] F.C.J. No. 862 (QL), Justice Elizabeth Heneghan at paragraph 4 concludes that any of the three tests may be applied in making a residency determination:
>
> > The case law on citizenship appeals has clearly established that there are three legal tests which are available to determine whether an applicant has established residence within the requirements of the Citizenship Act (…) a Citizenship Judge may adopt either the strict count of days, consideration of the quality of residence or, analysis of the centralization of an applicant's mode of existence in this country.
>
> [Citations omitted]

> While a Citizenship Judge may choose to rely on any one of the three tests, it is not open to him or her to "blend" the tests (*Tulupnikov*, above, at para. 16).
>
> (Emphasis added.)

(*Mizani*, above).

II. Judicial proceeding

[3] This is an appeal under subsection 14(5) of the Act against the decision dated September 8, 2009, of the citizenship judge rejecting the applicant's citizenship application.

III. Facts

[4] The applicant, Mariam Shubeilat, is a citizen of Jordan.

[5] On June 6, 2001, the applicant arrived in Canada and was granted permanent resident status.

[6] On November 28, 2005, the applicant submitted a citizenship application. In that application, she stated that she had been outside Canada for 362 days during the relevant period.

[7] On October 23, 2006, the applicant met with a citizenship officer and was asked to fill out a residence questionnaire and provide certain documents.

[8] On August 14, 2006, the applicant filed the completed residence questionnaire and an evidentiary record.

[9] On March 29, 2007, a citizenship officer referred the case to a citizenship judge.

[10] On August 3, 2009, the applicant was summoned to an interview with a citizenship judge scheduled for August 17, 2009.

[11] On September 8, 2009, the citizenship judge refused the applicant's citizenship application:

> Having reviewed all of the documentation submitted by the applicant, having personally interviewed her and for the reasons below, I am not satisfied, on a balance of probabilities that the information provided by the applicant accurately reflects the number of days that the applicant was, in fact, physically present in Canada.
>
> …
>
> **DECISION**
>
> The applicant has the burden of establishing, on a balance of probabilities, that she satisfies the residency requirements pursuant to section 5(1)(c) of the Act – refer to Mr. Justice de Montigny in Yu Ll v. MCI, T-1222-05, March 17, 2006 and Mr. Justice Gibson in his reasons for order in Maheswary Maharatnam 2000 03 28, T-668-99.
>
> On balance, all of the above does not satisfy me that the applicant meets the residency requirements under s.5(1)(c) of the Act. See Mr. Justice Muldoon in Re Pourghasemi.

(Citizenship Record: Reasons, pp. 13-14).

IV. Issue

[12] Did the citizenship judge err in refusing the applicant's citizenship application on the basis that it did not meet the requirements of paragraph 5(1)(*c*) of the Act?

V. Analysis

[13] The Court agrees with the respondent's position. The applicant has not shown that the citizenship judge made an error in fact or in law which could be reviewed by this Court.

[14] The standard of review applicable to decisions of citizenship judges is reasonableness:

> It is now settled law that the standard of review applicable to the decisions of Citizenship Judges is that of reasonableness: see, for example, *Zhang* v. *Canada (Citizenship and Immigration)*, 2008 FC 483; *Chen* v. *Canada (Citizenship and Immigration)*, 2007 FC 1140. Whether dealing with questions of mixed fact and law, as when applying one of the jurisprudential tests of the concept of residency to the particular facts of the case, or purely factual questions, as when computing days of absence, *Dunsmuir* v. *New Brunswick* (2008 SCC 9) instructs us that the reviewing court should show deference and resist substituting its own view for that of the Citizenship Judge. To the extent that the impugned decision is intelligible and justified and can be considered a defensible outcome in respect of the facts and the law, it should not be set aside on judicial review: *Paez* v. *Canada (Citizenship and Immigration)*, 2008 FC 204. (Emphasis added)

(*El Falah v. Canada (Minister of Citizenship and Immigration)*, 2009 FC 736, [2010] F.C.J. No. 1402 (QL).

[15] In citizenship appeals, the role of this Court is not to substitute its opinion for that of the citizenship judge, but to assess whether the citizenship judge correctly applied the residency test chosen (*El Falah*, above).

[16] Section 5 of the Act sets out the criteria an applicant must meet to be granted Canadian citizenship:

5. (1) The Minister shall grant citizenship to any person who	**5.** (1) Le ministre attribue la citoyenneté à toute personne qui, à la fois :
(*a*) makes application for	*a*) en fait la demande;

citizenship;

(*b*) is eighteen years of age or over;

b) est âgée d'au moins dix-huit ans;

(*c*) is a permanent resident within the meaning of subsection 2(1) of the *Immigration and Refugee Protection Act*, and has, within the four years immediately preceding the date of his or her application, accumulated at least three years of residence in Canada calculated in the following manner:

c) est un résident permanent au sens du paragraphe 2(1) de la *Loi sur l'immigration et la protection des réfugiés* et a, dans les quatre ans qui ont précédé la date de sa demande, résidé au Canada pendant au moins trois ans en tout, la durée de sa résidence étant calculée de la manière suivante :

(i) for every day during which the person was resident in Canada before his lawful admission to Canada for permanent residence the person shall be deemed to have accumulated one-half of a day of residence, and

(i) un demi-jour pour chaque jour de résidence au Canada avant son admission à titre de résident permanent,

(ii) for every day during which the person was resident in Canada after his lawful admission to Canada for permanent residence the person shall be deemed to have accumulated one day of residence;

(ii) un jour pour chaque jour de résidence au Canada après son admission à titre de résident permanent;

(*d*) has an adequate knowledge of one of the official languages of Canada;

d) a une connaissance suffisante de l'une des langues officielles du

	Canada;
(*e*) has an adequate knowledge of Canada and of the responsibilities and privileges of citizenship; and	*e*) a une connaissance suffisante du Canada et des responsabilités et avantages conférés par la citoyenneté;
(*f*) is not under a removal order and is not the subject of a declaration by the Governor in Council made pursuant to section 20.	*f*) n'est pas sous le coup d'une mesure de renvoi et n'est pas visée par une déclaration du gouverneur en conseil faite en application de l'article 20.

[17] In its interpretation of the notion of residence set out in paragraph 5(1)(*c*) of the *Citizenship Act*, R.S., 1985, c. C-29 (Act), and of the case law, the Court identified three different approaches that can be taken by a citizenship judge:

> [10] This Court's interpretation of "residence" can be grouped into three categories. The first views it as actual, physical presence in Canada for a total of three years, calculated on the basis of a strict counting of days (*Pourghasemi (Re)*, [1993] F.C.J. No. 232 (QL) (T.D.)). A less stringent reading of the residence requirement recognizes that a person can be resident in Canada, even while temporarily absent, so long as he or she maintains a strong attachment to Canada (*Antonios E. Papadogiorgakis (Re)*, [1978] 2 F.C. 208 (T.D.). A third interpretation, similar to the second, defines residence as the place where one "regularly, normally or customarily lives" or has "centralized his or her mode of existence" (*Koo (Re)*, [1993] 1 F.C. 286 (T.D.) at para. 10).
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> [11] I essentially agree with Justice James O'Reilly in *Nandre*, above, at paragraph 11 that the first test is a test of physical presence, while the other two tests involve a more qualitative assessment:
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> > Clearly, the Act can be interpreted two ways, one requiring physical presence in Canada for three years out of four, and another requiring less than that so long as the applicant's connection to Canada is strong. The first is a physical test and the second is a qualitative test.
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> (Emphasis added.)

(*Mizani v. Canada (Minister of Citizenship and Immigration)*, 2007 FC 698, 158 A.C.W.S. (3d) 879).

[18] It is also trite law that a citizenship judge may apply any of these three approaches, as he or she sees fit:

> [12] It has also been recognized that any of these three tests may be applied by a Citizenship Judge in making a citizenship determination (*Lam v. Canada (Minister of Citizenship and Immigration)*, [1999] F.C.J. No. 410 (T.D.) (QL)). For instance, in *Hsu v. Canada (Minister of Citizenship and Immigration)*, 2001 FCT 579, [2001] F.C.J. No. 862 (QL), Justice Elizabeth Heneghan at paragraph 4 concludes that any of the three tests may be applied in making a residency determination:
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> > The case law on citizenship appeals has clearly established that there are three legal tests which are available to determine whether an applicant has established residence within the requirements of the Citizenship Act (…) a Citizenship Judge may adopt either the strict count of days, consideration of the quality of residence or, analysis of the centralization of an applicant's mode of existence in this country.
>
> [Citations omitted]
>
> While a Citizenship Judge may choose to rely on any one of the three tests, it is not open to him or her to "blend" the tests (*Tulupnikov*, above, at para. 16).
>
> (Emphasis added.)

(*Mizani*, above).

[19] The citizenship judge, having identified the relevant period as being from November 28, 2001, to November 28, 2005, noted that the applicant reported having been outside Canada for 362 days during that period (Reasons, p. 13).

[20] Therefore, the applicant was allegedly in Canada a total of 1,098 days (Citizenship Record: "Residence Calculator", p. 4).

[21] The applicant did not meet the strict criterion of mandatory physical presence for 1,095 days in the relevant period, as for the 1,098 days she was allegedly in Canada, she could not provide proof of her presence for the 1,095 days, strictly counted, required by law.

[22] The citizenship judge stated that, having considered the documents provided by the applicant, he was not satisfied on a balance or probabilities that the applicant had in fact been physically present in Canada for the number of days alleged (Reasons, p. 13).

[23] The citizenship judge gave several reasons for doubting that the applicant had been present in Canada:

a. At the interview, the applicant could not explain why two Canadian re-entry stamps were missing, namely, one from November 24, 2004, and another from September 6, 2005. The citizenship judge asked her to submit additional documents regarding those dates;
b. The receipts for the K.I.D.S. West Westmount Day Care showed that Aysha and Bara, the applicant's children, were present in Canada on dates that, according to the applicant's own statements, they were out of the country;
c. Tax records provided by the applicant showed income of only $1.00 (2001), $848.00 (2002), $1.00 (2003), $1.00 (2004) and $160.00 (2005). The applicant did not report any employment apart from volunteer work as a teacher's assistant from September 2003 to summer 2006 at École Al-Salam;
d. Their bank statements did not reflect the usual expenses of a family with children.

(Reasons, pp. 13-14.)

[24] The citizenship judge also noted that the onus was on the applicant to prove, on a balance of probabilities, that she met the residence requirements under paragraph 5(1)(*c*) of the Act (Reasons, p. 14).

[25] On the basis of these considerations, the citizenship judge found that the evidence adduced by the applicant did not establish that she met the requirements set out in paragraph 5(1)(*c*) of the Act (Reasons, p. 14).

[26] In her memorandum, the applicant submits that she meets the requirements of *Re Koo (T.D.)*, [1993] 1 F.C. 286, 59 F.T.R. 27, and *Re Papadogiorgakis*, [1978] 2 F.C. 2008, [1978] 2 A.C.W.S. 482, and that, having regard to these factors, she has demonstrated having established her residence in Canada (Applicant's Memorandum of Fact and Law, at para. 39).

[27] However, that was not the test that the citizenship judge chose to apply. It appears from the reasons for decision that the citizenship judge chose to apply the stricter approach of physical presences in Canada during the relevant period.

[28] It is very clear that at no point in his decision does the citizenship judge try to analyze the quality of the applicant's attachment to Canada in accordance with *Papadogiorgakis*, above, nor does he analyze the factors from *Koo*, above, to establish whether the applicant had indeed centralized her mode of existence in Canada.

[29] The citizenship judge makes direct reference to the decision of Justice Francis C. Muldoon in *Re Pourghasemi* (1993), 62 F.T.R. 122, 39 A.C.W.S. (3d) 251, which provides that the determination may be based on actual, physical presence in Canada for a total of three years, **according to a strict calculation** of days present:

> [20] However, this Court has consistently held that the Citizenship Judge can apply any of three tests to interpret the concept of residence: see, for example, *Mizani* v. *Canada (Citizenship and Immigration)*, 2007 FC 698. One of those tests consists in determining whether an applicant has been actually, physically present in Canada for a total of three years, calculated on the basis of a strict counting of days: *Re Pourghasemi*, [1993] F.C.J. No. 232. That is the approach taken by the Citizenship Judge in this case. (Emphasis added.)

(*El Falah*, above).

[30] **The case law clearly states that it is up to the judge to choose which residency test to rely on** (*Mizani*, above). It was perfectly open to the citizenship judge to apply the physical presence test and to assess the evidence to determine whether the applicant had indeed been physically present in Canada during the relevant period.

[31] The case law clearly prohibits a citizenship judge from blending these three established tests, as the applicant has done in her arguments:

> While a Citizenship Judge may choose to rely on any one of the three tests, it is not open to him or her to "blend" the tests (*Tulupnikov*, above, at para. 16). (Emphasis added.)

(*Mizani*, above).

[32] In his analysis, the citizenship judge examined the documents filed by the applicant, but the applicant did not satisfy him that she had indeed been physically present in Canada for a number of days equal to the number alleged. The citizenship judge did not make any error in acting in such a way.

[33] The applicant does not raise any error other than the issue of the application of the tests in *Papadogiorgakis* and *Koo*, above, tests that she believes she has met.

[34] The citizenship judge chose to apply the *Pourghasemi* test and did not have to consider the *Papadogiorgakis* and *Koo* tests. Furthermore, **these tests are mutually exclusive, not conjunctive**.

[35] The decision of the citizenship judge must be considered with deference:

> [12] As the question is one of mixed fact and law of which citizenship judges possess a degree of knowledge and experience, determinations of whether an applicant has met the residence requirement of the Act are owed a measure of deference. Thus, a Judge's conclusion will be reasonable "if it is supported by a tenable explanation even if this explanation is not one that the reviewing court finds compelling" (*Law Society of New Brunswick v. Ryan*, [2003] 1 S.C.R. 247 (QL), at para. 55). (Emphasis added.)

(*Paez v. Canada (Minister of Citizenship and Immigration)*, 2008 FC 204, 165 A.C.W.S. (3d) 228).

[36] The evidence was insufficient and did not show that the applicant had been physically present in Canada for at least 1,095 days.

[37] The Court agrees that the citizenship judge's finding is not unreasonable.

[38] **In her affidavit, the applicant alleges that she does not recall the citizenship judge's having raised the absence of certain entry stamps for Canada and having asked her to file additional documentation regarding those dates.**

[39] In the "Notice to the Minister of the Decision of the Citizenship Judge" form, the citizenship judge wrote the following remark and initialled it:

> I asked for additional information. Applicant has 20 days to submit them (CC and bank statements, schools receipts, pharmacy receipts, schools letters.

(Citizenship Record, p. 12).

[40] An envelope, preaddressed to Citizenship and Immigration and bearing a handwritten note of the record number with the hearing date in parentheses and the note [TRANSLATION] "Judge AA", was received on August 25, 2009 (Citizenship Record, p. 20).

[41] This envelope included the documents found at pages 22 to 111 of the Court File and the letter dated August 20, 2009, from the applicant to the citizenship judge, **in which the applicant states that the citizenship judge asked her for additional information showing her physical presence in Canada.**

[42] The applicant knew or should have known that the requested information had to show **all** of her days present in Canada, including the alleged returns to Canada not confirmed by a Canadian entry stamp in her passport.

[43] The Court agrees that the onus is on the applicant to present sufficient evidence:

> [9] It is therefore obvious that the applicant had to provide her evidence to establish that she had been in Canada for 1460 days before the date of her application, which was April 30, 2003. The Judge therefore examined and questioned the applicant regarding that period . . . (Emphasis added).

(*El Firhi v. Canada (Minister of Citizenship and Immigration)*, 2005 FC 1106, 147 A.C.W.S. (3d) 745).

[44] **It is up to the citizenship judge to analyze the evidence:**

> **(iv) The Role of the Citizenship Judge**
>
> [14] The Residence Questionnaire listed documents to be provided and the Applicant was given extra time to have income tax returns prepared in support of his application. The Applicant says that because he was not asked for more information, he assumed that the material he provided was satisfactory. He complains that he was not given an opportunity to provide additional material. However, the Citizenship Judge is not obligated to provide an applicant with a running commentary about the adequacy of his documentation. The onus is on the applicant to establish residence. Once the applicant completes his case by submitting his documents, the Citizenship Judge considers the material and makes a ruling which is final subject only to an appeal. I have found no unfairness in this process. (Emphasis added).

(*Zheng v. Canada (Minister of Citizenship and de Immigration)*, 2007 FC 1311, 163 A.C.W.S. (3d) 120).

[45] In her memorandum, **the applicant does not raise any error made by the citizenship judge in assessing the evidence; she merely states that she disagrees with that assessment.**

[46] The citizenship judge's assessment of the evidence is within his expertise and specialized knowledge (*Paez*, above) and contains no errors.

[47] The citizenship judge considered the documents filed and noted that the records from K.I.D.S. Westmount Day Care show that the children were present in Canada, whereas according to the applicant's own statements, they were outside Canada with their mother.

[48] The citizenship judge took note of the week of September 2, 2002 (Citizenship Record; for Aysha, p. 25; for Bara, p. 27, whereas they were outside Canada with their mother until September 9, 2002, Residence Calculator), and the week of January 13, 2003 (whereas they were outside Canada with their mother until January 14, 2003, Residence Calculator).

[49] Such erroneous presences also crop up in other periods covered by these records. Here are some examples:

- According to the letter from the day-care centre (Citizenship Record, p. 23), the children began attending the centre in December 2001. However, there are no attendance records for December 2001 for either child, and the records for January 2002 are only from January 28, 2002, onward (for Aysha, p. 25; for Bara, p. 27). The Court notes that there is no Canadian entry stamp for the alleged return to Canada on December 18, 2001 (copy of applicant's passport G 482564, valid from October 30, 1999, to October 29, 2004, at pp. 165-190), only an entry stamp for the United Kingdom on that same date (p. 177);
- The children are reported as being present for the week of January 6, 2003 (for Aysha, p. 26; for Bara, p. 28), whereas they were out of the country with their mother (Residence Calculator);

- Bara is reported as being present every month in the summers of 2003 and 2004 (pp. 28-29), whereas according to her mother's statements, they were outside Canada from June 19 to September 5, 2002, and from July 2 to September 20, 2003 (Residence Calculator).

[50] The Court acknowledges the applicant's admission that the children were marked present when they were absent, but she submits that these were inadvertent errors (AR, Applicant's Affidavit, p. 10, para. 5).

[51] Although the applicant attributes these errors to a mere oversight, the Court notes that this confirms the citizenship judge's finding that those documents do not adequately reflect, on a balance of probabilities, the number of days the applicant was physically present in Canada (Reasons, p. 13).

[52] The citizenship judge noted that two of the applicant's returns to Canada were not evidenced by a Canadian entry stamp (Reasons, p. 13).

[53] In fact, the Court notes that the applicant left Canada seven times during the relevant period (Residence Calculator). Only three of the seven returns to Canada are evidenced by an entry stamp: January 14, 2003, September 20, 2003, and August 29, 2004 (Citizenship Record, pp. 174, 177 and 196).

[54] In all, four returns to Canada are not evidenced by entry stamps. The alleged dates for these returns are the following: December 18, 2001, September 5, 2002, November 21, 2004, and September 6, 2005 (Residence Calculator and Residence Questionnaire, p. 162).

[55] More specifically, the Court acknowledges the alleged returns on December 18, 2001,and November 21, 2004. In those two cases, United Kingdom entry stamps appear in the passport for those same dates, namely, December 18, 2001, and November 21, 2004, respectively (p. 198).

[56] As the citizenship judge made more specific note of the lack of an entry stamp for November 21, 2004, the applicant explained in her affidavit that in her passport, there was a Jordanian entry stamp dated October 28, 2004, and a Jordanian exit stamp dated November 21, 2004.

[57] The applicant further alleges that there are no other stamps between her Jordanian exit stamp from November 21, 2004, and the Jordanian entry stamp from July 9, 2005.

[58] The Court finds that this assertion is wrong, since there is **a United Kingdom entry stamp dated November 21, 2004** (p. 198; pp. 199 and 200 for the entries of Aysha and Bara).

[59] Since the United Kingdom does not issue exit stamps, and since the applicant does not have a Canadian entry stamp for this period, it is impossible to know how long she stayed in the United Kingdom.

[60] The Court also notes that the receipts from K.I.D.S. Westmount Day Care for Bara, for the alleged duration of this trip (i.e., from October 27, 2004, to November 21, 2004) show that Bara's attendance was continuous and uninterrupted (p. 29).

[61] Furthermore, the Court notes that the YWCA attendance report does not prove that the applicant was in Canada on or about November 21, 2004, because according to that document, the applicant did not go to the YWCA in November 2004 and went only four times in December 2004 (Citizenship Record: YWCA report, at line "RSA Branch W 2004", p. 240).

[62] Additionally, the letter from École Al-Salam, dated May 30, 2009, which allegedly shows the applicant's absence on certain Saturdays, is very specific (Citizenship Record, p. 52), and her regular attendance on other Saturdays cannot confirm her return to Canada on November 21, 2004.

[63] At most, this letter appears to indicate that the applicant was at the school on Saturday, November 27, 2004, since that Saturday is not listed as an absence.

[64] However, this would only prove that the applicant was in Canada on November 27, 2004, and does not confirm on which date she supposedly returned to Canada between November 21, 2004 (return not confirmed by stamp) and Saturday, November 27, 2004, a difference of six days.

[65] Given that, according to the dates that the applicant was allegedly present in Canada, the applicant **exceeded the minimum number prescribed by the Act by only three days**, her inability to provide sufficient evidence of the dates she was present in Canada is necessarily fatal to her application.

[66] The onus was on the applicant to prove her physical presence in Canada.

[67] The Court agrees that it was not unreasonable for the citizenship judge to find that the applicant had not shown, on a balance of probabilities, that she met the residence requirement under paragraph 5(1)(*c*) of the Act, since the documents she submitted did not establish on a balance of probabilities that she had been physically present in Canada during the relevant period:

> [19] In this matter, the onus was on the applicant to provide sufficient evidence to demonstrate that he met residency requirements of the Act (*Rizvi v. Canada (Minister of Citizenship and Immigration)*, 2005 FC 1641, 2005 FC 1641, [2005] F.C.J. No. 2029 (QL) at para. 21). Therefore, according to the "physical presence" test he was required to demonstrate at least 1095 days in Canada in the relevant period, failing which, his application would be rejected. In the present case, the Judge was not able to confirm the applicant's assertions regarding the number of days he was present in Canada, given the inadequacy of his evidence. (Emphasis added.)

(*Mizani*, above).

[68] The Court also agrees that the applicant had to prove on a balance of probabilities that she met the residence requirement under the Act:

> [20]However, the applicants had the burden of proving they met the requirements of paragraph 5(1)(*c*). In *Maharatnam v. Canada (Minister of Citizenship and Immigration)*, [2000] F.C.J. No. 405 (F.C.T.D.) (QL), Gibson J. stated the following at paragraph 5:

> I am satisfied that the onus is on an applicant for Canadian citizenship to satisfy a Citizenship Judge that he or she fulfills the requirements of the Act or warrants an exercise of discretion by the Citizenship Judge, pursuant to subsection 15(1). (Emphasis added.)

(*Sager v. Canada (Minister of Citizenship and Immigration)*, 2005 FC 1392, 152 A.C.W.S. (3d) 21).

[69] In the present case, the applicant clearly did not provide sufficient evidence in support of her citizenship application. Therefore, it was reasonably open to the citizenship judge to find as he did.

[70] The citizenship judge's finding is reasonable, and there is no basis for this Court to intervene.

VI. Conclusion

[71] Although the applicant disagrees with the decision of the citizenship judge, she has not shown any error that would warrant intervention by this Court.

[72] The applicant has not shown that she met the residence requirement under the Act, and the citizenship judge made no errors in his assessment of the evidence.

[73] For all these reasons, the Court dismisses the applicant's citizenship appeal.

JUDGMENT

THE COURT dismisses the applicant's appeal**.** No question is certified.

"Michel M.J. Shore"
Judge

Certified true translation
Michael Palles

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	T-2-10
STYLE OF CAUSE:	MARIAM SCHUBEILAT v. MINISTER OF CITIZENSHIP AND IMMIGRATION
PLACE OF HEARING:	Montréal, Quebec
DATE OF HEARING:	December 1, 2010
REASONS FOR JUDGMENT AND JUDGMENT:	SHORE J.
DATED:	December 9, 2010

APPEARANCES:

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Patricia Nobl	FOR THE RESPONDENT

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