Federal Court  Cour fédérale

Date: 20110811

Docket: IMM-5174-10

Citation: 2011 FC 988

Ottawa, Ontario, August 11, 2011

PRESENT: The Honourable Mr. Justice Russell

BETWEEN:

KADRA ABDALLA

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

REASONS FOR JUDGMENT AND JUDGMENT

[1] This is an application pursuant to subsection 72(1) of the *Immigration and Refugee Protection Act*, S.C. 2001, c. 27 (Act) for a writ of *mandamus*, directing the Respondent to determine whether the Applicant is a member of the family class as the spouse of a Canadian citizen and whether she should be granted permanent residence in Canada.

BACKGROUND

[2] The Applicant has been a permanent resident of the United States since 2004. Her spouse is a Canadian citizen. Neither the Applicant nor her husband has a criminal record and both are persons of good standing. Since 2004, she has been using her US permanent residence (P.R.)card and her Somali passport to cross the Canada–US border.

[3] The Applicant's spouse, wishing her to come to Canada, filed a spousal sponsorship application with Citizenship and Immigration Canada (CIC) in Mississauga in July 2008. The application was approved on 20 August 2008 and began to be processed in the Canadian consulate in Buffalo in September 2008. The Applicant submitted the information on her Somali passport as part of the application.

[4] The Applicant claims that, by early 2009, she had satisfied all of the requirements for landing. She made several requests for updates on her status that went unanswered. She contends that the delay in issuing the visa has been unjustifiably long.

[5] The Respondent disputes the Applicant's version of events and offers the following detailed timeline of the process undertaken with respect to her application. The application was filed at the Case Processing Centre in Mississauga on 20 June 2008. CIC made its first request, by telephone, to the Applicant for missing documents in July 2008, which the Applicant fulfilled in August 2008. The application was received in Buffalo on 3 September 2008. CIC made a second request for missing documents on 30 September 2008. It conducted a preliminary assessment on 16 October

2008 and sent a third request for missing documents, including background check results, an FBI fingerprint certificate, an Ethiopia police certificate and medical results. CIC received some but not all of these documents on 12 January 2009. In response to a request for status check, CIC sent the Applicant a fourth request for missing information in May 2009, which the Applicant fulfilled in June 2009. In June 2010, CIC sent to the Applicant the medical forms that were to be completed, as her 2008 forms had expired. In October 2010, CIC sent a fifth request to the Applicant, reminding her to send in her medical forms, which she did in November 2010. According to the Respondent, the receipt of the medicals on 22 November 2010 made the file complete, pending receipt of an acceptable passport from the Applicant. On 14 January 2011, CIC sent a letter to this effect to Applicant's counsel. Enclosed with the letter was a copy of Operational Bulletin 190, dated 12 March 2010, which stated that passports from Somalia are not acceptable for permanent resident visas.

[6] Both the Applicant and the Respondent note that, on 20 January 2011, the Applicant travelled to the CIC office in Buffalo for final processing of her permanent resident visa. CIC advised her that it could not issue her visa for two reasons. She did not have an acceptable travel document and, as noted in Operational Bulletin 190, her Somali passport was not reliable proof of nationality or identity and could not be used for the purposes of obtaining a permanent resident visa. The Respondent states that the Applicant was advised to obtain a US re-entry document, which would be available to her as a permanent resident.

[7] The Applicant returned to Canada on the same day, using her Somali passport and her US permanent residence card to cross the border. She claims that she has done so "many times" and

"[n]o one found fault with her for carrying a Somali passport." The Respondent claims that the application for permanent residence in Canada remains open pending receipt of an acceptable travel document.

[8] Since the judicial review of this matter was heard on April 12, 2011 the Applicant has received her permanent residence visa. However, she still wants the Court to deal with the matter of costs. In post-hearing written submissions, counsel have addressed the issue of costs.

ISSUES

[9] The following issues arise on this application:

i) Whether the Respondent has failed to fulfill its duty to decide the Applicant's application for permanent residence in a timely manner;

ii) Whether the Respondent should accept the Applicant's United States P.R. card as a valid identity or travel document for the purposes of paragraph 50(1)(*c*) of the *Immigration and Refugee Protection Regulations*, SOR/2002-227 (Regulations); and

iii) Whether an order in the nature of *mandamus* is an appropriate remedy in these circumstances;

iv) Whether this application is now moot because the Applicant has now been granted a permanent residence visa;

v) Whether the Applicant should be awarded costs.

STATUTORY PROVISIONS

[10] The following provisions of the Act are applicable in these proceedings:

Objectives — immigration	**Objet en matière d'immigration**
3. (1) The objectives of this Act with respect to immigration are	**3.** (1) En matière d'immigration, la présente loi a pour objet :
[…]	[…]
(*f*) to support, by means of consistent standards and prompt processing, the attainment of immigration goals established by the Government of Canada in consultation with the provinces;	*f*) d'atteindre, par la prise de normes uniformes et l'application d'un traitement efficace, les objectifs fixés pour l'immigration par le gouvernement fédéral après consultation des provinces;
[…]	[…]

[11] The following provisions of the Regulations are applicable in these proceedings:

Documents — permanent residents	**Documents : résidents permanents**
50. (1) In addition to the permanent resident visa required of a foreign national who is a member of a class referred to in subsection 70(2), a foreign national seeking to become a permanent resident must hold	**50.** (1) En plus du visa de résident permanent que doit détenir l'étranger membre d'une catégorie prévue au paragraphe 70(2), l'étranger qui entend devenir résident permanent doit détenir l'un des documents suivants :
(*a*) a passport, other than a diplomatic, official or similar passport, that was issued by the country of which the foreign national is a citizen or national;	*a*) un passeport — autre qu'un passeport diplomatique, officiel ou de même nature — qui lui a été délivré par le pays dont il est citoyen ou ressortissant;
(*b*) a travel document that was issued by the country of which the foreign national is a citizen or	*b*) un titre de voyage délivré par le pays dont il est citoyen ou ressortissant;

national;

(*c*) an identity or travel document that was issued by a country to non-national residents, refugees or stateless persons who are unable to obtain a passport or other travel document from their country of citizenship or nationality or who have no country of citizenship or nationality;

c) un titre de voyage ou une pièce d'identité délivré par un pays aux résidents non-ressortissants, aux réfugiés au sens de la Convention ou aux apatrides qui sont dans l'impossibilité d'obtenir un passeport ou autre titre de voyage auprès de leur pays de citoyenneté ou de nationalité, ou qui n'ont pas de pays de citoyenneté ou de nationalité;

(*d*) a travel document that was issued by the International Committee of the Red Cross in Geneva, Switzerland, to enable and facilitate emigration;

d) un titre de voyage délivré par le Comité international de la Croix-Rouge à Genève (Suisse) pour permettre et faciliter l'émigration;

(*e*) a passport or travel document that was issued by the Palestinian Authority;

e) un passeport ou un titre de voyage délivré par l'Autorité palestinienne;

(*f*) an exit visa that was issued by the Government of the Union of Soviet Socialist Republics to its citizens who were compelled to relinquish their Soviet nationality in order to emigrate from that country;

f) un visa de sortie délivré par le gouvernement de l'Union des républiques socialistes soviétiques à ses citoyens obligés de renoncer à leur nationalité afin d'émigrer de ce pays;

(*g*) a British National (Overseas) passport that was issued by the Government of the United Kingdom to persons born, naturalized or registered in Hong Kong; or

g) un passeport intitulé « *British National (Overseas) Passport* », délivré par le gouvernement du Royaume-Uni aux personnes nées, naturalisées ou enregistrées à Hong Kong;

(*h*) a passport that was issued by the Government of Hong Kong Special Administrative Region of the People's Republic of China.

h) un passeport délivré par les autorités de la zone administrative spéciale de Hong Kong de la République populaire de Chine.

Exception — protected persons

(2) Subsection (1) does not apply to a person who is a protected person within the meaning of subsection 95(2) of the Act and holds a permanent resident visa when it is not possible for the person to obtain a passport or an identity or travel document referred to in subsection (1).

(3) [Repealed, SOR/2010-54, s. 1]

Designation of unreliable travel documents

50.1 (1) The Minister may designate, individually or by class, passports or travel or identity documents that do not constitute reliable proof of identity or nationality.

Factors

(2) The Minister shall consider the following factors in determining whether to designate any passport or travel or identity document, or class of passport or travel or identity document, as not being reliable proof of identity or nationality:

(*a*) the adequacy of security features incorporated into the passport or document for the purpose of deterring its misuse or unauthorized alteration, reproduction or issuance; and

(*b*) information respecting the security or integrity of the process

Exception : personne protégée

(2) Le paragraphe (1) ne s'applique pas à la personne protégée au sens du paragraphe 95(2) de la Loi qui est titulaire d'un visa de résident permanent dans les cas où il lui est impossible d'obtenir un passeport, une pièce d'identité ou un titre de voyage visé au paragraphe (1).

(3) [Abrogé, DORS/2010-54, art. 1]

Documents de voyage non fiables

50.1 (1) Le ministre peut désigner, individuellement ou par catégorie, tout passeport, titre de voyage ou pièce d'identité qui ne constitue pas une preuve fiable d'identité ou de nationalité.

Facteurs

(2) Pour ce faire, il tient compte des facteurs suivants :

a) les caractéristiques de sécurité intégrées aux passeports, titres de voyage ou pièces d'identité, qui offrent une protection contre tout usage indu ou toute modification, reproduction ou délivrance illicite;

b) la sécurité ou l'intégrité du processus de traitement et de

leading to the issuance of the passport or document.	délivrance des documents.
Effect of designation	**Conséquence de la désignation**
(3) A passport or travel or identity document that has been designated under subsection (1) is not a passport or travel or identity document for the purpose of subsection 50(1) or 52(1).	(3) Les passeports, titres de voyage et pièces d'identité désignés en vertu du paragraphe (1) sont des documents autres que ceux visés aux paragraphes 50(1) et 52(1).
Public notice	**Avis public**
(4) The Minister shall make available to the public a list of all passports or travel or identity documents designated under subsection (1).	(4) Le ministre met à la disposition du public une liste des documents qu'il désigne en vertu du paragraphe (1).

ARGUMENT

The Applicant

The Applicant's Case Meets the Test for *Mandamus*

[12] In *Kalachnikov v Canada (Minister of Citizenship and Immigration)*, 2003 FCT 777 at paragraph 11, Justice Judith Snider of this Court reviewed the requirements for *mandamus* in the immigration context. She stated:

> Mandamus is a discretionary, equitable remedy *(Khalil v. Canada (Secretary of State)*, [1999] 4 F.C. 661 (Fed. C.A.)) subject to the following conditions precedent.
>
> 1. There is a public duty to the applicant to act;
>
> 2. The duty must be owed to the applicant;
>
> 3. There is a clear right to performance of that duty, in particular:

> (a) the applicant has satisfied all conditions precedent giving rise to the duty;
>
> (b) there was a prior demand for performance of the duty, a reasonable time to comply with the demand, and a subsequent refusal which can be either expressed or implied, e.g. unreasonable delay; and
>
> 4. There is no other adequate remedy.
>
> 5. The "balance of convenience" favours the applicant (*Apotex Inc. v. Canada (Attorney General)* (1993), [1994] 1 F.C. 742 (Fed. C.A.), aff'd [1994] 3 S.C.R. 1100 (S.C.C.), *Conille v. Canada (Minister of Citizenship & Immigration)* (1998), [1999] 2 F.C. 33 (Fed. T.D.)).

[13] The Applicant contends that the test for *mandamus* is met in this case.

[14] The duty owed to the Applicant is not necessarily the granting of ministerial relief but rather the rendering of a decision on her application for ministerial relief. The language of the Regulations is mandatory, not discretionary, and one of the stated purposes of the Act is family reunification, particularly in situations such as that of the Applicant.

The Applicant Meets the Test for Unreasonable Delay

[15] In *Conille v Canada (Minister of Citizenship and Immigration)*(1998), [1999] 2 FC 33, [1998] FCJ No 1553 (FC) (QL) at paragraph 23, Justice Danièle Tremblay-Lamer of this Court set out three requirements that must be met if a delay is to be considered unreasonable:

> (i) the delay in question has been longer than the nature of the process required, *prima facie*;
>
> (ii) the applicant and his [or her] counsel are not responsible for the delay; and

> (iii) the authority responsible for the delay has not provided satisfactory justification.

[16] The Applicant submits that she meets all of these requirements. In the instant case, the period of delay should be calculated from August 2008, the time at which the sponsorship application was sent to the Canadian consulate in Buffalo. Almost three years and seven months have passed since that time. The CIC website estimates that 30 percent of family class cases are finalized within four months and 80 percent within ten months. The delay in processing the Applicant's application clearly exceeds that timeframe. In the Applicant's view, her application should have been resolved within ten months maximum.

[17] The Applicant argues that Federal Court jurisprudence demonstrates that a delay of three years and seven months is unreasonable. For example, in *Dee v Canada (Minister of Citizenship and Immigration)* (1998), 46 Imm LR (2d) 278, [1998] FCJ No 1767 (FCTD) (QL) a delay of three-and-a-half years was considered unreasonable; in *Mohamed v Canada (Minister of Citizenship and Immigration)* (2000), 195 FTR 137, [2000] FCJ No 1677 (QL), *Hanano v Canada (Minister of Citizenship and Immigration)*, 2004 FC 998, and *Manivannan v Canada (Minister of Citizenship and Immigration)*, 2008 FC 1392, four years; and in *Bhatnager v Canada (Minister of Employment and Immigration)*, [1985] FCJ No 924 (QL), and *Latrache v Canada (Minister of Citizenship and Immigration)* (2001), 201 FTR 234, [2001] FCJ No 154 (QL), four-and-a-half years.

[18] The Applicant further submits that not only is the delay unreasonable, it thwarts the objective stated at paragraph 3(1)(*f*) of the Act, namely "to support, by means of consistent

standards and prompt processing, the attainment of immigration goals established by the Government of Canada in consultation with the provinces."

The Respondent

The Pre-conditions for *Mandamus* Have Not Been Met

[19] The Respondent contends that, in the instant case, the preconditions for *mandamus* have not been met and the request for *mandamus* is ill-founded and premature. The Applicant's application is incomplete, pending an acceptable travel document, which the Applicant has unjustifiably failed to provide. She can no longer rely on her Somali passport. Pursuant to section 50.1 of the Regulations, in 2010 the Minister designated Somali passports as not constituting reliable proof of identity or nationality for the purposes of subsection 50(1). Public notice of this was provided in Operational Bulletin 190, which was sent to the Applicant, via counsel, prior to her attendance at the Canadian consulate in Buffalo in January 2011.

There Has Been No Unreasonable Delay

[20] The Respondent submits that processing of the application for permanent residence is not unreasonably delayed. The Applicant repeatedly failed to include the necessary documents and was reminded to do so on five occasions. The Respondent has done all it can do to process this application. Until the Applicant provides a document that meets the requirements of the Regulations, such as a US re-entry travel document, she cannot be granted permanent residence. She has provided no evidence that she cannot obtain such a document.

The Applicant's Further Memorandum

[21] The Applicant claims that the Designated Immigration Officer who has had carriage of this file since 3 September 2008 failed to notified her that her Somali passport was no longer acceptable until January 2011.

[22] The Applicant argues that her US P.R. card should be considered a valid identity document for the purposes of paragraph 50(1)(*c*). The Minister has not expressed any doubt as to the Applicant's identity. She should have become a permanent resident of Canada on 20 January 2010.

[23] The Applicant further argues that CIC failed in its duty to provide a reason for rejecting her US P.R. card as acceptable documentation. As Justice Frederick Gibson of this Court stated in *Popal v Canada (Minister of Citizenship and Immigration)* (2000), 184 FTR 161, [2000] 3 FC 532:

> 42 Further, the respondent provided no explanation whatsoever, at least none that is before the Court, for the rejection of certain of the other identity documentation that was presented by the principal applicant at the April 20, 1998 meeting. The relevant sentence [page555] contained in the respondent's letter to the principal applicant of September 14, 1998 to the effect:
>
> > It has been determined that these documents [not identified] do not meet immigration requirements in supporting your identity.
>
> is no explanation or reasons at all. While the respondent might well have had good reasons for rejecting the principal applicant's Afghan driver's licence with a translation, his Ontario driver's licence card and his Ontario provincial health insurance card as "satisfactory identity document[s]", no explanation or reasons were given. Similarly, no explanation or reasons were given for the rejection of the affidavit of the principal applicant's brother attesting to the principal applicant's identity. I am not prepared to accept that the

following sentence from the respondent's letter to the principal applicant of June 22, 1999 amounts to an explanation or reasons:

> The identity document you have submitted does not meet the requirements of 46.04(8) of The Immigration Act.

That is not an explanation or reasons….

43 In *Baker v. Canada (Minister of Citizenship and Immigration)*, Madam Justice L'Heureux-Dubé, in the context of an application for landing from within Canada on humanitarian and compassionate grounds, wrote at page 848:

> In my opinion, it is now appropriate to recognize that, in certain circumstances, the duty of procedural fairness will require the provision of a written explanation for a decision. The strong arguments demonstrating the advantages of written reasons suggest that, in cases such as this where the decision has important significance for the individual, when there is statutory right of appeal, or in other circumstances, some form of reasons should be required. This requirement has been developing in the common law elsewhere. The circumstances of the case at bar, in my opinion, constitute one of the situations where reasons are necessary. The profound importance of an H & C decision to those affected, ... militates in favour of a requirement that reasons be provided. It would be unfair for a person subject [page556] to a decision such as this one which is so critical to their future not to be told why the result was reached. [citations omitted.]

44 I am satisfied that precisely the same can be said here. To paraphrase the words of Madam Justice L'Heureux-Dubé, it would be unfair for a person or persons subject to a decision such as this one which is so critical to the future of the principal applicant and his family members not to be told why the result was reached. On this basis as well, I am satisfied that the respondent erred in a reviewable manner in not providing reasons for the rejection of the various identity documents provided by him, other than the marriage certificate and identity booklet where reasons were provided.

[24] The Applicant is concerned that, in the absence of an order in the nature of *mandamus*, further extensive delays with respect to her application may ensue. She asks the Court to intervene on her behalf.

ANALYSIS

[25] This file has evolved considerably since the application was made and leave was granted. In addition it has further evolved since the time of the hearing during which time counsel have made additional written submissions as requested by the Court in relation to the availability of a US re-entry permit. In my view, the Applicant has not adequately addressed this issue which goes to the availability of mandamus. In addition, the Applicant now has the permanent resident visa which she seeks. However, I think it is still necessary to look at the case that was argued before me at the hearing because the Applicant is seeking costs.

[26] The Applicant now accepts that her Somali passport is not an acceptable identity document for purposes of her permanent resident application but contends that the Respondent should have accepted her US P.R. card as valid confirmation of her identity.

[27] The Respondent says that the Applicant's US P.R. card is not acceptable evidence of her identity, that the Applicant and her counsel have repeatedly been told this, and that the Applicant has provided no explanation as to why she will not obtain and submit a US re-entry Permit, which the Respondent will accept as a valid identity document for purposes of her permanent residence application.

[28] The Applicant seeks to blame the Respondent for all of the delays that have occurred during the processing of her application for a permanent residence visa. The record is clear, however, that the Applicant herself has not always provided documentation in a timely manner. Indeed, the Respondent has had to remind her on occasion that it has requested documentation that she has not provided and is awaiting a response. All of the documentation requested by the Respondent has been necessary to support the application for a permanent residence visa and the Applicant has not been asked to provide any document that is not regularly requested of other applicants.

[29] On 14 January 2011 the Officer sent a letter to Applicant's counsel and enclosed a copy of Operational Bulletin 190 which contained information that passports from Somalia are not acceptable for permanent resident visas.

[30] On 20 January 2011, the Applicant attended at the consulate for final processing of her application for permanent residence. She submitted a Somali passport and her US P.R. card but was advised that they were not acceptable, and it was suggested to her that she obtain a US re-entry permit because the Applicant says that she is a permanent resident of the US.

[31] As of that time, the Applicant's file was complete and remained open pending submission of an acceptable identity document.

[32] The Applicant says that when she enters Canada, as she does frequently, she shows her Somali passport and her US P.R card at the border. She says that the officer checks both documents and allows her to enter Canada.

[33] The Applicant also says that her US P.R. card should be considered as a valid identity document for the purpose of her landing in Canada, and she says that her application is still being delayed by CIC in Buffalo for reasons unknown to her.

[34] The Applicant is being disingenuous. She knows, and has known for some time, that a Somali passport and her US P.R. card are not acceptable identity documents for the Respondent's purposes.

[35] The Applicant has provided the Court with no evidence that she has attempted to obtain the US re-entry permit, which the Respondent has advised her will be acceptable. Instead, the Applicant has come to the Court and is requesting that the Court compel the Respondent to accept her US P.R. card as an identity and/or travel document that will complete her permanent resident application.

[36] As the Respondent points out, even if the US P.R. card were acceptable under the Regulations, the Applicant cannot obtain *mandamus* in this situation because she has an adequate alternative. All she has to do to obtain a permanent resident visa is to submit a US re-entry permit, and there is no evidence that the Applicant cannot do this or that she has even tried.

[37] Justice Snider set out the well-known grounds for mandamus in *Vaziri v Canada (Minister of Citizenship and Immigration)*, 2006 FC 1159, [2006] FCJ No 1258 [*Vaziri*] at paragraph 38:

> The equitable remedy of *mandamus* lies to compel the performance of a public legal duty that a public authority refuses or neglects to carry out when called upon to do so. *Mandamus* can be used to control procedural delays (*Blencoe v. British Columbia* (*Human Rights Commission*) [2000] 2 S.C.R. 307 at para. 149). The test for *mandamus* is set out in *Apotex Inc. v. Canada*

> (*Attorney General*), [1994] 1 F.C. 742 (C.A.), aff'd [1994] 3 S.C.R. 1100 (and, more recently, discussed in the immigration context in *Dragan v. Canada* (*Minister of Citizenship and Immigration*), [2003] 4 F.C. 189 (T.D.), aff'd [2003] F.C.J. No. 813, 2003 FCA 233,). The eight factors are:
>
> (i) There must be a public legal duty to act;
>
> (ii) The duty must be owed to the Applicants;
>
> (iii) There must be a clear right to the performance of that duty, meaning that:
>
> a. The Applicants have satisfied all conditions precedent; and
>
> b. There must have been:
>
> I. A prior demand for performance;
>
> II. A reasonable time to comply with the demand, unless there was outright refusal; and
>
> III. An express refusal, or an implied refusal through unreasonable delay;
>
> (iv) No other adequate remedy is available to the Applicants;
>
> (v) The Order sought must be of some practical value or effect;
>
> (vi) There is no equitable bar to the relief sought;
>
> (vii) On a balance of convenience, *mandamus* should lie.

[38] In the *Vaziri* case, Justice Snider found at paragraphs 60-62 that an adequate alternative remedy existed for the applicants to secure immigration status because of the availability of TVRs:

> The Applicants contend that the only way for them to have "secure immigration status" is to have their applications finalized. The Respondent argues that the Applicants may take advantage of

> Temporary Resident Visas (TRVs) in order to reunite family members while the PR assessment process continues. These visas (often referred to as visitor visas) are obtained quickly and easily, they can be valid for fixed periods of time and they may be renewed. Our Court has found in past cases that temporary resident status, or its analogue under the repealed *Immigration Act*, can fulfil the objective of *IRPA* to reunite families (see *Gupta v. Canada* (*Minister of Citizenship and Immigration*), [2000] F.C.J. No. 1099 at para. 11 (T.D.) (QL); *Zhang v. Canada* (*Minister of Citizenship and Immigration*), [2005] F.C.J. No. 529, 2005 FC 427, at para. 8).
>
> As evidenced by the affidavits filed by the Applicants, the Applicants appear to premise their arguments on the desire to be reunited after many years apart. Through the use of TRVs, the father and son have at least one other way of being united. While the PR applications are being assessed, TRVs may provide interim relief.
>
> While I appreciate that the Applicants live with uncertainty while the PR applications are being resolved, and that TRVs do not provide the same security or rights as permanent resident status, the use of TRVs is an alternative that is adequate -- albeit not perfect. There is no pressing need in this case that the rights vested by PR status be acquired as soon as possible.

[39] Even more so in the present case, the evidence is clear that the Applicant did not need a remedy of *mandamus* to secure permanent residence status in Canada. All she had to do was submit a US re-entry permit and her application would have been finalized. The Applicant provided the Court with no evidence that she could not have secured permanent residence by following this simple expedient. Hence, it is incomprehensible to the Court why she came to the Court when she did to ask for *mandamus*. At the very least, her application was premature.

[40] In any event, this matter is now moot because the Applicant has now received her permanent residence visa.

[41] The Applicant has made no acceptable case for costs in this matter. As I indicated above, the delays in this matter have much to do with the Applicant's own conduct and her application for *mandamus* was premature.

JUDGMENT

THIS COURT'S JUDGMENT is that

1. The application is dismissed.

2. There is no question for certification.

"James Russell"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	IMM-5174-10
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APPEARANCES:

Kumar S. Sriskanda	FOR THE APPLICANT
Asha Gafar	FOR THE RESPONDENT

SOLICITORS OF RECORD:

Kumar S. Sriskanda Barrister & Solicitor Scarborough, ON	FOR THE APPLICANT
Myles J. Kirvan Deputy Attorney General of Canada	FOR THE RESPONDENT