

Federal Court



Cour fédérale

Date: 20160627

Docket: T-1251-15

Citation: 2016 FC 715

Ottawa, Ontario, June 27, 2016

PRESENT: The Honourable Mr. Justice O'Reilly

BETWEEN:

MANSOUR ZEINALI

Applicant

and

**THE MINISTER OF CITIZENSHIP
AND IMMIGRATION**

Respondent

JUDGMENT AND REASONS

I. Overview

[1] In 2011, Mr Mansour Zeinali applied for Canadian citizenship. Three years later, he took the citizenship test to demonstrate that he had an adequate knowledge of Canada, as required by s 5(1) of the *Citizenship Act*, RSC 1985, c C-29. He failed the test. He says that he felt stress at the time and had difficulty with his memory. He also felt that his underlying heart condition played a role. He tried writing the test again in 2015. Once again, however, he felt stressed and

experienced high blood pressure. He failed the second test, and a citizenship officer subsequently refused Mr Zeinali's application.

[2] Mr Zeinali argues that the officer treated him unfairly by failing to exercise his discretion to waive the knowledge requirement on compassionate grounds (under s 5(3)(a) of the Act), and by failing to give reasons for not doing so. He suggests that the officer should have invited him to submit medical evidence and provided him an opportunity to explain why he scored poorly on the test. Mr Zeinali also maintains that the officer's decision was unreasonable because it failed to take account of the best interests of his children. He asks me to quash the officer's decision and order another officer to consider the issue of compassionate grounds.

[3] I can find no basis for overturning the officer's decision. Mr Zeinali never brought to the officer's attention the issues he raises here. Therefore, the officer cannot be said to have treated Mr Zeinali unfairly or to have overlooked evidence. Accordingly, I must dismiss this application for judicial review.

[4] There are two issues:

1. Was Mr Zeinali treated unfairly?
2. Was the officer's decision unreasonable?

II. Issue One – Was Mr Zeinali treated unfairly?

[5] Mr Zeinali submits that the officer should have informed him of the opportunity to request a waiver of the knowledge requirement and, in any case, should have considered his

personal circumstances before denying him citizenship. Mr Zeinali contends that his physical appearance, especially after his daughter left him alone in the examination room, should have alerted the officer to the need to consider waiver. He was unaware of the need to bring his medical issues to the officer's attention.

[6] I disagree with Mr Zeinali's submissions. The onus fell on him to persuade the officer that he met the requirements for citizenship, including adequate knowledge of Canada. If he wished to be exempted from the knowledge requirement on compassionate grounds, he had a duty to bring relevant evidence to the officer's attention (*Huynh v Canada (Minister of Citizenship and Immigration)*, 2003 FC 1431). He failed to do so, and I am not satisfied that his nervous appearance was sufficient to meet that onus. Further, the officer did not have an obligation to inform Mr Zeinali of the possibility of seeking an exemption (*Maharatnam v Canada (Minister of Citizenship and Immigration)*, [2000] FCJ No 405).

[7] I cannot conclude that Mr Zeinali was treated unfairly in the circumstances.

III. Issue Two – Was the officer's decision unreasonable?

[8] Mr Zeinali argues that the officer, in considering whether to waive the knowledge requirement, should have taken account of the best interests of his children.

[9] I have already concluded that the officer had no obligation to consider exempting Mr Zeinali from the knowledge requirement. It follows that he had no duty to consider the best

interests of Mr Zeinali's children in the circumstances. In any case, Mr Zeinali did not provide the officer with any such evidence.

[10] I cannot find any basis for concluding that the officer's decision was unreasonable.

IV. Conclusion and Disposition

[11] The officer treated Mr Zeinali fairly and arrived at a reasonable decision. I must, therefore, dismiss this application for judicial review.

JUDGMENT

THIS COURT'S JUDGMENT is that the application for judicial review is dismissed.

“James W. O'Reilly”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: T-1251-15

STYLE OF CAUSE: MANSOUR ZEINALI v THE MINISTER OF
CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: TORONTO, ONTARIO

DATE OF HEARING: MARCH 7, 2016

JUDGMENT AND REASONS: O'REILLY J.

DATED: JUNE 27, 2016

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