Federal Court  Cour fédérale

Date: 20190627

Docket: IMM-4645-18

Citation: 2019 FC 871

Ottawa, Ontario, June 27, 2019

PRESENT: The Honourable Mr. Justice Gleeson

BETWEEN:

ROMEO V. LIM

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

I. Overview

[1] The applicant, Mr. Lim, is a citizen of the Philippines who initially entered Canada on a valid work permit. His subsequent application for a Temporary Resident Visa [TRV] was refused based on serious criminality and misrepresentation. He represents himself in this application.

[2] Mr. Lim seeks an order quashing the respondent's decision to deny his TRV application and various other forms of relief. He submits that he had withdrawn the application before a decision was rendered and that the respondent therefore lacked jurisdiction to refuse the application. He further submits the decision was unreasonable and malicious.

[3] The respondent submits the decision was reasonable. The inadmissibility findings were grounded in the evidence, and procedural fairness was respected throughout.

[4] The application is dismissed. For the reasons that follow, I am not convinced the respondent lacked jurisdiction, acted unreasonably, or proceeded unfairly in refusing the TRV application.

II. Background

[5] Mr. Lim initially applied for a TRV on November 11, 2016. The application was refused. Judicial review was sought, and on July 4, 2017, this Court granted judicial review on consent.

[6] In the course of re-determining Mr. Lim's application, the respondent sent a procedural fairness letter [PFL] to Mr. Lim on August 7, 2017 seeking additional information. In that letter, Mr. Lim was advised that the respondent had information that he had been criminally charged in 2015, which was contrary to what was indicated in his application. Mr. Lim was requested to provide an RCMP criminal record check; court or official documents showing the charges, verdict, sentence imposed, and completion of the terms and conditions of the sentence; and a detailed explanation of the events and circumstances surrounding and leading to the offence.

[7] By letter dated August 15, 2017, Mr. Lim explained that he only became aware of the charges on November 15, 2016—after he had completed his application form—when his employer told him he could not be re-hired as he was subject to an arrest warrant. He advised that he had pled not guilty to the charges that had ultimately been pursued and that a trial had been set for December. Mr. Lim declined to provide the requested explanation or documents relating to the charges. He took the position that to do so would presume he had committed an offence and this would contravene his rights under subsection 11(c) of the *Canadian Charter of Rights and Freedoms*, Part I of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982* (UK), 1982, c 11. He also urged the respondent to finalize his application as soon as possible, arguing pending charges did not constitute a lawful basis for presuming inadmissibility.

[8] In a second PFL dated August 28, 2017, the respondent advised Mr. Lim it had reasonable grounds to believe he had made a misrepresentation in his application form as he had indicated he had never committed, been arrested for, been charged with, or been convicted of a criminal offence in any country. In the letter, the respondent noted that (1) an electronic fees receipt and statutory declaration were dated after his arrest; (2) the respondent received the application on November 23, 2016, which was after the arrest; (3) it appeared the application contained information that Mr. Lim knew to be false; and (4) contrary to Mr. Lim's prior statement to the effect that the Crown had withdrawn the charges, the prosecutor had advised this was not the case; a technical correction had occurred, but this did not reduce or withdraw the charges. The letter stated these facts were material because they could have led to an error in evaluating the applicant's admissibility.

[9] Mr. Lim does not appear to have responded to the PFL but instead wrote to counsel at the Department of Justice in Edmonton on September 1, 2017, repeating that the charges had been withdrawn and arguing the omission was not "material," and again on September 7, 2017, requesting that she notify the respondent that he had withdrawn his application effective immediately. Counsel responded on September 7, 2017, explaining she was no longer involved in the matter, could not communicate with the respondent, and "[would] not be communicating anything to the Visa Office, and certainly not on your behalf especially since I do not represent you. Anything you want to communicate to CIC must be done directly to them."

III. The Decision under Review

[10] The respondent refused the application as (1) it was not satisfied Mr. Lim would leave Canada, and (2) he was inadmissible under paragraphs 36(1)(a) and 40(1)(a) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [IRPA].

[11] The Global Case Management System [GCMS] notes indicate that Mr. Lim had been found guilty of child luring under subsection 172.1(1) of the *Criminal Code*, RSC 1985, c C-46, and that new charges had been laid. They note that subsection 172.1(1) is a hybrid offence with a maximum sentence of 14 years and a 1-year minimum, rendering the applicant inadmissible under paragraph 36(1)(a) of the IRPA. The notes also indicate that Mr. Lim's explanation that the charges were withdrawn was false. The notes conclude that Mr. Lim had misrepresented material facts and that he was inadmissible under paragraph 40(1)(a) of the IRPA.

IV. The Proceeding

[12] On November 1, 2018, Mr. Timothy Leahy wrote to the Court attaching a power of attorney to act as Mr. Lim's "attorney in fact." On November 2, 2018, Prothonotary Kathleen Ring issued a direction stating that Mr. Leahy's request would not be entertained by the Court as there was no provision in the *Federal Courts Rules*, SOR/98-106, authorizing a power of attorney or an "attorney in fact" to represent an applicant. Further, this Court had previously found in *Forefront Placement Ltd v The Minister of Employment and Social Development*, 2017 FC 183, that Mr. Leahy was not authorized to appear in the Federal Court or Federal Court of Appeal.

[13] Mr. Lim wrote to the Court on February 4, 2019 advising that he was not in a position to retain counsel and that he would be unable to appear in person for the scheduled hearing of the application on February 11, 2019 because he was incarcerated. Mr. Lim advised he would rely on his application record and reply. He also provided a series of 25 proposed questions for certification and a copy of a decision relied upon by the respondent.

[14] The Court issued directions seeking to determine if Mr. Lim was able to appear by video-conference or telephone conference. Arrangements were subsequently made, and the hearing proceeded by way of telephone conference with Mr. Lim participating.

[15] At the conclusion of the hearing, counsel for the respondent sought the opportunity to provide written submissions on Mr. Lim's series of proposed questions for certification. The

Court also inquired as to whether there was any additional jurisprudence that might assist it in addressing Mr. Lim's jurisdiction argument.

[16] A Direction was issued addressing both issues. The respondent was provided the opportunity to deliver written submissions on the proposed questions for certification. The Direction also sought advice from counsel for the respondent on whether further submissions and jurisprudence might assist the Court in assessing the merits of the applicant's jurisdiction argument, and if so, proposing how the Court should best proceed. Mr. Lim was provided the opportunity to reply to the respondent's submissions.

[17] By letter dated February 25, 2019, counsel for the respondent provided submissions on the proposed questions for certification. Counsel also addressed jurisprudence relevant to the jurisdiction question, which was inconsistent with the Court's Direction that advice be provided on whether additional submissions might assist the Court in assessing the merits of the applicant's jurisdiction argument. Mr. Lim exercised his right of reply in a letter dated February 28, 2019. He took issue with the fact that he was provided 5 pages to reply as opposed to the 10 pages that had been granted to the respondent but did not request leave to provide additional representations. Mr. Lim's reply letter addresses both the submissions relating to the issue of jurisdiction and the respondent's position on each of the 25 certified questions. Although the respondent proceeded in manner that was not fully consistent with the Court's Direction, the Court has had the benefit of Mr. Lim's written reply on the issue of jurisdiction. I am satisfied he has not been prejudiced.

[18] Mr. Lim wrote to the Court again on April 1, 2019 to advise that pending charges against him had been stayed and noting that counsel for the respondent had not so informed the Court. Counsel for the respondent replied by letter dated April 8, 2019, taking the position that the stayed charges were not considered in refusing the TRV and the stay was of no relevance in reviewing that decision.

V. Issues and Standard of Review

[19] The applicant raises a number of issues, which I have reframed as follows:

A. Does the respondent's failure to identify the decision maker by name render the decision void?

B. Did the respondent err by rendering a decision on a withdrawn application?

C. Is the decision unreasonable?

D. Was the decision maker biased?

[20] Issues A, B, and D raise questions relating to fairness that will be reviewed against a standard of correctness (*Canadian Pacific Railway Company v Canada (Attorney General)*, 2018 FCA 69 at para 54; *Zhang v Canada (Citizenship and Immigration),* 2015 FC 463 at para 2 [*Zhang*]). Issue C involves questions of mixed fact and law and the exercise of discretion, which are reviewable against a standard of reasonableness (*Peng v Canada (Citizenship and Immigration)*, 2018 FC 1230 at para 12).

VI. Analysis

A. *Does the respondent's failure to identify the decision maker by name render the decision void?*

[21] Mr. Lim takes the position that the failure to identify the decision maker by name is contrary to the requirement in subsection 11(1) of the IRPA that an *officer* render a decision. He further submits that concealing the name of the decision maker breaches natural justice and procedural fairness. It is also contrary to paragraph 3(3)(b) of the IRPA, which requires the IRPA to be construed and applied in a manner that promotes accountability and transparency.

[22] I am unpersuaded. The jurisprudence recognizes that where an authority is exercised, the person doing so benefits from a strong presumption of having acted with proper authorization until such time as that presumption is rebutted with convincing evidence that the decision maker in fact lacked the required authority (*Canada (Minister of Human Resources Development) v Wiemer* (1998), 228 NR 341 (FCA) at para 13; *Varela v Canada (Minister of Citizenship and Immigration)*, 2017 FC 1157 at para 7 [*Varela*]).

[23] Mr. Lim relies on *Qin v Canada (Minister of Citizenship and Immigration)*, 2003 FC 1504 [*Qin*], and *Khadr v Canada (Attorney General)*, 2006 FC 727 [*Khadr*], in advancing his position. Both are readily distinguishable. In *Qin*, the issue was whether the interviewing officer was a "visa officer" as required under the regulations as they then existed. In finding the officer lacked the authority to conduct the interview, Justice Richard Mosley noted that the *Immigration Act*, RSC 1985, c I-2, as it then existed, distinguished between immigration officers and visa

officers; that Parliament intended visa officers to conduct the interview in issue; and that there was clear evidence on the record that the interviewing officer was not a visa officer (*Qin* at paras 17–23). In *Khadr*, there was evidence on the record demonstrating that the decision to refuse a passport was made by the Minister of Foreign Affairs, contrary to the procedure held out to the public and the legitimate expectation that the advertised procedures created. In both cases, there was evidence to rebut the presumption that the decision maker acted with proper authority. In this case, the argument is speculative and based on conjecture.

[24] I would also note that the decision maker is not unidentified. An identity code is used in the GCMS notes. I agree with the views expressed by Justice Robert Barnes in *Varela* when he concludes that identification of a decision maker by an identity code does not render a decision invalid and that if identify is in issue, an applicant has a duty to ask for the decision maker's identity rather than staying silent and complaining later (*Varela* at para 7).

B. *Did the respondent err by rendering a decision on a withdrawn application?*

[25] Mr. Lim argues that he withdrew his application long before a decision was rendered and that this is evidenced in the GCMS notes. He argues the respondent had no discretion to refuse the withdrawal and therefore erred in rendering a refusal decision.

[26] Mr. Lim did not write to the respondent to notify of his application withdrawal but rather to Department of Justice counsel. Counsel promptly responded to Mr. Lim advising she would not be communicating this information to the Visa Office. The record does not indicate that any

further steps to withdraw the application were taken by Mr. Lim; however, the GCMS notes indicate the respondent was aware of the withdrawal correspondence.

[27] Mr. Lim did not seek to withdraw his application until after the August 28, 2017 PFL was sent advising him that the respondent was concerned that he had (1) provided false information relating to outstanding criminal charges, information that he was aware of at the time of application, and (2) subsequently misrepresented the disposition of those charges.

[28] Although the IRPA does not address when an application may be withdrawn, the issue has been addressed by this Court in *Zhang*. In *Zhang*, as is the case here, the applicant sought to withdraw an application after being notified of a possible misrepresentation. Justice Barnes held that it would be contrary to the public interest to permit the withdrawal of visa applications in the face of evidence of a possible misrepresentation:

> [7] I agree with counsel for the Minister that it would not be in the public interest to routinely permit the withdrawal of visa applications in the face of evidence of a possible misrepresentation. Such an approach would encourage claimants to misrepresent material information in the expectation their visa applications could simply be withdrawn if the deceit was later uncovered. In these circumstances, Ms. Zhang had no legitimate expectation that her request to withdraw would be accepted. Instead, in the absence of a valid exculpatory explanation, she ought to have understood a misrepresentation finding remained open.

[29] This case attracts similar public interest considerations and Mr. Lim had no reasonable expectation that his withdrawal notification would be accepted, having been first notified of the respondent's misrepresentation concerns and then having been expressly advised that his withdrawal notification would not be communicated to the respondent.

[30] Mr. Lim seeks to distinguish *Zhang* on the basis that a decision was not rendered on his application until ten months after he had notified the Department of Justice of his withdrawal of the application. This circumstance does not impact upon the principles underlying the decision in *Zhang*, which I have concluded apply equally in this circumstance.

[31] The respondent did not err in rendering a decision on Mr. Lim's TRV application.

C. *Is the decision unreasonable?*

[32] Mr. Lim takes issue with the reasonableness of a number of aspects of the respondent's decision. However, I need only address the reasonableness of the material misrepresentation finding as this finding, if reasonable, renders the refusal decision reasonable.

[33] Mr. Lim takes issue with both the findings that there was a misrepresentation and that the misrepresentation was material. I am of the view that both findings were reasonably available to the respondent.

[34] First, Mr. Lim argues the respondent was required to "prove" the misrepresentation. This misstates the burden upon a visa applicant. It is for an applicant to establish admissibility, and an officer may refuse an application where that officer has "reasonable grounds to believe" an applicant is inadmissible (IRPA, s 33; Chantal Desloges, Cathryn Sawicki & Lynn Fournier-Ruggles, *Canadian Immigration and Refugee Law: A Practitioner's Handbook*, 2nd ed (Toronto: Emond, 2019) at 115).

[35] The record indicates that Mr. Lim's application is dated November 11, 2016. In addition, the record includes a receipt showing an online application fee was paid on November 18, 2016; a passport photo of Mr. Lim dated November 20, 2016; a shipping label from Mr. Lim to Immigration Canada dated November 21, 2016; and an entry in the GCMS notes indicating the application was received on November 24, 2016. Mr. Lim was arrested on November 15 or 16 and was charged at that time.

[36] In *Goburdhun v Canada (Citizenship and Immigration)*, 2013 FC 971, Justice Cecily Strickland summarizes the general principles established in the jurisprudence relating to misrepresentation:

> [28] In *Oloumi*, above, Justice Tremblay-Lamer describes general principles arising from this Court's treatment of section 40 of the IRPA which are summarized below together with other such principles arising from the jurisprudence:
>
> - Section 40 is to be given a broad interpretation in order to promote its underlying purpose (*Khan v Canada (Minister of Citizenship and Immigration)*, 2008 FC 512 at para 25 [*Khan*]);
>
> - Section 40 is broadly worded to encompasses misrepresentations even if made by another party, including an immigration consultant, without the knowledge of the applicant (*Jiang v Canada (Minister of Citizenship and Immigration)*, 2011 FC 942 at para 35 [*Jiang*]; *Wang v Canada (Minister of Citizenship and Immigration)*, 2005 FC 1059 at paras 55-56 [*Wang*]);
>
> - The exception to this rule is narrow and applies only to truly extraordinary circumstances where an applicant honestly and reasonably believed that they were not misrepresenting a material fact and knowledge of the misrepresentation was beyond the applicant's control (*Medel*, above);

- The objective of section 40 is to deter misrepresentation and maintain the integrity of the immigration process. To accomplish this, the onus is placed on the applicant to ensure the completeness and accuracy of their application (*Jiang*, above, at para 35; *Wang*, above, at paras 55-56);

- An applicant has a duty of candour to provide complete, honest and truthful information in every manner when applying for entry into Canada (*Bodine v Canada (Minister of Citizenship and Immigration)*, 2008 FC 848 at para 41*; Baro v Canada (Minister of Citizenship and Immigration*), 2007 FC 1299 at para 15);

- As the applicant is responsible for the content of an application which they sign, the applicant's belief that he or she was not misrepresenting a material fact is not reasonable where they fail to review their application and ensure the completeness and veracity of the document before signing it (*Haque*, above, at para 16; *Cao v Canada (Minister of Citizenship and Immigration)*, 2010 FC 450 at para 31 [*Cao*]*);*

- In determining whether a misrepresentation is material, regard must be had for the wording of the provision and its underlying purpose (*Oloumi*, above, at para 22);

- A misrepresentation need not be decisive or determinative. It is material if it is important enough to affect the process (*Oloumi*, above, at para 25);

- An applicant may not take advantage of the fact that the misrepresentation is caught by the immigration authorities before the final assessment of the application. The materiality analysis is not limited to a particular point in time in the processing of the application. (*Haque*, above, at paras 12 and 17; *Khan*, above, at paras 25, 27 and 29; *Shahin v Canada (Minister of Citizenship and Immigration)*, 2012 FC 423 at para 29 [*Shahin*]);

[37] Mr. Lim had a duty to provide complete, honest, and truthful information in applying for a TRV. His misrepresentation need not have been intentional, as misrepresentation by inadvertence falls within the scope of section 40 of the IRPA. There was ample information on the record to support the respondent's conclusion that at the time Mr. Lim's application was submitted, he had been charged with offences and had not disclosed that information in his application.

[38] The respondent did not err in concluding that a misrepresentation had occurred and that the misrepresentation was material in administering the IRPA. On the basis of this finding alone, the refusal decision was reasonable.

D. *Was the decision maker biased?*

[39] Mr. Lim argues the respondent acted maliciously in re-opening his application after he withdrew it and that this, coupled with the rejection of a subsequent spousal sponsorship application and the failure to identify the decision maker, evidences bias or alternatively gross incompetence.

[40] The threshold for a finding of real or perceived bias is high (*Yukon Francophone School Board, Education Area #23 v Yukon (Attorney General*), 2015 SCC 25 at paras 20–26). Beyond Mr. Lim's bald allegation, there is simply no evidence indicating the respondent was biased or acted maliciously.

VII. Certified Questions

[41] As set out above, Mr. Lim has proposed 25 questions for certification. These questions, as presented by Mr. Lim in his letter dated February 4, 2018, are reproduced and attached to this Judgment as Annex “A”.

[42] Subsection 74(d) of the IRPA provides that an appeal to the Federal Court of Appeal may only be pursued where this Court certifies, in rendering judgment on the application, that “a serious question of general importance” arises and states the question. A certified question must (i) be dispositive of the appeal, and (ii) transcend the interests of the parties and contemplate issues of broad significance or general importance. It must also have been raised and dealt with by the reviewing court and arise from the case, not from the judge’s reasons (*Mudrak v Canada (Citizenship and Immigration)*, 2016 FCA 178 at para 16).

[43] The issues raised in this application for judicial review are neither novel nor controversial. Jurisprudence in relation to the issues raised is not in conflict, and, as such, a question of general importance has not been identified. On this basis, I decline to certify any of the proposed questions.

VIII. Costs

[44] Mr. Lim seeks costs. They are not warranted and none are awarded.

IX. Conclusion

[45] The application is dismissed.

JUDGMENT IN IMM-4645-18

THIS COURT'S JUDGMENT is that:

1. The application is dismissed;

2. No costs are awarded; and

3. No question is certified.

"Patrick Gleeson"

Judge

ANNEX "A"

APPLICANT'S PROPOSED QUESTIONS FOR CERTIFICATION

1. Do visa applicants have the right to withdraw an application before notice that a decision has been made; or is there a secret annex to the *Abolition Act, 1833* that transforms fee-paying visa applications into *de facto* chattel of Canadian visa officers?

2. If visa applicants do not lose their liberty by virtue of applying for a visa, may visa officers assess visa applications after receiving notice that they have been withdrawn?

3. Is the date for determining whether a material misrepresentation occurred (a) the date the application was made or (b) the later date when an officer renders a decision?

4. In assessing whether a concealed, alleged visa officer, for whom no law degree is required, properly ruled a misrepresentation to be "material", as the SCC defined the term in *MMI v. Brooks*, [1974] SCR 850, should the Court adhere to the rulings of the Supreme Couret of Canada, as expressed in *Pushpanathan*, [1998] 1 SCR 982 at paras 42-50 and in *Mugesera*, 2005 SCC 40 at para 37, which held that the proper standard is "correctness" or the "reasonableness" standard Justice Russell applied in *Patel*?

5. Who has the burden-of-proof for a finding of "material misrepresentation" to be lawful: the officer making the ruling or the applicant denying it?

6. In order for a finding of "material misrepresentation" to be lawful must the alleged visa officer identify a statutory ground of inadmissibility which could not be ascertained owing to the applicant's lack of candour or is the burden on the applicant to divine the grounds of inadmissibility and prove that misrepresentation was not "material" as the Supreme Court of Canada defined it in *M.M. I. v Robert Philip Brooks*, [1974] S.C.R. 850 at page 873, and was a patently unreasonable finding?

7. In order for the misrepresentation to be "material" must the "further inquiry" it foreclosed be one which could lead to a lawful basis of inadmissibility?

8. Is the legal principle that "a person is innocent unless proven guilty"; *i.e.*, convicted; of no force and effect in the legal *apartheid* of immigration law?

9. Is a person, against whom a criminal charge is pending, criminally inadmissible?

10. If a person may not be declared criminally inadmissible absent a conviction, does non-disclosure of an arrest or of a pending criminal charge constitute a "material misrepresentation" when a truthful answer could not have resulted in a lawful refusal?

11. Where an applicant, who has made a misrepresentation, has a spouse, who enjoys lawful immigration status in Canada, and, but for the misrepresentation, is not inadmissible, is an officer acting contrary to the will of Parliament, as expressed at A3(1)(d), if s/he invokes A40(1)(a) in order to prevent the spouses for five years from living together in Canada?

12. Where an applicant is not inadmissible other than for a misrepresentation and has a spouse, who enjoys lawful immigration status in Canada, is it "reasonable" for an officer to invoke A40(1)(a) in order to prevent the spouses for five years from living together in Canada?

13. Where an officer, knowing that the applicant, who has made a misrepresentation which did not conceal a lawful ground of inadmissibility, is the subject of a spousal application, invokes A40(1)(a) in order to sabotage the spousal sponsorship and to keep the couple separated for five years, "would an informed person, viewing the matter realistically and practically – and having though the matter through – conclude" that the officer is malicious, unCanadian and intent on destroying a relationship?

14. Do officers breach A3(1)(d) and A22(1) when they refuse a TRV to a person, who is residing lawfully in Canada and has a pending spousal sponsorship, by speculating that the applicant is unlikely to abandon his/her spouse within six months of re-entry?

15. Is it "reasonable" to refuse to issue a TRV by speculating that the applicant, who is already living lawfully in Canada and wishes to leave and return to Canada, is unlikely to leave Canada within six months of re-admission given that the applicant is already living in Canada and, thus, issuing the TRV will not lead to its holder overstaying?

16. Would an informed person, viewing the matter realistically and practically – and having thought the matter through – conclude that refusing to allow a person to leave and return to Canada because s/he might overstay lacks logic and radiates malice?

17. Are decisions, impacting on the future of an applicant, lawful when the decision-maker's identity is concealed?

18. Does a reasonable apprehension of bias arise when a justice presumes that a concealed decision-maker is authorized to make an impugned decision when no evidence is on record to that effect and the applicant had raised the issue?

19. Does the refusal to award costs to applicants in the legal *apartheid* of immigration law absent a showing of "special reasons" contravene the will of Parliament as expressed at para. 3(3)(d), where it declared that immigration officials are to be accountable for their conduct?

20. Are “special reasons” transparent when an officer forces an applicant, who had withdrawn an application many months earlier, to seek judicial review or be barred for five years from Canada and from his spouse?

21. Given that the refusal of a TRV application ten months after it had been withdrawn forced the applicant to litigate this matter a *second time* or be barred from Canada for five years and, knowing that the applicant cannot appear at the hearing or afford to hire a lawyer, DOJ refused gracious settlement terms after leave had been granted in the expectation that this meritorious application would be denied because he cannot appear at the hearing, should the respondent be rewarded for willfully acting contrary to the will of Parliament as expressed at ss. 4 and 5 of the *Department of Justice Act* or should significant costs be awarded *à la* A3(d)(3)?

22. When a faithful application of the law to the facts mandates granting the relief being sought is there any legal barrier preventing the Federal Court from ruling in the applicant’s favour in the applicant’s absence (*à la* disposition of leave)?

23. Is there any legal barrier barring the Federal Court from allowing a person, who holds a duly executed power-of-attorney, to honour the POA and act for a litigant?

24. If the Federal Court may refuse to accept a duly executed power-of attorney, is the administration of justice brought into disrepute when, after refusing to honour a duly executed power-of-attorney, the Court dismisses the application because the applicant did not appear because he is incarcerated awaiting disposition of his appeal?

25. Where the Court dismisses an application and refuses to certify questions meeting the certification requirements has the Court acted contrary to its duty to apply the law faithfully to the facts when it refused to certify a question in order to prevent its decision from reviewed or overturned?

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	IMM-4645-18
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APPEARANCES:

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