Federal Court  Cour fédérale

Date: 20220628

Docket: IMM-3677-21

Citation: 2022 FC 960

Ottawa, Ontario, June 28, 2022

PRESENT: Mr. Justice Norris

BETWEEN:

MILLENNIUM PACIFIC GREENHOUSES PARTNERSHIP

Applicant

and

THE MINISTER OF EMPLOYMENT AND SOCIAL DEVELOPMENT CANADA

Respondent

JUDGMENT AND REASONS

I. OVERVIEW

[1] Millennium Pacific Greenhouses Partnership ("Millennium Pacific") operates a greenhouse tomato farm in Delta, British Columbia. It would routinely hire farm workers under the Temporary Foreign Worker Program ("TFWP") to work along with Canadian workers. The

TFWP is administered by Employment and Social Development Canada ("ESDC") in conjunction with Immigration, Refugees and Citizenship Canada ("IRCC").

[2] The participation of an employer like Millennium Pacific in the TFWP is governed by, among other things, detailed regulations set out in the *Immigration and Refugee Protection Regulations*, SOR/2002-227 ("*IRPR*"). ESDC/Service Canada is responsible for monitoring compliance with the regulations and, where appropriate, conducting inspections to identify potential instances of non-compliance.

[3] After the onset of the COVID-19 pandemic in Canada, several provisions were added to the *IRPR* to address the obligations of employers concerning the health and safety of temporary foreign workers specifically in relation to COVID-19. Among these is that an employer who provides accommodations to a foreign national must, if the foreign national becomes infected with or develops any signs or symptoms of COVID-19, "provide the foreign national with accommodations that have a bedroom and a bathroom that are solely for the use of the foreign national while they isolate themselves": see *IRPR*, subparagraph 209.3(1)(a)(xi). The obvious rationale for this measure is to help prevent the spread of COVID-19 to others, including other workers.

[4] A failure to comply with this obligation to provide private accommodations to a temporary foreign worker who is self-isolating can be justified in certain circumstances: see *IRPR*, subsection 209.3(3). Among the circumstances that can justify such a failure is "an error in interpretation made in good faith by the employer with respect to its obligations to a foreign

national" or with respect to its compliance with this condition: see *IRPR*, paragraphs 203(1.1)(d) and (h). If after investigation a failure to comply is established and it is not found to be justified, this can result in a warning, an administrative monetary penalty ("AMP"), a period of ineligibility for the TFWP, or a combination of these sanctions.

[5] In December 2020, following a COVID-19 outbreak at Millennium Pacific, the company was selected for an inspection by Service Canada. In the course of the inspection, Service Canada learned that one temporary foreign worker, Lazaro Gildardo Carrillo Perez, had returned to Guatemala after working for Millennium Pacific briefly in the fall of 2020. The inspection eventually focused on whether Millennium Pacific had failed to comply with the *IRPR* because, at a time when Mr. Carrillo Perez was displaying signs or symptoms of COVID-19, it had failed to provide him with private accommodations, as required by subparagraph 209.3(1)(a)(xi) of the *IRPR*.

[6] In a decision dated May 14, 2021, the Assistant Deputy Minister, Integrity Services Branch, Service Canada determined that Millennium Pacific had, without justification, failed to comply with subparagraph 209.3(1)(a)(xi) of the *IRPR*. The decision maker imposed an AMP of $100,000 and permanently banned Millennium Pacific from the TFWP.

[7] Millennium Pacific now applies for judicial review of this decision under subsection 72(1) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 ("*IRPA*"). It argues that the decision was made in breach of the requirements of procedural fairness, that it is

tainted by a reasonable apprehension of bias, and that it is unreasonable. For the reasons that follow, I agree that the decision is unreasonable.

[8] Briefly, the central point of dispute over the course of the inspection was why Mr. Carrillo Perez returned to Guatemala when he did – in particular, whether he left Canada voluntarily or was sent home by the company. Millennium Pacific had contended, with supporting evidence, that it readily provided private accommodations to workers who were showing signs or symptoms of COVID-19, as the regulations required. In the case of Mr. Carrillo Perez, he had been unhappy since he arrived in Canada and had decided to return home early. The company facilitated this by arranging for a flight as soon as he asked to go home. If Mr. Carrillo Perez was displaying signs or symptoms of COVID-19 when he was in Canada (which the company denied), this was only on the day he was scheduled to leave. The company did not breach the regulations because, since Mr. Carrillo Perez was leaving that day, even if he was showing signs or symptoms of COVID-19, he did not need to self-isolate and therefore did not require private accommodations to do so. The decision maker concluded, however, that instead of providing Mr. Carrillo Perez with private accommodations as it was required to, Millennium Pacific had "sent him back to Guatemala" contrary to medical advice and, indeed, contrary to his wishes.

[9] I agree with Millennium Pacific that the decision maker's assessment of this key issue is unreasonable because material evidence and information was either overlooked or assessed unreasonably. The decision must, therefore, be set aside and the matter reconsidered by a different decision maker. As a result, it is not necessary to address the applicant's procedural

fairness arguments or its contention that the decision is tainted by a reasonable apprehension of bias. Nor is it necessary to address the applicant's arguments that the amount of the AMP and the permanent ban from the TFWP are unreasonable.

II. PRELIMINARY ISSUE

[10] The correct name of the applicant is Millennium Pacific Greenhouses Partnership. There is an error in its name in the style of cause ("Greenhouse" instead of "Greenhouses"). The style of cause will be amended with immediate effect to correct this error.

III. BACKGROUND

[11] Mr. Carrillo Perez is a citizen of Guatemala who was born in December 1969. He began working at the Millennium Pacific tomato farm on or about November 6, 2020, after spending 14 days in quarantine in a hotel following his arrival in Canada. He was part of a group of temporary foreign workers from Guatemala hired by Millennium Pacific through a third party company, HRO Human Resources Outsourcing ("HRO"). HRO is based in Guatemala but, as will be discussed below, it has a local representative in the Vancouver area who can serve as an intermediary between workers and the company when required (e.g. by providing interpretation services).

[12] Mr. Carrillo Perez returned to Guatemala on a flight that departed Vancouver late in the evening of November 22, 2020, after asking to go home the day before.

[13] The investigation into whether Millennium Pacific had complied with subparagraph 209.3(1)(a)(xi) of the *IRPR* in his case unfolded in three stages.

[14] It began on or about December 10, 2020, when Millennium Pacific was selected for an inspection by Service Canada because of a reported outbreak of COVID-19 there. Telephone interviews were conducted with several employees (including Mr. Carrillo Perez) over the next few weeks. As well, an on-site inspection was conducted on January 12, 2021.

[15] The inspection examined the operation's compliance with all the applicable regulations but the only area of concern identified was the circumstances under which Mr. Carrillo Perez had returned to Guatemala. Millennium Pacific was notified of this concern in writing on January 28, 2021, and was given an opportunity to respond. Conrado Ishikawa Ayllon, the Assistant Grower/General Manager at the time, responded by letter dated January 28, 2021.

[16] Next, following further investigation by Service Canada, a Notice of Preliminary Finding was sent to Millennium Pacific on March 11, 2021. Counsel for Millennium Pacific responded on March 19, 2021, with written submissions (including supporting evidence).

[17] Finally, a Briefing Memo was prepared for the Assistant Deputy Minister seeking approval for the recommendation that Millennium Pacific be found to have failed without justification to comply with subparagraph 209.3(1)(a)(xi) of the *IRPR*, to impose an administrative monetary penalty of $100,000, and to permanently ban the company from the TFWP.

[18] Each of these stages in the investigation will be described in more detail below before I turn to the Assistant Deputy Minister's decision.

A. *The Initial Investigation*

[19] On November 10, 2020, Mr. Ayllon (the Assistant Grower/General Manager) and another Millennium Pacific employee tested positive for COVID-19. They immediately went into isolation in company housing. Mr. Ayllon remained in isolation until November 26, 2020. Meanwhile, a group of Mexican workers had departed after completing their contract of employment and a new group of workers from Guatemala was arriving. Two of the Guatemalan workers testified positive and they too went into isolation in company housing around mid-November. Millennium Pacific was advised to separate workers who had testified positive from those who had testified negative, which it did.

[20] Fraser Health, the local public health authority, conducted on-site testing on December 2, 2020, and a number of workers tested positive. In total, some 16 out of 31 temporary foreign workers testified positive in the outbreak. By the second week of December (when the inspection began), workers who had tested positive were isolating in on-site company housing while workers who had tested negative were staying at a local hotel. Throughout this time, Mr. Ayllon was in regular contact with Fraser Health, which continued to monitor the outbreak and provide advice and direction.

[21] Service Canada was eventually notified of the outbreak and commenced an inspection. Primary responsibility for the inspection was assigned to Theresah Kwaw, an Integrity Services

Investigator with Service Canada's Integrity Services Branch, although other investigators were also involved.

[22] Ms. Kwaw first contacted Mr. Ayllon (who was the company's designated point of contact) by telephone on December 10, 2020. She explained that, as a result of the reported COVID-19 outbreak, she was conducting an inspection to verify compliance with the applicable regulations. Two files (one Labour Market Impact Assessment ("LMIA") covering recent workers from Mexico, the other LMIA covering recent workers from Guatemala) had been selected for the inspection. Two Mexican workers and three Guatemalan workers in particular had been selected to be interviewed. (Why these workers in particular were selected for interviews is not clear from the record.) Mr. Ayllon explained that the Mexican workers had already departed but he would provide contact information for them and the Guatemalan workers any other information that was required. The authority to conduct the inspection and its scope were reiterated in a letter Ms. Kwaw emailed to Mr. Ayllon later that day.

[23] Also on December 10, 2020, Mr. Ayllon forwarded to Ms. Kwaw several emails detailing his dealings with Fraser Health concerning management of the outbreak.

[24] Ms. Kwaw was in contact with Mr. Ayllon again by telephone on December 11 and 15, 2020, to request information from Millennium Pacific. She conducted a detailed telephone interview with him on December 17, 2020.

[25] In the interview, Mr. Ayllon described the course of the COVID-19 outbreak at Millennium Pacific and the steps the company had taken to manage it in collaboration with Fraser Health. He noted that of the 32 Guatemalan workers on the LMIA in question, 31 remained in Canada because one – Mr. Carrillo Perez – had returned to Guatemala. Mr. Ayllon added that just before Mr. Carrillo Perez was to leave Canada a nurse had informed Mr. Ayllon that he (Mr. Carrillo Perez) could not leave because he had COVID. Although he had not been tested, he appeared to be showing symptoms. Mr. Ayllon explained that he responded that he did not think it was COVID because Mr. Carrillo Perez had been complaining of stomach and kidney problems since he had arrived in Canada.

[26] Mr. Ayllon agreed to obtain Mr. Carrillo Perez's contact information for Ms. Kwaw. He also provided her with the number of a local contact from HRO who was "aware of the situation" regarding Mr. Carrillo Perez.

[27] As will be discussed below, on November 22, 2020, Mr. Carrillo Perez was seen by a health care worker with Umbrella Multicultural Health Co-op ("UMHC"). The record is not entirely clear but it appears that a mobile clinic had happened to visit the Millennium Pacific location that day – the day Mr. Carrillo Perez was scheduled to leave Canada. There is no direct evidence as to why Mr. Carrillo Perez decided to visit the mobile clinic.

[28] Ms. Kwaw conducted three telephone interviews with Mr. Carrillo Perez: on January 27, 2021; January 28, 2021; and February 5, 2021.

[29] In material part, on January 27, 2021, Mr. Carrillo Perez stated the following:

- He left Canada and returned to Guatemala on November 22, 2020, because he got sick in Canada.

- A doctor who examined him later in Guatemala told him that, based on his symptoms, he had COVID-19. Mr. Carrillo Perez had never been tested for COVID-19, however.

- He had been unwell in Canada but he did not know what was wrong. He could not sleep, felt weak, had pain in his lungs, and was short of breath when carrying his suitcases. He first started having symptoms around November 10 or 12, 2020.

- The employer did not isolate him because they did not know what was wrong and he was never tested.

- He had shared accommodations with three other workers and they all got infected with COVID-19.

- He did not wait until he was better to leave Canada because the employer sent him home. He stated: “They did not want to keep me there more time” and “They told me I have to go home to recover in Guatemala.” These messages were communicated from Mr. Ayllon to Mr. Carrillo Perez through Walter Ardon, the local HRO representative.

[30] On January 28, 2021, Ms. Kwaw contacted Mr. Ayllon by telephone and informed him that ESDC/Service Canada would be “moving forward to justification for failure to provide medical attention” to Mr. Carrillo Perez.

[31] According to the investigator's notes of the call, in summary, Mr. Ayllon responded to this allegation as follows:

- The employer did not fail to provide Mr. Carrillo Perez with medical assistance.
- Mr. Carrillo Perez had consistently complained of stomach and intestinal problems that pre-dated his arrival in Canada. He had never complained of lung pain or shortage of breath when he was working for the company.
- Mr. Carrillo Perez had never displayed any symptoms of COVID-19. If he had, he would have been isolated like all the other employees who had shown symptoms or tested positive.
- Mr. Ayllon did not accept the opinion of the UMHC that Mr. Carrillo Perez had COVID-19 because they never actually tested him for this.
- At the time, Mr. Carrillo Perez was not required to have a negative COVID-19 test to be able to fly. Rather, like other passengers, he would be checked for symptoms of COVID-19 at the airport and would not be permitted to fly if he displayed any. Since he had been permitted to board his flight, he must not have been displaying any symptoms.
- In any event, Mr. Carrillo Perez was unwilling to get tested because he was afraid of contracting COVID-19 at the hospital where the testing would be done.

[32] Also on January 28, 2021, Ms. Kwaw emailed Mr. Ayllon a letter formally notifying the company that it "may not be complying, or has not complied in the past" with subparagraph 209.3(1)(a)(xi) of the *IRPR*. Specifically, the letter stated:

> As per regulation, the employer must isolate and provide private bedroom and bathroom to [temporary foreign worker] showing COVID-19 symptoms or infected with COVID-19. Based on the information you provided to Service Canada by email on December 4th and 11th, 2020 and based on the interviews conducted on December 18th 2020 and January 27th 2021 with Temporary Foreign Worker (TFW) – LAZARO GILDARDO CARRILLO PEREZ, you failed to provide medical assistance to the TFW and isolate him immediately upon symptoms.

[33] The letter then noted that, pursuant to subsection 209.3(4) of the *IRPR*, the company was being given an opportunity to submit a written justification to ESDC/Service Canada "to address the discrepancies identified with the condition(s) mentioned above."

[34] Mr. Ayllon responded in writing the same date. In summary, he stated the following:

- Mr. Carrillo Perez had requested to go home after working for about 15 days due to homesickness and pre-existing medical issues. HRO would be in a position to confirm this.

- At no time did Mr. Carrillo Perez show any symptoms of COVID-19. Consequently, there was no need for him to get tested or to self-isolate.

- There would have been ample capacity in company housing for Mr. Carrillo Perez to self-isolate if he had displayed any symptoms of COVID-19, just as other employees and temporary foreign workers had done.

- Mr. Carrillo Perez refused to go to the hospital because he was afraid of being exposed to COVID-19 there.

- At about 5:30 p.m. on November 22, 2020, someone Mr. Ayllon understood to be a nurse from the UMHC mobile clinic had called him and informed him that Mr. Carrillo Perez had COVID-19. Someone else who he understood to be the nurse's supervisor would be calling to follow up. About half an hour later, a physician called Mr. Ayllon. The physician stated that Mr. Carrillo Perez would be checked for symptoms at the airport and if he did not show any symptoms he would be permitted to board his flight.

- Prior to leaving for the airport, Mr. Carrillo Perez's temperature was 34.7ºC.

[35] Subsequently, Mr. Ayllon provided ESDC/Service Canada with a copy of Mr. Carrillo Perez's airline ticket. It indicated that it had been purchased on November 21, 2020, with a departure from Vancouver on November 22, 2020, at 11:25 p.m. Mr. Ayllon also provided emails confirming that Millennium Pacific had purchased the ticket at about mid-day on November 21, 2020.

[36] In a follow-up call on January 28, 2021, Mr. Carrillo Perez provided Ms. Kwaw with the first names of his three roommates when he was working for Millennium Pacific. Ms. Kwaw was able to identify them from employment records. It does not appear that any of them were ever contacted for interviews by ESDC/Service Canada. However, as discussed below, Millennium Pacific later provided Service Canada with signed statements from all three roommates.

[37] In a follow-up interview with Service Canada on February 5, 2021, in material part Mr. Carrillo Perez stated the following:

- He disputed the employer's claim that they had offered to take him to the hospital ("that is a lie"). The employer had refused to give him medical attention.

- He first started experiencing symptoms about a week after he arrived at the farm. The symptoms were fever, chills and lack of appetite. The investigator asked him why he had not mentioned fever before. He responded that he would just take Tylenol and the fever would go down.

- When asked who would have known about his symptoms, he stated that his three roommates did and they knew he was sick.

- He also stated that Walter with HRO knew he was sick. According to Mr. Carrillo Perez, he told another employee named Raviodo that he could not work because he was unwell. Raviodo passed this message on to Mr. Ayllon, who then contacted Walter, who in turn contacted Mr. Carrillo Perez. Walter asked him if he had health issues. According to Mr. Carrillo Perez, afterwards Walter told Mr. Ayllon that he (Mr. Carrillo Perez) was sick and needed medical assistance. Mr. Ayllon told Walter they were not going to provide medical assistance; rather, he should go back to Guatemala to recover. Evidently, Walter must have called Mr. Carrillo Perez back to convey this message.

- A nurse from the mobile clinic told Mr. Ayllon that Mr. Carrillo Perez should not travel and that he should be tested for COVID-19. The test was to happen on Monday November 23rd but "they got [him] out" on Sunday November 22nd.

- A supervisor with Millennium Pacific took his temperature before he left for the airport. A photograph of the reading was sent to Walter and to Mr. Carrillo Perez. (The record contains a photograph of a digital thermometer displaying a reading of 34.7.)

- No one assessed him at the airport before he boarded his flight.

[38] Meanwhile, ESDC/Service Canada had contacted UMHC seeking information about their dealings with Mr. Carrillo Perez and Millennium Pacific. In an email sent on January 27, 2021, a physician associated with the co-op stated that they had "documentation in our electronic medical record of our advice against allowing the worker to get on a plane with presumptive COVID." In a follow-up email sent later the same day, the physician stated that there had been a conversation with a supervisor with Millennium Pacific "and they acted against our medical advice." The physician also noted that she believed that either the patient or the supervisor had spoken with Dr. Mike Benusic, who was seconded to Fraser Health.

[39] Eventually, with Mr. Carrillo Perez's consent, UMHC provided the records of the consultation on November 22, 2020, to ESDC/Service Canada on February 12, 2021.

[40] The medical notes state that, given Mr. Carrillo Perez's report of fever and loss of appetite, he meets the criteria for COVID testing. The notes also state the following: "We strongly recommend he does not travel at this time until testing is complete and deemed negative." (The notes state that a letter "to state as such in support of isolation and testing" had been written but it does not appear anywhere in the record.) With Mr. Carrillo Perez's agreement, a worker with the co-op contacted Mr. Ayllon and advised that "a clinician from our

clinic strongly recommended that this patient did not travel until he was tested for COVID." The notes state that the supervisor "was unhelpful." The notes are silent as to whether Mr. Ayllon was advised to isolate Mr. Carrillo Perez. A worker with the clinic then contacted public health to inform them of the situation. According to the notes, public health informed the clinic worker that a public health doctor would be contacting the farm and would be "in charge of next steps."

[41] Although the notes do not identify this doctor, it would appear that it was Dr. Benusic. It also appears that this was the individual with whom Mr. Ayllon spoke shortly after he had been contacted by the clinician with UMHC (see paragraph 34, above). There is no indication in the record that ESDC/Service Canada contacted Dr. Benusic or anyone else at Fraser Health about their involvement in events on November 22, 2020.

B. *The Notice of Preliminary Finding and Millennium Pacific's Response*

[42] By letter dated March 11, 2021, Ms. Kwaw provided Millennium Pacific with notice of Service Canada's determination that the company may have violated subparagraph 209.3(1)(a)(xi) of the *IRPR* in the case of Mr. Carrillo Perez.

[43] As set out in the letter, the reasons for this determination are the following:

- When Mr. Carrillo Perez displayed COVID-19 symptoms, "instead of providing him with a private bedroom and a private bathroom to isolate, you sent him back to Guatemala on November 22, 2020, despite recommendations against travel made by the medical staff that monitored the TFW's health that day."

- In its response to the January 28, 2021, justification letter, Millennium Pacific had stated that it was not aware that Mr. Carrillo Perez had symptoms of COVID-19, he had only complained of stomach problems, he had refused to go to the hospital for medical assistance, and he had asked to go home. However, when interviewed, Mr. Carrillo Perez "categorically denied the version of events you presented in your response." He "claimed you decided to send him back to Guatemala in the night of November 22, 2020, despite being advised against it by medical staff of the mobile clinic."

- UMHC informed Service Canada that the company "acted against their advice by making the TFW travel despite their strong recommendation to you to isolate and test the TFW." Service Canada was of the view that "this violation put, to a great extent, both the TFW's and the public's health or safety at risk in relation to a *communicable disease* as defined in section 2 of the *Quarantine Act*." Consequently, the justification the company provided "was not accepted under subsection 203(1.1) of the *IRPR*."

[44] The letter goes on to note that, as a result of this determination, an administrative monetary penalty of $100,000 may be imposed on Millennium Pacific. As well, Millennium Pacific may be banned permanently from the TFWP.

[45] Millennium Pacific was offered an opportunity to respond to the preliminary finding "by providing new information or correcting inaccuracies relating to the violation, facts surrounding the violation, reasons for the preliminary findings, AMP and period of ineligibility (if applicable)" [emphasis omitted]. The letter continued: "Any information provided must be new information and not the same information previously submitted during the course of the

inspection." The right to make written representations in response to a notice of preliminary finding is provided for in subsection 209.994 of the *IRPR*.

[46] Counsel for Millennium Pacific responded by letter dated March 19, 2021. Several attachments accompanied the letter, including an email from HRO dated March 17, 2021, and letters from several temporary foreign workers who had worked with Mr. Carrillo Perez at Millennium Pacific. These attachments will be described further below.

[47] In summary, Millennium Pacific's position was as follows:

- It was Mr. Carrillo Perez's choice to return home. He was homesick and the food in Canada upset his stomach.

- This was supported by the email from HRO, which described two conversations between one of its representatives and Mr. Carrillo Perez. In the first conversation, Mr. Carrillo Perez complained of stomach and kidney pain and said he could not work. He reported that he had suffered from this condition before he came to Canada. The HRO representative recommended he take a few days off and ask to be seen by a doctor. Mr. Carrillo Perez called again early the next morning and said he wanted to return to Guatemala as soon as possible. The HRO representative said the employer would purchase a ticket for him. The HRO representative asked him if he had any symptoms of COVID-19 and Mr. Carrillo Perez said no. He said his temperature was being taken regularly and it was always normal. (The email does not give the dates of these conversations. Based on other information in the record, including the time and date the plane ticket was purchased, it appears that they took place on November 20 and 21, 2020.

Further, the email does not identify the HRO representative in question but, in the absence of any suggestion that Mr. Carrillo Perez had spoken with anyone else at that time, it must have been Walter Ardon.)

- This was also supported by letters from the three temporary foreign workers with whom Mr. Carrillo Perez had shared accommodations at Millennium Pacific. All three stated that he had wanted to return to Guatemala because he was homesick and the food in Canada upset his stomach.

- This was also supported by letters from the Maintenance Manager at Millennium Pacific and another temporary foreign worker who together drove Mr. Carrillo Perez to the airport on November 22, 2020.

- This was also supported by a letter from another temporary foreign worker, Edgar David Barrientos Quintanilla, who Mr. Carrillo Perez had told he wanted to return to Guatemala because he was homesick and the food in Canada upset his stomach.

- Furthermore, Mr. Carrillo Perez was not displaying any COVID-19 symptoms when he went to the airport on November 22, 2020. This was supported by the letters from the Maintenance Manager and the temporary foreign worker who took him to the airport. The Maintenance Manager also provided a second letter stating that he had taken Mr. Carrillo Perez's temperature on November 22, 2020, and the reading was 36.5ºC.

- Counsel for the company suggested that Service Canada should speak with the physician who spoke to Mr. Ayllon on November 22, 2020, to confirm the advice that was given about whether Mr. Carrillo Perez could fly or, instead, should remain in Canada and be

tested for COVID-19 and be isolated if necessary. (Enclosed with the submissions was a copy of Mr. Ayllon's letter of January 28, 2021. As noted earlier, he stated in this letter that the physician had told him that Mr. Carrillo Perez would be checked for symptoms of COVID-19 at the airport and would be permitted to fly if he was not showing any.)

- Millennium Pacific had ample facilities for Mr. Carrillo Perez to have self-isolated if necessary if he had wished to remain in Canada.

- Even if Mr. Carrillo Perez had contracted COVID-19 by the time he was home in Guatemala (which was far from clear given that he was not tested there), it does not follow that he was infected or showing symptoms while he was still in Canada.

C. *The Memorandum to the Assistant Deputy Minister*

[48] A memorandum was prepared for the Assistant Deputy Minister to seek approval on the recommendation to find Millennium Pacific non-compliant with subparagraph 209.3(1)(a)(xi) of the *IRPR*. The memorandum reviews the background to the matter, the relevant requirements of the *IRPR*, some of the information gathered in the inspection, and the recommended consequences for non-compliance. This has largely been set out above and there is no need to repeat it.

[49] The following specific findings set out in the memorandum are germane for present purposes:

- Mr. Carrillo Perez contacted HRO before he left Canada specifically to request a PCR test for COVID-19. HRO asked the employer for a PCR test "but no test was administered to the TFW."

- The relevant communications between the employer (Mr. Ayllon – referred to below as "Con", an abbreviation of his first name) and Mr. Carrillo Perez took place through HRO; there was no direct contact between the employer and Mr. Carrillo Perez. Specifically, "The TFW informed a person called Raviodo, who would have informed Walter (person who takes care of the paperwork for TFWs in Guatemala called HRO), who would have told Con (employer representative). According to the TFW, Walter would have told Con that the TFW had symptoms and that he needed medical attention and testing; however, Con would have told Walter that no medical attention is necessary and instead the TFW would be sent home (Guatemala) to recover."

- It was Mr. Ayllon who took Mr. Carrillo Perez to the airport on November 22, 2020.

- Regarding the involvement of the UMHC, the memo states:

> Based on the information available and on the balance of probabilities, more credibility was given to the TFW's version of events as we were able to validate the information provided by the TFW and compare it with the one provided by mobile clinic staff who attended to the TFW on November 22, 2020 before he was sent home. The employer's claim that he was unaware of the TFW's COVID-19 symptoms and that the TFW refused to get medical assistance is not credible. The employer took substantial risks by allowing the TFW to travel back home despite being COVID-19 symptomatic. The employer's justification was not accepted under subsection 203(1.1) of the IRPR.

- In response to the Notice of Preliminary Finding, counsel for the employer "provided affidavits from staff and TFWs stating that the TFW under review was not displaying

> symptoms of COVID-19, that he complained about stomach pains from the food in Canada and that he requested to go home." The memo continues: "Upon review, it was determined that the statements made by other employees of the company were less credible as these employees all had a vested interest in defending the employer's version of events. On the other hand, more credibility was given to the UMHC, as they made recommendations in the best interest of the public health and safety of Canadians with no gain to themselves."

[50] The memorandum does not mention the March 17, 2021, email from HRO that had also been submitted. However, its contents were summarized in a Case Summary Report that was apparently attached as an Annex to the memorandum. The contents of the letters from employees of Millennium Pacific (erroneously referred to as affidavits) are also summarized in the Case Summary Report. The Case Summary Report provides a similar rationale for finding that this information did not affect the outcome: "A review of the information did not affect the outcome of the inspection as the employer failed to follow health authority's instructions to isolate the TFW. The statements from TFWs were in the employer's best interest. Credibility is given to Public Health as they made recommendations in the best interest of the public health and safety of Canadians with no gain to themselves."

IV. DECISION UNDER REVIEW

[51] The decision was communicated to Millennium Pacific in a letter from the Assistant Deputy Minister, Integrity Services Branch, Service Canada dated May 14, 2021.

[52] In material part, the decision letter states the following:

> On March 24, 2021, an inspection under the TFWP was completed regarding Millennium Pacific Greenhouses Partnership's compliance with the conditions imposed on employers under sections 209.3 and 209.4 of the IRPR. In this case, when the Temporary Foreign Worker (TFW) Lazaro Gildardo Carrillo Perez displayed Covid-19 symptoms, instead of providing him with a private bedroom and a private bathroom to isolate, you sent him back to Guatemala on November 22, 2020, despite recommendations against travel made by the medical staff that monitored the TFW's health that day.
>
> We sent you a justification letter dated January 28, 2021 to which you responded in a letter on the same day. You explained that you were not aware of any Covid-19 symptoms the TFW may have had and that the latter asked to go back home. You further explained that the TFW only complained about stomach pain and that he refused to go to the hospital for medical assistance. However, when we interviewed the TFW, he categorically denied the version of events you presented in your response. The TFW claimed that you decided to send him back to Guatemala in the night of November 22, 2020 despite being advised against it by medical staff of the mobile clinic.
>
> In February, Service Canada contacted the Umbrella Multicultural Health Co-op (UMHC), which coordinates mobile clinics in your area to find out what exactly happened on November 22, 2020. We were informed that you acted against the medical staff's advice by making the TFW travel despite their strong recommendation to you to isolate and test the TFW. Service Canada is of the view that this violation put, to a great extent, both the TFW's and the public's health or safety at risk in relation to a *communicable disease* as defined in section 2 of the *Quarantine Act*. [. . .] Therefore, the justification you provided was not accepted under subsection 203(1.1) of the IRPR.
>
> On March 11, 2021, a Notice of Preliminary Finding (NOPF) was sent to Millennium Pacific Greenhouses Partnership detailing the violation and sanctions assessed following the inspection. The notice also informed the employer that the TFW categorically denied the version of events the employer provided in response to the justification letter, that ISB verified what happened on November 22, 2020 with the UMHC and that they confirmed the employer acted against the medical staff's recommendations. [. . .]

> Although your third party representative responded on March 19, 2021, it was determined that the statements provided by your employees were in Millennium Pacific Greenhouses Partnership's best interest. More credibility has been given to the account of the UMHC as they made recommendations in the best interest of the public health and safety of Canadians as they have no vested interest in the matter. Therefore, the written submission you made as per paragraph 209.994(1)(a) did not change anything about your non-compliance with the condition.

[53] The decision letter then goes on to state that, as a consequence of this non-compliance, Millennium Pacific is liable for an AMP of $100,000. As well, the company would be permanently banned from the TFWP program. Finally, the name of the company and the details of its non-compliance would be published on a website maintained by IRCC.

V. STANDARD OF REVIEW

[54] The parties agree, as do I, that the substance of the decision is to be reviewed on a reasonableness standard: see *Canada (Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at para 10.

[55] A reasonable decision "is one that is based on an internally coherent and rational chain of analysis and that is justified in relation to the facts and law that constrain the decision maker" (*Vavilov* at para 85). A decision that displays these qualities is entitled to deference from the reviewing court (*ibid.*). At the same time, reasonableness review is not a rubber-stamping process; it remains a robust form of review: see *Vavilov* at para 13.

[56] To be reasonable, the decision "must be based on reasoning that is both rational and logical" (*Vavilov* at para 102). The reviewing court "must be able to trace the decision maker's reasoning without encountering any fatal flaws in its overarching logic, and it must be satisfied that there is a line of analysis within the given reasons that could reasonably lead the tribunal form the evidence before it to the conclusion at which it arrived" (*ibid.*, internal quotation marks and citation omitted). The internal rationality of a decision "may be called into question if the reasons exhibit clear logical fallacies, such as circular reasoning, false dilemmas, unfounded generalizations or an absurd premise" (*Vavilov* at para 104).

[57] When applying the reasonableness standard, it is not the role of the reviewing court to reweigh or reassess the evidence considered by the decision maker or to interfere with factual findings unless there are exceptional circumstances: see *Vavilov* at para 125. That being said, to be reasonable, a decision must be justified in light of the facts. The decision maker must take the evidentiary record and the general factual matrix that bears on the decision into account, and the decision must be reasonable in light of them. The reasonableness of a decision may be jeopardized where the decision maker has fundamentally misapprehended or failed to account for the evidence before it: see *Vavilov* at paras 125-26. Further, "a decision maker's failure to meaningfully grapple with key issues or central arguments raised by the parties may call into question whether the decision maker was actually alert and sensitive to the matter before it" (*Vavilov* at para 128).

[58] The onus is on the applicant to demonstrate that the decision is unreasonable. To set aside a decision on this basis, the reviewing court must be satisfied that "there are sufficiently

serious shortcomings in the decision such that it cannot be said to exhibit the requisite degree of justification, intelligibility and transparency" (*Vavilov* at para 100).

VI. ANALYSIS

[59] In a nutshell, Millennium Pacific's response to the allegation that it failed to comply with subparagraph 209.3(1)(a)(xi) of the *IRPR* was the following. Mr. Carrillo Perez was unhappy in Canada and wanted to go home. As soon as this request was communicated to the company, a ticket was purchased for him for a flight leaving the next day. At no time did the company refuse to provide him with medical care or testing. Even if, in the opinion of the mobile clinic workers, Mr. Carrillo Perez met the criteria for COVID-19 testing when they saw him in the late afternoon of November 22, 2020, he had never asked to be tested and just wanted to go home. Whatever may have been the opinion of the mobile clinic workers, there was no need for him to self-isolate in company housing because he was leaving the country a few hours later. In the view of the public health physician who contacted the company after the mobile clinic worker had, there was no medical reason why Mr. Carrillo Perez could not travel. The only impediment would be if he showed symptoms of COVID-19 at the airport. The company confirmed that Mr. Carrillo Perez's temperature was normal before driving him to the airport. No symptoms must have been detected at the airport because he was permitted to board. The company had readily provided accommodations for other workers who were required to self-isolate. If Mr. Carrillo Perez had wanted to stay in Canada longer, the company could easily have provided him with accommodations in which he could self-isolate. However, he did not want to stay and the company certainly could not force him to against his will.

[60] In my view, the decision finding that the company, without justification, failed to comply with subparagraph 209.3(1)(a)(xi) of the *IRPR* is unreasonable in three key respects: (1) in finding the evidence submitted by the company on March 19, 2021, to be less credible because it was in the company's "best interest"; (2) in failing to consider HRO's account of its interactions with Mr. Carrillo Perez; and (3) in failing to consider the role of the public health physician in the events on November 22, 2020. These flaws are not superficial or peripheral to the merits of the decision. Rather, they are sufficiently central and significant to render the decision as whole unreasonable: cf. *Vavilov* at para 100.

A. *The weighing of the company's evidence*

[61] The employee statements submitted on March 19, 2021, supported the company's position that Mr. Carrillo Perez had wanted to go home and that the company accommodated this request by purchasing a ticket for him and then driving him to the airport to catch his flight the next day. The decision maker found that the employees' accounts were less credible because "the statements provided by [the company's] employees were in Millennium Pacific Greenhouses Partnership's best interest." On the other hand, the decision maker gave "more credibility" to the information from UMHC because it did not have a "vested interest" in the matter. This echoes the position taken in the memorandum for decision that the statements from the employees were "less credible" because the employees "all had a vested interest in defending the employer's version of events" while UMHC had nothing to gain for itself.

[62] In my view, this determination is unreasonable in several respects.

[63] First, the decision maker's reasoning rests on an unfounded presumption that, simply because of an employment relationship, the employees would defend the employer's version of events, whether it was true or not. The decision maker reasonably was alert to the potential vulnerabilities of the temporary foreign workers and other employees of the company. However, there was no evidence that the company had exercised any sort of improper influence over them. Apart from speculation, there was nothing to suggest that the employees had any interest in the matter besides telling the truth. Significantly, the mere fact of an employment relationship had not prevented Service Canada from relying on interviews with the company's employees in concluding that the company was compliant with the regulations in all other respects.

[64] It was both unreasonable and unfair to the temporary foreign workers and other employees who provided statements supporting the company's position to presume, in the absence of evidence, that simply because they were employees they could not be trusted to tell the truth about what had happened with Mr. Carrillo Perez. Similarly, the information presented by the company in its own defence cannot be found less credible simply on the basis of the bald assertion that it is "in [the company's] best interest" – in other words, that it is self-serving. In my view, these are examples of the sorts of unfounded generalizations that *Vavilov* cautions can undermine the internal rationality of a decision: see *Vavilov* at para 104.

[65] Second, the decision maker's reasoning is premised on a false dichotomy between the employees' accounts and UMHC's. There is less conflict between the two accounts than the decision maker appears to have thought given that Mr. Ayllon and UMHC largely agree on what he was told after Mr. Carrillo Perez was assessed. As discussed below, he simply did not agree

with what UMHC told him and ultimately followed the advice of the public health physician. Moreover, the company's employees' accounts speak to many other relevant matters that are not addressed in the UMHC account. For example, the employees state that Mr. Carrillo Perez had been unhappy in Canada and had asked to go home. The UMHC account does not address this critical issue at all.

[66] UMHC's involvement with Mr. Carrillo Perez occurred over a very short period of time on November 22, 2020. In contrast, the temporary foreign workers and other employees had been interacting with him for several weeks, including in some cases sharing accommodations with him. Even assuming for the sake of argument that it was reasonable for the decision maker to prefer UMHC's account of events (a question I examine further below), without further analysis, giving more weight to the information in the UMHC medical notes is not a rational basis for rejecting information provided by the Millennium Pacific employees that does not conflict with that information.

[67] Third, in weighing the employee statements submitted on March 19, 2021, the decision maker unreasonably failed to take into account that some of the same employees had provided relevant information directly to Service Canada in earlier interviews.

[68] For example, Edgar David Barrientos Quintanilla provided a statement dated March 12, 2021, stating that Mr. Carrillo Perez was homesick and wanted to return home to Guatemala. He had provided information consistent with this in an interview with a Service Canada investigator on December 23, 2020. When asked in that interview if he knew of any

workers (Guatemalan or Mexican) who had been "sent home" by the employer, he replied: "I know one person who was sick and he wanted to go back not the boss sending him back. He made the decision to go back home." Later in the interview he was asked if he was aware of any colleagues who had been "sent back home" and then tested positive for COVID-19. He replied: "No – None of the Guatemalan has returned home. Just the one person that is gone because he wanted to. I have not heard of him testing positive for Covid." There can be no question that he is referring to Mr. Carrillo Perez or that, in his opinion, Mr. Carrillo Perez had returned home willingly.

[69] Fourth, the decision maker also unreasonably failed to take into account that the information provided by the employees in the March 2021 statements was corroborated by information provided by other employees who had been selected for interviews by Service Canada earlier in the inspection as well as by other evidence provided by the company.

[70] Nelson Romeo Ordonez Mejia was interviewed by Service Canada on December 16, 2020. He was part a group of workers from Guatemala who all arrived in Canada at the same time. When asked if he was aware of any of his colleagues feeling sick before coming to Canada, he replied: "No, everyone in the group is all right. There was 18 of us when we arrived all on the same day. One of us returned to Guatemala because the job was too hard for him. The person went back 20 days or more than 20 days ago. The person name was LAZARO but am not sure of his last name." Later, the investigator asked Mr. Ordonez Mejia if he was aware of any workers (Guatemalan or Mexican) who had been "sent home" by the employer. He replied: "Yes, there was 18 of us. One was sent back to Guatemala and now we

are 17 left. The one who had challenges with the job. The Mexicans left because they were done with their contract." Read in context, Mr. Ordonez Mejia answers suggest that he did not understand "sent home" to mean "sent home involuntarily."

[71] Another temporary foreign worker from Guatemala, Oslin Edelberto Perez Sandoval, was interviewed by Service Canada on December 17, 2020. When asked how many people came from Guatemala, he replied: "There was 18 of us when we arrived all on the same day. There was one person who wanted to go back. That person is gone." There can be no question that he is referring to Mr. Carrillo Perez.

[72] It is noteworthy that the interviews with Messrs. Ordonez Mejia, Barrientos Quintanilla, and Perez Sandoval all took place before the employer had been notified about a specific concern regarding Mr. Carrillo Perez. All three interviews corroborate the company's account that Mr. Carrillo Perez returned to Guatemala voluntarily yet this information is not addressed by the decision maker.

[73] Furthermore, Millennium Pacific had provided a copy of Mr. Carrillo Perez's airline ticket. It had been purchased on November 21, 2020 – the day before Mr. Carrillo Perez was seen by the UMHC mobile clinic. Thus, it had been purchased the day before there was any suggestion that Mr. Carrillo Perez was showing signs of COVID-19. This is potentially important corroboration for the company's position that it had simply facilitated Mr. Carrillo Perez's return home at his request, and that he left Canada voluntarily. In his statements to Service Canada, Mr. Carrillo Perez implies that it was always the company's idea

for him to return home and never his. The ticket potentially undermines his assertion (which the decision maker evidently accepted) that the company "decided to send him back to Guatemala in the night of November 22, 2020." Despite the potential importance of this evidence, it was not considered by the decision maker in any way.

[74] Finally, on a more general level, even assuming for the sake of argument that the employees' interests may have aligned with the company's in some way, it was unreasonable for the decision maker to find their statements to be less credible for this reason alone.

[75] In many cases, it will be impossible to find witnesses who are entirely independent simply because of the circumstances and how events unfolded. Oftentimes, the only witnesses to material events will be individuals with a pre-existing relationship to a party to the proceeding such as a family member, friend, or employee. In the present case, Mr. Carrillo Perez's three roommates were, of necessity, employees of the company. There is no one else who could provide the information they could provide. Likewise, given that Mr. Carrillo Perez was driven to the airport by employees of the company, no one besides company employees would be in a position to describe this event first hand.

[76] There is no doubt that, as a matter of common sense and common experience, a witness's potential interest in the outcome of a proceeding can be a relevant factor in assessing the weight that should be given to that witness's evidence. Similarly, a party's own evidence may be self-serving in the obvious sense that it supports that party's own interests. Nevertheless, this Court has found it necessary to intervene when decision makers have diminished the value of evidence

for this reason alone and without meaningful consideration of other factors potentially affecting the weight of the evidence (e.g. being consistent with other credible evidence, being corroborated in material respects, and so on). See *Tabatadze v Canada (Citizenship and Immigration)*, 2016 FC 24 at paras 4-7, and the cases cited therein; see also *Aisowieren v Canada (Immigration, Refugees and Citizenship)*, 2020 FC 305 at paras 15-16 and the cases cited therein. This is precisely the error the decision maker fell into here.

[77] For the sake of completeness, I note that the memorandum for decision is equally bereft of any analysis of this issue.

B. *The failure to consider the information from HRO*

[78] The decision maker understood that important communications between Mr. Carrillo Perez and the company had taken place through a third-party, a representative of HRO. Mr. Carrillo Perez identified this person as Walter Ardon. Mr. Ayllon had identified this person to Service Canada as early as December 17, 2020, as someone who had been involved with Mr. Carrillo Perez. He even provided a telephone number for him. It does not appear that Service Canada made any attempt to contact or interview Mr. Ardon.

[79] The exchanges between Mr. Carrillo Perez, Walter Ardon, and Mr. Ayllon bear directly on the central issue of whether Mr. Carrillo Perez returned to Guatemala at his own request or, rather, had been sent home by the company over his objection. According to Mr. Carrillo Perez, in a three-way conversation between himself, Mr. Ardon, and Mr. Ayllon, he asked for medical attention, Mr. Ayllon refused and told him he had to return to Guatemala. For his part,

Mr. Ayllon gave a very different account of these exchanges. He denied that Mr. Carrillo Perez had requested medical attention and that any such request had ever been refused. On the contrary, the ultimate result of the exchanges was that Mr. Carrillo Perez wanted to return home and the company agreed to facilitate this right away. As a party to the exchanges, HRO was in a position to provide its own version of what happened.

[80] It did so in an email dated March 17, 2021, that was included with counsel's submissions in response to the Notice of Preliminary Finding. This account of the relevant exchanges contradicts Mr. Carrillo Perez's on several material points. Contrary to Mr. Carrillo Perez's account, HRO corroborates Millennium Pacific's account that he had wanted to return home and the company acceded to his request right away. The information it contains bears directly on the reasonableness of the decision maker's key determination that the company "decided to send [Mr. Carrillo Perez] back to Guatemala in the night of November 22, 2020 despite being advised against it by medical staff of the mobile clinic." However, it is not addressed anywhere in the decision.

[81] It is well-established that reviewing courts "cannot expect administrative decision makers to respond to every argument or line of possible analysis or to make an explicit finding on each constituent element, however subordinate, leading to its final conclusion" (*Vavilov* at para 128, (internal quotation marks and citations omitted)). However, as noted earlier, "a decision maker's failure to meaningfully grapple with key issues or central arguments raised by the parties may call into question whether the decision maker was actually alert and sensitive to the matter before it" (*Vavilov* at para 128).

[82] I cannot agree with the respondent that the reasonableness of the decision does not suffer as a result of the omission of any discussion or even an acknowledgement of the HRO email. This evidence bore on a critical issue. The company had placed great weight on it in responding to the Notice of Preliminary Finding. The evidence had a degree of independence from the employer that the decision maker had found lacking in the other statements provided by Millennium Pacific. Even if one can presume that the decision maker must have been aware of the email, it had to be addressed in the decision given its centrality to the issues the decision maker had to resolve. In short, the decision maker failed to account for an important piece of evidence that favoured the company's position. This leaves the decision lacking transparency, intelligibility and justification. As *Vavilov* emphasizes, "the exercise of public power must be justified, intelligible and transparent, not in the abstract, but to the individuals subject to it" (at para 95). An administrative decision maker has a responsibility "to justify to the affected party, in a manner that is transparent and intelligible, the basis on which it arrived at a particular conclusion" (*Vavilov* at para 96). The failure to address this important evidence calls into question whether the decision maker was actually alert and sensitive to the matter before her.

C. *The role of the public health physician*

[83] According to Mr. Ayllon, shortly after speaking with someone from the UMHC mobile clinic, a physician called him to discuss Mr. Carrillo Perez's case. The physician did not tell him that Mr. Carrillo Perez should wait to get tested, that he should self-isolate or that he should not travel. On the contrary, according to Mr. Ayllon, the physician told him that Mr. Carrillo Perez would be permitted to travel as long as he was not showing symptoms of COVID-19 at the

airport. Relying on this advice, the company acceded to Mr. Carrillo Perez's request to go home and drove him to the airport for his scheduled flight.

[84] I pause here to note that, at the time, Mr. Ayllon understood that the physician he spoke to was a supervisor with UMHC. The Certified Tribunal Record confirms that in fact the physician was with Fraser Health, the local public health authority. The difference is immaterial because the company's position was that it was reasonable for Mr. Ayllon to follow a physician's advice as opposed to that of the mobile clinic worker.

[85] In my view, it was unreasonable for the decision maker to assess Millennium Pacific's actions solely in light of the information provided by UMHC and without considering the role of the public health physician and any advice he may have given. Even on UMHC's account, after they had seen Mr. Carrillo Perez, a public health physician would be contacting the company about him and would be "in charge of next steps" – including, of course, what would happen next on November 22, 2020. According to Mr. Ayllon, this is exactly what happened. Despite the important role the physician played in the events in question, the decision maker did not consider this anywhere in the decision. This omission is also notable in the Notice of Preliminary Finding and in the memorandum for decision prepared for the Assistant Deputy Minister. The absence of any examination of this issue by the decision maker leaves the decision lacking transparency, intelligibility and justification.

[86] The decision maker preferred UMHC's account of their interactions with the company in the late afternoon of November 22, 2020, over the company's account of what happened. As

discussed above, in my view the decision maker's analysis of this evidence was flawed. In addition to the flaws I have already identified, the decision maker also failed to engage with the company's argument that, whatever UMHC may have recommended, their advice was superseded by the physician's intervention. The failure to consider the role of the public health physician and the advice he provided calls into question not only the reasonableness of the decision maker's determinations about what happened on November 22, 2020, but also the reasonableness of the ultimate conclusion that the company's actions had put the health and safety of Mr. Carrillo Perez and the public at large at risk.

VII. CONCLUSION

[87] In summary, the evidence discussed above went to the question at the very heart of this matter – did Mr. Carrillo Perez leave voluntarily or did the company send him home against his wishes and contrary to medical advice? If, as the company contended, he left of his own volition (there being no suggestion that the company could have forced him to stay against his will), there would be no basis to find that it had failed to comply with subparagraph 209.3(1)(a)(xi) of the *IRPR*. This is because, if Mr. Carrillo Perez was leaving Canada that very day, he did not require accommodations in which to self-isolate. On the other hand, if the company forced him to leave when it should have permitted him to self-isolate, this could support a finding that it had failed to comply with subparagraph 209.3(1)(a)(xi). The decision maker did not have to accept the company's version of events but she was required to assess the evidence supporting its position reasonably. That did not happen.

[88] As a result, the application for judicial review must be allowed. The decision of the Assistant Deputy Minister dated May 14, 2021, is set aside and the matter is remitted for redetermination by a different decision maker.

[89] The parties did not suggest any serious questions of general importance for certification under paragraph 74(d) of the *IRPA*. I agree that none arise.

JUDGMENT IN IMM-3677-21

THIS COURT'S JUDGMENT is that

1. The style of cause is amended with immediate effect to correct an error in the spelling of the applicant's name.
2. The application for judicial review is allowed.
3. The decision of the Assistant Deputy Minister dated May 14, 2021, is set aside and the matter is remitted for redetermination by a different decision maker.
4. No question of general importance is stated.

"John Norris"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

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APPEARANCES:

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