Date: 20080205

Docket: IMM-5685-06

Citation: 2008 FC 151

BETWEEN:

YOUSIF OSHANA

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

ASSESSMENT OF COSTS - REASONS

Charles E. Stinson
Assessment Officer

[1] A copy of these reasons is filed in court file IMM-5686-06 (*Amran Lazar v. MCI*) and applies there accordingly. The Applicant in court file IMM-5685-06 is the father of the Applicant in court file IMM-5686-06. They brought respective applications for leave and judicial review of unfavourable decisions concerning their refugee status claims. On more than one occasion, the Applicants required relief in their efforts to perfect their respective records. Finally, the Respondent brought motions to dismiss for failure to perfect the records. The Applicants respectively consented to dismissal with costs and the Court issued the corresponding orders. I issued timetables for written disposition of the assessment of the Respondent's bill of costs in each matter, each of which claims

the minimum 2 units ($120.00 per unit) for each of counsel fee items 4 (uncontested motion) and 26 (assessment of costs), but no disbursements.

[2] The Applicants argued further to Rules 409 and 400(3)(i) and (k) (unnecessary conduct) that no costs should be allowed because the requirements of the *Federal Courts Immigration and Refugee Protection Rules* (the *Immigration Rules*) would have prompted the Court to issue dismissal orders for failure to perfect without the necessity of the Respondent's motions. Further to Rule 400(3)(o) (any other relevant factor), no costs should be allowed because counsel for the Applicants, in consenting to the respective motions, did not notice their provisions for costs. These provisions do not meet the threshold of "special reasons" in Rule 22 of the *Immigration Rules*. In the alternative, only one set of costs should be allowed because the records indicate that the respective circumstances of the Applicants' refugee claims were essentially identical, i.e. a single decision only by the visa officer, and therefore did not require the Respondent to incur discrete sets of costs.

[3] I cannot interfere with the Court's Rule 400(1) exercise of discretion that created the Respondent's entitlement to a set of costs for each matter. The only recourse for such relief would have been an appeal. Rule 14(1) of the *Immigration Rules*, permitting the Court to determine an application without notice to the parties, is permissive only. Each Applicant had obtained two orders for extensions of time to perfect the record by the time the Respondent decided to put an end to these matters via motions to dismiss. The Applicants asserted that if counsel for the Respondent had made inquiries to opposing counsel, she would have learned before bringing the motions to dismiss

that notices of discontinuance were pending. I think that cuts both ways: an informal alert by the Applicants to the Respondent also could have forestalled the motions. I allow the bills of costs as presented at $480.00 each.

"Charles E. Stinson"
Assessment Officer

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	IMM-5685-06
STYLE OF CAUSE:	YOUSIF OSHANA v. MCI

ASSESSMENT OF COSTS IN WRITING WITHOUT PERSONAL APPEARANCE OF THE PARTIES

REASONS FOR ASSESSMENT OF COSTS:	CHARLES E. STINSON
DATED:	February 5, 2008

WRITTEN REPRESENTATIONS:

Mr. Christopher G. Veeman	FOR THE APPLICANT
Ms. Natasha Crooks	FOR THE RESPONDENT

SOLICITORS OF RECORD:

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