Federal Court Cour fédérale

Date: 20170126

Docket: IMM-4167-15

Citation: 2017 FC 101

Ottawa, Ontario, January 26, 2017

PRESENT: The Honourable Mr. Justice Brown

BETWEEN:

MAHMOUD OMAR CHIRUM

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

I. Nature of the Matter

[1] This is an application for judicial review by Mahmoud Omar Chirum [the Applicant] pursuant to s. 72(1) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [the *IRPA*], of a decision made by the Immigration Appeal Division [IAD] of the Immigration and Refugee Board [IRB], dated August 24, 2016, in which the IAD allowed an appeal of a decision by the Immigration Division [ID], in which the Applicant was found not inadmissible under the *IRPA*

[ID Decision]. The IAD, having decided to allow the appeal, issued a Deportation Order against the Applicant [the Decision].

[2] For the following reasons the application is dismissed.

II. Facts

[3] The Applicant is a 63-year-old Eritrean citizen. From 1976 to 1991, the Applicant lived in Sudan. The Applicant and his family, a wife and four children, arrived Canada on June 19, 2009. They claimed refugee status and all were approved save for the Applicant, whose claim was suspended following a section 44 Report in which it was alleged that his membership in the Eritrean People's Liberation Front [EPLF] rendered him inadmissible under paragraphs 34(1)(b), (c), (f) and 35(1)(a) of the *IRPA*.

[4] The Applicant joined the EPLF in 1978. The Certified Tribunal Record includes several hundred pages of information regarding the history of the EPLF and the civil war waged in Eritrea between EPLF, which sought and eventually obtained the right to Eritrean self-determination, and the Ethiopian forces, which attempted to maintain its earlier annexation of Eritrea. It was during this period that the Applicant joined the EPLF. The Applicant both worked and volunteered for the EPLF. His tasks included assisting the resettlement of Eritrean refugees who had been displaced and publishing EPLF pamphlets; he also did translation work as requested by the EPLF.

[5] The Applicant returned to Eritrea following its independence in 1993; the civil war ended in 1991 with victory by EPLF's army of some 95,000 men and women. It was at this time that the Applicant began to work in various positions as a civil servant for the government. The post-independence government was led by the People's Front for Democracy and Justice [PFDJ]. From 1991 to 2009, the Applicant worked within the Ministry of Information: from 1991 to 1996, the Applicant was the editor in chief; from 1996 to 1999, he worked as the Director of Radio; and from 1999 to 2001, the Applicant was the Director General of Television and Radio.

[6] The Applicant alleges he began to speak out against the PFDJ's repressive policies and regimes and, as a result, was moved to the position of ambassador. From March 2001 to May 2007, the Applicant acted as the Eritrean ambassador to Egypt and from June 2006 to June 2009, he acted as the Eritrean ambassador to Kuwait.

[7] The Applicant concedes that he was a member of the EPLP.

[8] Therefore, the issue at this stage of the proceeding is whether the EPLP is an organization described in paragraph 34(1)(b) of *IPRA*, i.e., whether the EPLP an organization that had been engaging in or instigating the subversion by force of any government. This comes about by the combined operation of paragraphs 34(1)(b) and (f) which states that the following individuals are inadmissible:

> 34 (1) A permanent resident or a foreign national is inadmissible on security grounds for
>
> …

> (b) engaging in or instigating the subversion by force of any government; … or
>
> …
>
> (f) being a member of an organization that there are reasonable grounds to believe engages, has engaged or will engage in acts referred to in paragraph … (b) ….

[9] While the Applicant was a member of the organization EPLP, it is important to note that the Applicant was not directly involved in the military, police or security forces of the EPLP or the subsequent government of Eritrea. As the ID held:

> [113] The following is not contested:
>
> - There is no evidence that Mr. Chirum was ever involved in the military, or
> - That he ever had any input into decisions and actions that could be defined as war crimes or crimes against humanity.
> - Mr Chirum was a civil servant in the government of Eritrea.
>   - Initially, he was engaged as a journalist/ editor;
>   - Then rose to the level of director TV
>   - The highest level he achieved was that of ambassador to Egypt and then to Kuwait.

The Immigration Division Decision (March 19, 2014)

[10] ID found that, based on the totality of the information, the differences between the Eritrean People's Liberation *Force* and the Eritrean People's Liberation *Front* were academic

and negligible for the purposes of s. 34 of the *IRPA*. The ID determined that the Applicant had been a member of the EPLF between 1976 and 1991.

[11] The ID found that there were not reasonable grounds to support a finding under paragraph 34(1)(b) of the *IRPA* because subversion, as a concept, runs contrary to situations of "formal armed conflict or all-out war". It found that Non-International Armed Conflict [NIAC] is permitted by the rules of international law. Therefore, persons such as the Applicant who behaved within those rules were admissible to Canada, as the contrary would be "illogical and absurd":

> [45] This conflict involved, by necessity, the use of force in order to achieve a change in government or governance.
>
> [46] It is illogical and absurd that against a backdrop of the international community establishing a clear set of rules that govern a conflict once it reaches a certain magnitude (NIAC), including comprehensive consequences for non-compliance, that parliament intended participants in such a conflict, who behave within the rules, would be inadmissible to Canada simply for their participation in the conflict.
>
> …
>
> [50] Canada is a signatory to this convention [Geneva Conventions of 1949] and its protocols [Article 1 of Additional Protocol II]. These two definitions are mutually exclusive: illicitness means illegal, whereas a state of NIAC invokes a comprehensive set of rules that govern how the conflict is to be conducted.

[12] The ID also rejected findings that the Applicant was inadmissible under paragraphs 34(1)(c) (terrorism) and 35(1)(a) (war crimes). These are no longer in issue because of the decision of the IAD.

[13] The Minister's filed a Notice of Appeal to the IAD on April 16, 2014.

III. Decision

The Immigration Appeal Division Decision

[14] On August 24, 2015, the IAD allowed the Minister's appeal. It found the Applicant to be inadmissible under paragraph 34(1)(b) of the *IRPA* and issued a Deportation Order against him.

[15] The IAD stated its determination on the grounds of inadmissibility under paragraph 34(1)(b) in the following reasons:

> [27] The panel agrees with the appellant's submissions that the ID erred and that the evidence establishes reasonable grounds to believe that the EPLF engaged in or instigated subversion by force of any government. In this panel's view, the ID incorrectly distinguished different types of force used and determined from its classification of the subversion described in this case that the appellant was exempt from 34(1)(b). In that regard, the ID appeared to misinterpret the Federal Court of Appeal in *Najafi*,[25] which the panel finds both persuasive and applicable to the facts presented here. On that basis, and because the panel acknowledges the low threshold of reasonable grounds to believe that the facts presented in the evidence establish subversion,[26] the panel finds that the appellant has met its burden of proof.

[16] It declined to make a decision on the remaining alleged sections of inadmissibility, on the grounds that the appeal had already been determined on paragraph 34(1)(b). Thus, as noted, the allegations under paragraphs 34(1)(c) and 35(1)(a) are not considered further.

[17] It is from this decision the Applicant seeks judicial review.

IV. Issues

[18] The following issues arise:

1. Are the reasons of the IAD amount so deficient that they are unreasonable?

2. Whether the IAD’s determination that the ID erred in its interpretation of *Najafi v Minister of Public Safety and Emergency Preparedness*, 2014 FCA 262, leave to appeal to SCC refused, 36241 (23 April 2015) [*Najafi*], is otherwise unreasonable in mischaracterizing the ID’s Decision as having made an “exemption” and in failing to sufficiently address the Applicant’s s. 7 and s. 15 *Charter* claims?

V. Standard of Review

[19] In *Dunsmuir v New Brunswick*, 2008 SCC 9 at paras 57, 62 [*Dunsmuir*], the Supreme Court of Canada held that a standard of review analysis is unnecessary where “the jurisprudence has already determined in a satisfactory manner the degree of deference to be accorded with regard to a particular category of question.” The adequacy of reasons, which is what this case turns on in my respectful opinion, is reviewable on the standard of reasonableness: *Newfoundland and Labrador Nurses’ Union v Newfoundland and Labrador (Treasury Board)*, 2011 SCC 62 at para 22 [*Newfoundland Nurses*]. The Federal Court of Appeal approached paragraph 34(1)(b) of *IRPA* on the standard of reasonableness, noting the presumption of deference to be afforded to the IAD’s interpretation of its home statute: *Najafi*, above at para 56.

[20] In *Dunsmuir* at para 47, the Supreme Court of Canada explained what is required of a court reviewing on the reasonableness standard of review:

> A court conducting a review for reasonableness inquires into the qualities that make a decision reasonable, referring both to the process of articulating the reasons and to outcomes. In judicial review, reasonableness is concerned mostly with the existence of justification, transparency and intelligibility within the decision-making process. But it is also concerned with whether the decision falls within a range of possible, acceptable outcomes which are defensible in respect of the facts and law.

VI. Relevant Provisions

[21] Sections 33 to 35 of the *IRPA* are at issue:

DIVISION 4	**SECTION 4**
Inadmissibility	**Interdictions de territoire**
Marginal note: Rules of interpretation	**Note marginale : Interprétation**
33 The facts that constitute inadmissibility under sections 34 to 37 include facts arising from omissions and, unless otherwise provided, include facts for which there are reasonable grounds to believe that they have occurred, are occurring or may occur.	**33** Les faits — actes ou omissions — mentionnés aux articles 34 à 37 sont, sauf disposition contraire, appréciés sur la base de motifs raisonnables de croire qu’ils sont survenus, surviennent ou peuvent survenir.
Security	**Sécurité**
34 (1) A permanent resident or a foreign national is inadmissible on security grounds for	**34 (1)** Emportent interdiction de territoire pour raison de sécurité les faits suivants :
(a) engaging in an act of espionage that is against	**a)** être l’auteur de tout acte d’espionnage dirigé contre le

Canada or that is contrary to Canada’s interests;

Canada ou contraire aux intérêts du Canada;

(b) engaging in or instigating the subversion by force of any government;

b) être l’instigateur ou l’auteur d’actes visant au renversement d’un gouvernement par la force;

(b.1) engaging in an act of subversion against a democratic government, institution or process as they are understood in Canada;

b.1) se livrer à la subversion contre toute institution démocratique, au sens où cette expression s’entend au Canada;

(c) engaging in terrorism;

c) se livrer au terrorisme;

(d) being a danger to the security of Canada;

d) constituer un danger pour la sécurité du Canada;

(e) engaging in acts of violence that would or might endanger the lives or safety of persons in Canada; or

e) être l’auteur de tout acte de violence susceptible de mettre en danger la vie ou la sécurité d’autrui au Canada;

(f) being a member of an organization that there are reasonable grounds to believe engages, has engaged or will engage in acts referred to in paragraph (a), (b), (b.1) or (c).

f) être membre d’une organisation dont il y a des motifs raisonnables de croire qu’elle est, a été ou sera l’auteur d’un acte visé aux alinéas a), b), b.1) ou c).

Human or international rights violations

Atteinte aux droits humains ou internationaux

35 (1) A permanent resident or a foreign national is inadmissible on grounds of violating human or international rights for

35 (1) Emportent interdiction de territoire pour atteinte aux droits humains ou internationaux les faits suivants :

(a) committing an act outside Canada that constitutes an offence referred to in sections 4 to 7 of the *Crimes Against Humanity and War Crimes Act*;

a) commettre, hors du Canada, une des infractions visées aux articles 4 à 7 de la *Loi sur les crimes contre l’humanité et les crimes de guerre*;

(b) being a prescribed senior official in the service of a

b) occuper un poste de rang supérieur — au sens du

government that, in the opinion of the Minister, engages or has engaged in terrorism, systematic or gross human rights violations, or genocide, a war crime or a crime against humanity within the meaning of subsections 6(3) to (5) of the *Crimes Against Humanity and War Crimes Act*; or	règlement — au sein d'un gouvernement qui, de l'avis du ministre, se livre ou s'est livré au terrorisme, à des violations graves ou répétées des droits de la personne ou commet ou a commis un génocide, un crime contre l'humanité ou un crime de guerre au sens des paragraphes 6(3) à (5) de la *Loi sur les crimes contre l'humanité et les crimes de guerre*;
(c) being a person, other than a permanent resident, whose entry into or stay in Canada is restricted pursuant to a decision, resolution or measure of an international organization of states or association of states, of which Canada is a member, that imposes sanctions on a country against which Canada has imposed or has agreed to impose sanctions in concert with that organization or association.	**c)** être, sauf s'agissant du résident permanent, une personne dont l'entrée ou le séjour au Canada est limité au titre d'une décision, d'une résolution ou d'une mesure d'une organisation internationale d'États ou une association d'États dont le Canada est membre et qui impose des sanctions à l'égard d'un pays contre lequel le Canada a imposé — ou s'est engagé à imposer — des sanctions de concert avec cette organisation ou association.

VII. Analysis

[22] A central issue before the ID and the IAD was the meaning of the word "subversive" in paragraph 34(1)(b) of the *IRPA*. Essentially, this case turns on whether the reasons of the IAD meet the test of reasonableness propounded by the Supreme Court of Canada in *Dunsmuir* and whether they accord with the related case of *Newfoundland Nurses*.

[23] The proposition that the IAD simply stated which side it preferred is untenable on the face of these reasons. To say that is to disregard the record and the law applicable to this case.

[24] To demonstrate the reasonableness of the IAD's Decision, I will first turn to paragraph 27 of its reasons, sentence-by-sentence, with *Dunsmuir* in mind. It is worthwhile to begin by restating this key paragraph:

> [27] The panel agrees with the appellant's submissions that the ID erred and that the evidence establishes reasonable grounds to believe that the EPLF engaged in or instigated subversion by force of any government. In this panel's view, the ID incorrectly distinguished different types of force used and determined from its classification of the subversion described in this case that the appellant was exempt from 34(1)(b). In that regard, the ID appeared to misinterpret the Federal Court of Appeal in *Najafi* [footnote deleted] which the panel finds both persuasive and applicable to the facts presented here. On that basis, and because the panel acknowledges the low threshold of reasonable grounds to believe that the facts presented in the evidence establish subversion, [footnote deleted] the panel finds that the appellant has met its burden of proof.

[25] The first sentence states the IAD's conclusion. That is neither unreasonable nor objectionable; it is necessary for tribunals to provide their conclusion on the issues for determination.

[26] The second sentence gives the first part of the IAD's rationale for its conclusion, namely that that ID incorrectly distinguished different types of force used and came to an incorrect determination from its classification of the type of subversion at issue. These words speak directly to the key issue, namely, the definition of subversion. Here the IAD identifies, with particularity, the errors found by the IAD. In the context of the record and the applicable law in

this case, the meaning of this sentence is clear: the ID found that, properly construed, the word "subversion" did not apply to NIACs. In this second sentence, the IAD rejects the Applicant's submissions and the ID's findings on the meaning of "subversion". Its reasoning on this point is both transparent and intelligible. This sentence is also reasonable because it acknowledges that the rationale for the ID's decision was rejected by the Federal Court of Appeal in *Najafi*, as indeed had occurred.

[27] In the third sentence, the IAD states its reason for disagreeing with the ID: the IAD finds *Najafi* to be both persuasive and applicable to the facts of this case, it finds that *Najafi* deals with the same issues as was before ID in this case, and it finds that the Federal Court of Appeal in *Najafi* came to a conclusion contrary to the ID's conclusion on the definition of "subversive". There is no ambiguity about this; the IAD's reasons are again clear. The central issue in *Najafi* was the same as that in the case at bar, namely, the meaning of "subversion" in paragraph 34(1)(b) of *IRPA*. The IAD simply acknowledged, as it was required to do, that decisions of the Federal Court of Appeal bind the ID, as they do the IAD and as they do this Court. This acknowledgement is part of the justification analysis which is in turn part of the reasonable analysis.

[28] The final sentence correctly notes the low threshold of reasonable grounds to believe (compared to other statutory options for the burden of proof, i.e., the balance of probabilities or proof beyond reasonable doubt). The IAD then proceeds to make its finding on whether the evidence establishes subversion, as defined by the Federal Court of Appeal in *Najafi*, ultimately

finding that it does. The IAD was required to come to a conclusion on this issue. I am unable to see how it may be faulted for doing so.

[29] Therefore, in my respectful view, the reasons of the IAD accord with the requirements of *Dunsmuir* in that they are transparent, intelligible and justified.

[30] The second aspect of *Dunsmuir* requires the decision to fall within the range of outcomes that are defensible in terms of the facts and law in this case. Here as well, in my view, the Respondent is entitled to succeed.

[31] The two key elements of a finding under paragraphs 34(1)(b) and (f) on these facts are: (1) that the Applicant is member of the organization EPFL (see paragraphs 34(1)(f) of the *IRPA*); and, (2) that EPLF be an organization that engaged in or instigated the subversion by force of any government (see paragraph 34(1)(b) of the *IRPA*).

[32] The Applicant conceded he was a member of EPFL. That satisfies the first key element and places the IAD's Decision within the range of defensible findings on the record.

[33] As to whether the EPFL was engaging in or instigating the subversion by force of any government, that conclusion is also defensible on the record. The record shows and, indeed, the Applicant's memorandum on judicial review itself notes that the EPFL amassed an army of 95,000 men and women to wage a "liberation war" of secession or independence against the government of Ethiopia which government was also, despite its annexation of Eritrea, the

government of both the EPFL and the Eritrean people at that time. The ID found the "liberation war" was "a protracted armed confrontation" and that it "occurred between the government of Ethiopia and the EPLF" and other armed groups. The ID also concluded, "[t]his conflict involved, by necessity, the use of force in order [sic] achieve a change in the government or governance."

[34] The question therefore becomes: was the EPLF, by virtue of these facts, an organization described in paragraph 34(1)(b) of the *IRPA*?

[35] The Federal Court of Appeal in *Najafi* determined that "subversion" in paragraph 34(1)(b), which refers to any government, does not only apply where there is a "democratically elected government". In doing so, it ruled that "subversion" should be given a "broad application" as required by the Federal Court of Appeal in *Najafi*, above at para 78. In paragraph 89 of its decision, the Federal Court of Appeal rejected the argument that "paragraph 34(1)(b) should be construed as encompassing only the use of force that is not legitimate or lawful pursuant to international law":

> 89 Even if I adopt this approach, I cannot conclude from the overall legal context that paragraph 34(1)(b) should be construed as encompassing only the use of force that is not legitimate or lawful pursuant to international law.
>
> [Emphasis added.]

[36] It is in this sentence the Federal Court of Appeal clearly and unequivocally rejects the Applicant's argument that the definition of "subversion" should be read to exclude NIACs.

[37] In my view, the reasons of the IAD, when read in the context of the record in this case, are transparent, intelligible and provide justification. There is no difficulty in determining what the IAD found and the argument that the reasons are inadequate must therefore fail.

[38] While my analysis relies only on *Dunsmuir*, I do not see that *Newfoundland Nurses* assists the Applicant. Instead, it supplements and provides, with respect, useful clarification to *Dunsmuir*:

> [12] It is important to emphasize the Court's endorsement of Professor Dyzenhaus's observation that the notion of deference to administrative tribunal decision-making requires "a respectful attention to the reasons offered or which could be offered in support of a decision". In his cited article, Professor Dyzenhaus explains how reasonableness applies to reasons as follows:
>
>> "Reasonable" means here that the reasons do in fact or in principle support the conclusion reached. That is, even if the reasons in fact given do not seem wholly adequate to support the decision, <u>the court must first seek to supplement them before it seeks to subvert them.</u> For if it is right that among the reasons for deference are the appointment of the tribunal and not the court as the front line adjudicator, the tribunal's proximity to the dispute, its expertise, etc, then it is also the case that its decision should be presumed to be correct even if its reasons are in some respects defective. [Emphasis added.]
>>
>> (David Dyzenhaus, "The Politics of Deference: Judicial Review and Democracy", in Michael Taggart, ed., *The Province of Administrative Law* (1997), 279, at p. 304)
>
> See also David Mullan, *"Dunsmuir v. New Brunswick*, Standard of Review and Procedural Fairness for Public Servants: Let's Try Again!" (2008), 21 C.J.A.L.P. 117, at p. 136; David Phillip Jones, Q.C., and Anne S. de Villars, Q.C., *Principles of Administrative Law* (5th ed. 2009), at p. 380; and *Canada (Citizenship and Immigration) v. Khosa*, 2009 SCC 12, [2009] 1 S.C.R. 339, at para. 63.

[13] This, I think, is the context for understanding what the Court meant in *Dunsmuir* when it called for "justification, transparency and intelligibility". To me, it represents a respectful appreciation that a wide range of specialized decision-makers routinely render decisions in their respective spheres of expertise, using concepts and language often unique to their areas and rendering decisions that are often counter-intuitive to a generalist. That was the basis for this Court's new direction in *Canadian Union of Public Employees, Local 963 v. New Brunswick Liquor Corp.,* [1979] 2 S.C.R. 227, where Dickson J. urged restraint in assessing the decisions of specialized administrative tribunals. This decision oriented the Court towards granting greater deference to tribunals, shown in *Dunsmuir*'s conclusion that tribunals should "have a margin of appreciation within the range of acceptable and rational solutions" (para. 47).

[14] Read as a whole, I do not see *Dunsmuir* as standing for the proposition that the "adequacy" of reasons is a stand-alone basis for quashing a decision, or as advocating that a reviewing court undertake two discrete analyses — one for the reasons and a separate one for the result (Donald J. M. Brown and John M. Evans, *Judicial Review of Administrative Action in Canada* (loose-leaf), at §§12:5330 and 12:5510). It is a more organic exercise - the reasons must be read together with the outcome and serve the purpose of showing whether the result falls within a range of possible outcomes. This, it seems to me, is what the Court was saying in *Dunsmuir* when it told reviewing courts to look at "the qualities that make a decision reasonable, referring both to the process of articulating the reasons and to outcomes" (para. 47).

[15] In assessing whether the decision is reasonable in light of the outcome and the reasons, courts must show "respect for the decision-making process of adjudicative bodies with regard to both the facts and the law" (*Dunsmuir*, at para. 48). This means that courts should not substitute their own reasons, but they may, if they find it necessary, look to the record for the purpose of assessing the reasonableness of the outcome.

[16] Reasons may not include all the arguments, statutory provisions, jurisprudence or other details the reviewing judge would have preferred, but that does not impugn the validity of either the reasons or the result under a reasonableness analysis. A decision-maker is not required to make an explicit finding on each constituent element, however subordinate, leading to its final conclusion (*Service Employees' International Union, Local No. 333 v. Nipawin District Staff Nurses Assn.*, [1975] 1 S.C.R. 382, at p. 391). In other words, if the reasons allow the reviewing court to

> understand why the tribunal made its decision and permit it to determine whether the conclusion is within the range of acceptable outcomes, the *Dunsmuir* criteria are met.
>
> [Emphasis in original.]

[39] In my respectful view, the Applicant's case comes down to an attack on the adequacy of the IAD's reasons. *Newfoundland Nurses* established that the "adequacy" of reasons is not a stand-alone basis for quashing a decision. I have found the IAD's reasons are adequate, but even if they were not, they could not be set aside on judicial review for that reason alone. I note that the Respondent's counsel suggested that, while unnecessary, more reasons *could have been* provided. With respect, however, more reasons would likely be of assistance to counsel in many, if not most, cases. But here more reasons were not necessary given the impact of *Najafi* rejection of the Applicant's arguments. In any event, the test on judicial review is not what either party would have preferred but rather, whether the tests in *Dunsmuir* and *Newfoundland Nurses* are met.

[40] The Applicant argues that the IAD acted unreasonably in stating that he sought an exemption from "subversion" as found in paragraph 34(1)(b) when, in fact, his argument was that the word "subversion" should be defined to exclude NIAC. I was not shown any basis to draw such a distinction and am not persuaded there is such any difference, which leads me to reject this basis for judicial review.

[41] The Applicant also argued that the IAD acted unreasonably in failing to sufficiently address the Applicant's *Charter* claims under sections 7 and 15 by referring only to the names of three cases, one from each level of the federal courts: *Medovarski v Canada (Minister of*

Citizenship and Immigration); *Esteban v Canada (Minister of Citizenship and Immigration)*, 2005 SCC 51, [2005] 2 SCR 539; *Stables v Canada (Minister of Citizenship and Immigration)*, 2011 FC 1319; and, *Poshteh v Canada (Minister of Citizenship and Immigration)*, 2005 FCA 121. I do not propose to deal with this argument because the Applicant informed the Court and the Respondent that he no longer relies on those *Charter* arguments.

[42] I should add that is not the end of the matter for the Applicant. As the Federal Court of Appeal said in *Najafi*, notwithstanding the Applicant's inadmissibility under paragraphs 34(1)(b) and (f) of *IRPA*, he may still apply to the Minister for relief under subsections 42.1(1) and (2) of the *IRPA*, the Minister being better equipped to deal with the issues he raises.

[43] Judicial review requires the reviewing Court to approach the reasons as an organic whole. It is not a treasure hunt for errors: *Communications, Energy and Paperworkers Union of Canada, Local 30 v Irving Pulp & Paper, Ltd*, 2013 SCC 34 at para 54, [2013] 2 SCR 458. The reasons of the IAD meet the *Dunsmuir* test if they "allow the reviewing court to understand why the tribunal made its decision and permit it to determine whether the conclusion is within the range of acceptable outcomes," which these reasons do: *Newfoundland Nurses* at para 16. In my respectful view, the IAD's reasons meet the tests of justification, transparency and intelligibility within the decision-making process and fall within a range of possible, acceptable outcomes which are defensible in respect of the facts and law, per *Dunsmuir*. Judicial review is therefore dismissed.

VIII. Certified question

[44] Neither party asked for the certification of a question and none arises.

IX. Conclusion

[45] The application is dismissed and no question is certified.

JUDGMENT

THIS COURT'S JUDGMENT is that the application for judicial review is dismissed, no question is certified and there is no order as to costs.

"Henry S. Brown"

Judge

FEDERAL COURT

SOLICITORS OF RECORD

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APPEARANCES:

ANDREW BROUWER	FOR THE APPLICANT
BERNARD ASSAN	FOR THE RESPONDENT

SOLICITORS OF RECORD:

ANDREW BROUWER BARRISTER AND SOLICITOR TORONTO, ON	FOR THE APPLICANT
WILLIAM F. PENTNEY DEPUTY ATTORNEY GENERAL OF CANADA TORONTO, ONTARIO	FOR THE RESPONDENT