

Federal Court



Cour fédérale

**Date: 20180307**

**Docket: IMM-2158-17**

**Citation: 2018 FC 265**

**Ottawa, Ontario, March 7, 2018**

**PRESENT: The Honourable Mr. Justice O'Reilly**

**BETWEEN:**

**DINA YASMIN**

**Applicant**

**and**

**THE MINISTER OF IMMIGRATION,  
REFUGEES AND CITIZENSHIP**

**Respondent**

**JUDGMENT AND REASONS**

I. Overview

[1] Ms Dina Yasmin was born in Bangladesh and arrived in Canada with her children in 2008. Ms Yasmin was granted refugee status in 2011, and subsequently submitted an application for permanent residence. In 2012, the Canadian Border Services Agency obtained information – based on fingerprint matches – suggesting that Ms Yasmin had lived in the United States under the name Nigar Sultana, and had permanent resident status there.

[2] After an interview, an immigration officer concluded that Ms Yasmin had failed to disclose her status in the US. During the interview, Ms Yasmin explained that she had travelled to the US as a visitor in 1998 and was fingerprinted. However, she stayed in the US for only two months. She was asked to explain the fingerprint match, but she could not do so. She speculated that her US attorney may have done something with her fingerprints without her knowledge.

[3] The officer was also concerned that birth certificates for Ms Yasmin and her three children all bore the same date of August 4, 2008. Ms Yasmin explained that the original documents had been destroyed and she had had to obtain replacements.

[4] The officer denied Ms Yasmin permanent residence and found that she was inadmissible to Canada.

[5] Ms Yasmin argues that the officer treated her unfairly by failing to provide a proper opportunity to respond to the officer's concerns. She also submits that the officer's decision was unreasonable, and failed to address the circumstances of her three children separately. She asks me to quash the officer's decision and order another officer to reconsider her application.

[6] I agree with Ms Yasmin that the officer treated her unfairly by not alerting her to the issue regarding her status in the US. On that basis, I will grant this application for judicial review. I need not address the other issues Ms Yasmin raised in her application.

[7] The sole issue is whether the officer treated her unfairly.

II. Did the officer treat Ms Yasmin unfairly?

[8] The Minister maintains that the officer treated Ms Yasmin fairly by sending her a letter asking her to provide identity documents for herself and her children. That letter, according to the Minister, should have caused Ms Yasmin to realize that her identity was in question. In addition, the officer gave Ms Yasmin a chance during her interview to respond to the officer's concerns.

[9] I disagree.

[10] The officer's letter did not give notice to Ms Yasmin that her travel history and possible status as a US permanent resident were issues under consideration. Ms Yasmin did not have a meaningful opportunity to respond to the officer's concerns and received no disclosure of the evidence on which the officer was relying. The officer confronted Ms Yasmin at her interview, but she had no real chance to meet the officer's accusations or dispute the evidence against her.

[11] In my view, the officer treated Ms Yasmin unfairly.

III. Conclusion and Disposition

[12] The officer who rejected Ms Yasmin's permanent resident application did not provide her a fair opportunity to address concerns that she might already have status in the US. This amounted to a breach of procedural fairness, and I must allow this application for judicial review

on that basis. Neither party proposed a question of general importance for me to certify, and none is stated.

**JUDGMENT IN IMM-2158-17**

**THIS COURT'S JUDGMENT is that** the application for judicial review is allowed,  
and no question of general importance is stated.

"James W. O'Reilly"

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Judge

**FEDERAL COURT**  
**SOLICITORS OF RECORD**

**DOCKET:** IMM-2158-17

**STYLE OF CAUSE:** DINA YASMIN v THE MINISTER OF IMMIGRATION,  
REFUGEES AND CITIZENSHIP

**PLACE OF HEARING:** TORONTO, ONTARIO

**DATE OF HEARING:** NOVEMBER 30, 2017

**JUDGMENT AND REASONS:** O'REILLY J.

**DATED:** MARCH 7, 2018

**APPEARANCES:**

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