

Federal Court



Cour fédérale

Date: 20180319

Docket: T-1689-14

Citation: 2018 FC 310

Ottawa, Ontario, March 19, 2018

PRESENT: The Honourable Mr. Justice O'Reilly

BETWEEN:

**THE MINISTER OF CITIZENSHIP
AND IMMIGRATION**

Plaintiff

and

BOZIDAR VUJICIC

Defendant

ORDER AND REASONS

[1] The Minister, having succeeded in obtaining a ruling that Mr Bozidar Vujicic obtained his permanent residence in Canada by false representation, seeks costs (see *Minister of Citizenship and Immigration v Vujicic*, 2018 FC 116).

[2] There were two discrete issues before me at the hearing of this matter. First, by way of a motion that was heard at the outset of the proceedings, Mr Vujicic challenged the admissibility

of certain evidence on which the Minister intended to rely. Second, the parties presented evidence and legal submissions on the merits of the case.

[3] With respect to the motion on admissibility, Mr Vujicic was largely successful. I found that roughly two-thirds of the Minister's proffered evidence was inadmissible. The Minister is not entitled to costs in respect of the motion, which occupied about a quarter of the hearing.

[4] On the merits, the Minister succeeded on one out of the four grounds on which it relied to prove misrepresentation on Mr Vujicic's part. The Minister should receive some measure of costs given the outcome. The merits portion of the case represented about three-quarters of the hearing time.

[5] The Minister points out that the general rule is that successful parties are entitled to their costs, even if some of the grounds on which they relied failed: *Canada v IPSCO Recycling Inc*, 2004 FC 1083 at para 37; *Sanofi-Aventis Canada v Apotex Inc*, 2009 FC 1138 at para 8. Both cases refer to an exception where the successful party's conduct could be described as an abuse of process.

[6] I would not characterize the Minister's conduct as abusive. However, the cases on which the Minister relies are distinguishable. They involved sophisticated commercial parties involved in complex litigation who accepted the risks and rewards that go along with choosing to resolve disputes in that kind of contest. The judges deciding those cases were concerned not to skew the incentives for settlement by divvying up the costs of litigation issue-by-issue.

[7] By contrast, this case involves an action brought by the Government of Canada against a single individual who had no choice but to mount a defence in order to protect his Canadian citizenship. Settlement was not a real option. Further, the Minister put forward some tenuous evidence and arguments, a response to which demanded considerable effort on Mr Vujicic's part, including the motion to strike.

[8] The circumstances before me are different from those present in the authorities the Minister cites in support of the request for full costs. Taking into account all of the relevant factors, I find that the Minister is entitled to costs calculated at 20% of the usual rate.

ORDER in T-1689-14

THIS COURT ORDERS that the Minister is entitled to 20% of costs assessed in accordance with Tariff B of the *Federal Courts Rules*, SOR/98-106.

"James W. O'Reilly"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: T-1689-14

STYLE OF CAUSE: THE MINISTER OF CITIZENSHIP AND
IMMIGRATION v BOZIDAR VUJICIC

**MOTION IN WRITING CONSIDERED AT OTTAWA, ONTARIO PURSUANT TO
RULE 369 OF THE *FEDERAL COURTS RULES***

ORDER AND REASONS: O'REILLY J.

DATED: MARCH 19, 2018

APPEARANCES:

François Paradis

FOR THE PLAINTIFF

Aleksandar Stojicevic
Tess Acton

FOR THE DEFENDANT

SOLICITORS OF RECORD:

Attorney General of Canada
Vancouver British Columbia
Maynard Kischer Stojicevic
Baristers and Solicitors
Vancouver, British Columbia

FOR THE PLAINTIFF

FOR THE DEFENDANT