

Federal Court



Cour fédérale

Date: 20201104

Docket: IMM-4518-19

Citation: 2020 FC 1030

Ottawa, Ontario, November 4, 2020

PRESENT: The Honourable Mr. Justice Pamel

AND BETWEEN:

DEMAR LYNFORD DWYER

Applicant

and

**MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

[1] On September 22, 2020, I dismissed the Applicant's, Mr. Demar Lynford Dwyer's, application for judicial review of a decision dated May 30, 2019 of the Immigration Appeal Board [IAD] denying his second attempt to reopen the appeal of his removal order on the grounds of *res judicata*. Mr. Dwyer's initial appeal of his removal order was determined on November 2, 2015 to be abandoned, and his first attempt at reopening his appeal was dismissed by the IAD on December 6, 2016.

[2] This matter was heard in conjunction with the matter in IMM-2028-19 wherein Mr. Dwyer was seeking judicial review of a decision dated April 4, 2019 of the Canada Border Services Agency denying his request for a deferral of his removal from Canada. That application was also dismissed.

[3] On September 29, 2020, Mr. Dwyer filed a motion in writing pursuant to Rule 369 of the *Federal Courts Rules*, SOR/98-106 [FCR], for reconsideration of my September 22, 2020 decision on the grounds that I failed to consider evidence that should have been dealt with, or that I did not properly assess the evidence, the whole pursuant to Rule 397(1)(b) of the FCR.

[4] Having considered Mr. Dwyer's motion, I do not find that any of the issues he raises were either overlooked or accidentally omitted.

[5] The issues that I specifically addressed in my decision were those that felt had to be raised in the context of the judicial review application in order to assess the reasonableness of the IAD's decision denying Mr. Dwyer's second attempt to reopen his appeal of his removal order on the grounds of *res judicata*.

[6] I do not find that there has been any slip in the manner my decision was prepared, nor any error in expressing my intention. What Mr. Dwyer is, in essence, attempting to do is to argue his case a second time in the hopes that I will change my mind. This is not something I will do (*Bell Helicopter Textron Canada Limitée v Eurocopter*, 2013 FCA 261).

[7] As to whether he was treated fairly during the hearing, I am satisfied that I provided Mr. Dwyer with as wide a berth as I could as a self-represented litigant. Although his counsel pleaded the application in IMM-2028-19, Mr. Dwyer was left on his own to plead the application in this case.

[8] Under the circumstances, Mr. Dwyer's motion is dismissed.

JUDGMENT in IMM-4518-19

THIS COURT'S JUDGMENT is that:

1. The Applicant's motion for reconsideration pursuant to Rule 397 of the FCR is dismissed.
2. No costs are awarded.

"Peter G. Pamel"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-4518-19

STYLE OF CAUSE: DEMAR LYNFORD DWYER v MINISTER OF
CITIZENSHIP AND IMMIGRATION

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

JUDGMENT AND REASONS: PAMEL J.

DATED: NOVEMBER 4, 2020

APPEARANCES:

Demar Lynford Dwyer

FOR THE APPLICANT
(ON HIS OWN BEHALF)

Nicole Rahaman

FOR THE RESPONDENT

SOLICITORS OF RECORD:

Attorney General of Canada
Toronto, Ontario

FOR THE RESPONDENT