

Federal Court



Cour fédérale

Date: 20220505

Docket: T-1058-20

Citation: 2022 FC 654

[ENGLISH TRANSLATION]

Ottawa, Ontario, May 5, 2022

PRESENT: The Honourable Madam Justice Rochester

BETWEEN:

GERMAN PALOMINO

Applicant

and

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

Respondent

JUDGMENT AND REASONS

[1] The applicant, German Palomino, is seeking an order of *mandamus* to compel the Minister of Immigration, Refugees and Citizenship to lift the suspension of his citizenship file and render a decision on his citizenship application before the scheduled hearing before the Refugee Protection Division (RPD) to determine the cessation of the applicant's refugee status

considering the applicant voluntarily claimed Peru's protection and voluntarily returned to live in Peru, a country he initially fled to seek refugee protection in Canada.

[2] During the hearing of the present case, after having heard the parties, I rendered my decision orally, dismissing the application because it was moot, and stated that the reasons for my decision would follow shortly.

[3] The applicant is a citizen of Peru. He left Peru in 2002, and obtained refugee status in Canada in 2003. In 2005, he obtained permanent resident status in Canada. In 2007, the applicant obtained a Peruvian passport. Between 2005 and 2017, the applicant admits that he travelled to Peru at least 14 times. On October 12, 2017, the applicant applied for Canadian citizenship under subsection 5(1) of the *Citizenship Act*, RSC 1985, c C-29.

[4] In May 2019, under subsection 108(2) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 (IRPA), the Minister asked the RPD to determine that the applicant's refugee status had ceased because he had obtained a Peruvian passport and made frequent trips to Peru.

[5] On September 9, 2020, the applicant filed this application for *mandamus* before the Court.

[6] In August 2021, the RPD decided that the applicant had lost his refugee status pursuant to paragraphs 108(1)(a) and (d) of the IRPA. On February 2, 2022, the Minister denied the applicant's application for citizenship. Thus, prior to the hearing before this Court on May 2,

2022, the applicant lost his refugee status and his permanent residence, and his citizenship application was denied.

[7] Further to these events, the respondent submits that the application became moot, since the Minister had rendered a decision on the applicant's citizenship. The respondent submits that there is no longer any debatable issue, and the *mandamus* remedy sought would not have any concrete effect since the applicant has already lost his refugee status and his permanent residence, and his application for Canadian citizenship was denied.

[8] Moreover, the respondent submits that the Federal Court of Appeal confirmed that section 13.1 of the *Citizenship Act* confers authority on the Minister to suspend a citizenship application while awaiting the RPD's conclusion on an application for cessation of refugee protection (*Canada (Citizenship and Immigration) v Nilam*, 2017 FCA 44).

[9] I agree with the respondent's position. I also note that during the hearing, the applicant conceded that this application is now moot. As a result, this application is dismissed.

JUDGMENT in T-1058-20

THIS COURT ORDERS as follows:

1. The application is dismissed.
2. No question is certified.
3. No costs are awarded.

“Vanessa Rochester”

Judge

Certified true translation
Michael Palles

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: T-1058-20

STYLE OF CAUSE: GERMAN PALOMINO v THE MINISTER OF
IMMIGRATION, REFUGEES AND CITIZENSHIP

PLACE OF HEARING: BY VIDEOCONFERENCE

DATE OF HEARING: MAY 2, 2022

JUDGMENT AND REASONS: ROCHESTER J.

DATED: MAY 5, 2022

APPEARANCES:

Stewart Istvanffy FOR THE APPLICANT

Sonia Bédard FOR THE RESPONDENT

SOLICITORS OF RECORD:

Stewart Istvanffy FOR THE APPLICANT
Montréal, Quebec

Attorney General of Canada FOR THE RESPONDENT
Montréal, Quebec