

**Date: 20080108**

**Docket: IMM-458-07**

**Citation: 2008 FC 27**

**Vancouver, British Columbia, January 8, 2008**

**PRESENT: The Honourable Mr. Justice Campbell**

**BETWEEN:**

**GURPREET SINGH GILL**

**and**

**THE MINISTER OF CITIZENSHIP AND IMMIGRATION**

**REASONS FOR ORDER AND ORDER**

[1] In the present Application, the Applicant, an eight-year-old child, challenges a Visa Officer's decision which rejects his application for H&C consideration to be landed from outside Canada. The present motion focuses on the personal qualifications of the Visa Officer to decide as he did.

[2] As part of the Respondent's defence to the Application, the Visa Officer supplied an affidavit supplementing his reasons for the conclusions reached. During cross-examination of the Visa Officer on his affidavit by Counsel for the Applicant, Counsel for the Respondent objected to a number of questions posed. The questions relate to the experience of the Visa Officer with respect

to conducting H&C applications generally, and, in particular, with respect to children. The questions place a focus not only on the conduct of an interview of the Applicant conducted by the Visa Officer but also the rejection of the Applicant's plea for H&C consideration. Therefore, the questions relate to the quality of the Visa Officer's decision-making on both of these aspects of the Applicant's application. The present motion is brought to compel the Visa Officer to answer the questions.

[3] There is no doubt that the subjectivity and experience of a decision-maker is in play in a judicial review challenge to any decision rendered. Naturally, the quality of a particular decision can depend on these factors. But this is not contested; the issue raised by the motion is whether a decision-maker should be directly questioned on these factors to substantiate an argument that the decision is made in reviewable error. Aside from a question of bias, which is not in play in the present case, I agree with Counsel for the Respondent that such questioning is inappropriate.

[4] The subjective analysis and depth of experience of a decision-maker merge into the reasons provided for reaching a particular conclusion. Of course, a review of reasons also engages subjective analysis and experience on the part of the reviewer, but this cycle of human involvement is the substance of justice delivery. This cycle has integrity endorsed by law. In my opinion, this integrity is offended if the direct questioning advanced in the motion is allowed.

[5] As a result, the motion is denied.

[6] While the present motion is made during the course of the present judicial review proceeding, and while the Respondent is successful in the motion, I find that the timing of the motion, and the issue it raises, aids in a just determination of the present Application. Therefore, I make no award of costs on the motion.

**ORDER**

**IT IS HEREBY ORDERED** that the motion is denied without costs.

“Douglas R. Campbell”

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Judge

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

**DOCKET:** IMM-458-07

**STYLE OF CAUSE:** GURPREET SINGH GILL v. MCI

**MOTION IN WRITING WITHOUT PERSONAL APPEARANCE  
OF THE PARTIES**

**REASONS FOR ORDER:  
AND ORDER** CAMPBELL J.

**DATED:** January 8, 2007

**WRITTEN REPRESENTATIONS BY:**

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FOR THE APPLICANT

Ms. Banafsheh Sokhansanj

FOR THE RESPONDENT

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FOR THE RESPONDENT