

Federal Court



Cour fédérale

**Date: 20091105**

**Docket: T-448-08**

**Citation: 2009 FC 1137**

**Montréal, Quebec, November 5, 2009**

**PRESENT: The Honourable Madam Justice Tremblay-Lamer**

**BETWEEN:**

**GEORGES GUY MARIO DELIA**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP  
AND IMMIGRATION**

**Respondent**

**REASONS FOR JUDGMENT AND JUDGMENT**

[1] This is an appeal by Georges Guy Mario Delia (the applicant) under subsection 14(5) of the *Citizenship Act*, R.S.C. 1985, c. C-29, of a decision made by a citizenship judge, dated December 5, 2007, denying the application for citizenship filed by the applicant.

[2] The applicant arrived in Canada with his family and became a permanent resident on August 13, 2000. On May 8, 2004, he submitted an application for citizenship.

[3] The applicant was employed by Exxon Mobil in Africa. After arriving in Canada, he asked his employer to be transferred to a position in Canada but the employer never granted his request. He therefore continued to work in Africa during the relevant period, from 2000 to 2004, as well as afterwards.

[4] Consequently, the applicant reported numerous and prolonged absences from Canada throughout the relevant period. In fact, his absences during this period totalled 1,044 days; the days he was present in Canada, only 319.

[5] The citizenship judge applied the test from *Koo (Re)*, [1993] 1 F.C. 286, [1992] F.C.J. No. 1107 (QL). Regarding the first prong of the test, which deals with the presence of an applicant in Canada before an absence occurring during the relevant period, the citizenship judge noted that the applicant “created a pattern of absences from Canada at the start.” In fact, the applicant returned to Cameroon twenty-four days after arriving in Canada. The applicant returned regularly to Canada, but these return visits were brief – much briefer than his stays in Africa. The applicant maintained this mode of living throughout the relevant period, as well as afterwards.

[6] For the second prong, he noted that the applicant’s immediate and extended family is in Canada.

[7] As for the third prong, he determined that the applicant's pattern of physical presence in Canada was that of a visitor, and not of a resident returning home. He noted that the applicant could not [TRANSLATION] "establish residence" in Canada in twenty-four days and concluded that the applicant was simply visiting family when he returned here.

[8] With regard to the fourth prong, he noted the considerable number of days the applicant lacked in order to meet the residency test established by the *Citizenship Act*, namely, 776 days out of 1,095.

[9] For the fifth prong, he concluded that the applicant's absences were not at all the result of a temporary situation. His mode of living – short periods of presence followed by long absences – had never changed.

[10] Finally, regarding the sixth prong, he found that, given the applicant's long stays in Cameroon and the brevity of his visits to Canada, his strongest connection was to Cameroon.

[11] The citizenship judge indicated that the presence of the applicant's family in Canada was given significant weight in his decision, as was the length of the applicant's absences. However, what tipped the scales was the fact that the applicant's initial presence in Canada lasted only twenty-four days, and consequently, the applicant never really established himself in Canada.

[12] In my view, the citizenship judge's decision on the question of residency is reasonable. The applicant, in reality, failed to submit any serious argument that would show otherwise.

[13] Given that the applicant left Canada less than a month after his arrival, it was reasonable for the citizenship judge to find that he never really established himself here. The applicant's absences having been systematic and prolonged, he was entitled to conclude that the applicant had never centralized his mode of living in Canada.

[14] Consequently, the appeal is dismissed.

**JUDGMENT**

**THE COURT ORDERS** that the appeal be dismissed.

“Danièle Tremblay-Lamer”

Judge

Certified true translation

Sebastian Desbarats, Translator

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

**DOCKET:** T-448-08

**STYLE OF CAUSE:** GEORGES GUY MARIO DELIA v. THE MINISTER  
OF CITIZENSHIP AND IMMIGRATION

**PLACE OF HEARING:** Montréal, Quebec

**DATE OF HEARING:** November 5, 2009

**REASONS FOR JUDGMENT  
AND JUDGMENT:** TREMBLAY-LAMER J.

**DATED:** November 5, 2009

**APPEARANCES:**

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