

Federal Court



Cour fédérale

Date: 20120516

Docket: IMM-5521-11

Citation: 2012 FC 588

Ottawa, Ontario, May 16, 2012

PRESENT: The Honourable Mr. Justice Barnes

BETWEEN:

SURINDER SINGH JHAJJ

Applicant

and

**THE MINISTER OF CITIZENSHIP
AND IMMIGRATION**

Respondent

SUPPLEMENTARY REASONS FOR JUDGMENT AND JUDGMENT

[1] Counsel for the Applicant has proposed the following three questions for certification:

- (a) What standard of review applies to the statutory interpretation of s. 117(1), (3) and (7) of the *Immigration and Refugee Protection Regulations*?
- (b) If the Province has issued a letter of no involvement, does it satisfy the requirement of s. 117 (3) (a) of the *Immigration and Refugee Protection Regulations*?
- (c) If a child turns 18 during the process of the application at the visa post, is it still required to provide a home study pursuant

to s. 117 (3) (a) of the *Immigration and Refugee Protection Regulations*?

[2] Counsel for the Respondent opposes certification on the basis that none of these questions would be determinative of the outcome of this case or of other similar cases.

[3] Recently in *Gillani v Canada*, 2012 FC 533, Justice Richard Boivin considered the test for certification and noted that the “proposed questions must transcend the interests of the immediate parties to the litigation, contemplate issues of broad significance or general application and be determinative of the appeal”.

[4] I agree with counsel for the Respondent that the questions proposed here do not meet the above test for certification. The rationale for dismissing this application was evidence-based and is set out in the following passage:

...Here, the fundamental problem was the Applicant’s failure to present sufficient clarifying evidence from Alberta Children’s Services to establish a foundation for the interpretive point he advanced to the Board and to this Court. Specifically, he did not put forward evidence from Alberta Children’s Services as to what it intended by its letter of March 16, 2009 or to verify that it no longer considered a home study to be necessary. The Applicant did not satisfy the Board on the evidence presented that the letter from Alberta Children’s Services was sufficient to displace the requirement for a home study.

[5] The interpretive issues that counsel for the Applicant has raised were not determinative of the outcome which instead turned on the absence of evidence. That being said, if the gaps in the evidence are filled, there may be a basis for bringing a new sponsorship application in this situation.

[6] In conclusion, I decline to certify a question in this case.

JUDGMENT

THIS COURT'S JUDGMENT is that no question will be certified in this case.

"R.L. Barnes"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-5521-11

STYLE OF CAUSE: JHAJJ v MCI

PLACE OF HEARING: Calgary, AB

DATE OF HEARING: March 20, 2012

REASONS FOR JUDGMENT: BARNES J.

DATED: May 16, 2012

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