

Federal Court



Cour fédérale

**Date: 20180208**

**Docket: IMM-2402-17**

**Citation: 2018 FC 148**

**Calgary, Alberta, February 8, 2018**

**PRESENT: The Honourable Madam Justice Heneghan**

**BETWEEN:**

**PHU TAM HUYNH**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP AND  
IMMIGRATION**

**Respondent**

**JUDGMENT AND REASONS**

[1] Mr. Phu Tam Huynh (the “Applicant”) seeks judicial review of the decision of Senior Immigration Officer (the “Officer”), refusing his Pre Removal Risk Assessment (“PRRA”) application.

[2] The Applicant is a citizen of Vietnam. In 1975, he was granted Refugee status in France. He came to Canada in 1985 and was granted permanent residence status. He subsequently lost that status on the basis of a lengthy history of convictions for criminal offenses.

[3] In March 2012, a Deportation Order was issued against the Applicant.

[4] In the decision, the Officer found the Applicant was not at risk of persecution if returned to France or Vietnam. Prior to the hearing of this application the Minister of Citizenship and Immigration (the “Respondent”) advised that he would not be making submission about a return to Vietnam

[5] A PRRA decision is reviewable on the standard of reasonableness; see the decision in *Korkmaz v. Canada (Minister of Public Safety and Emergency Preparedness)*, 2015 FC 1124

[6] According to the decision in *Dunsmuir v New Brunswick*, [2008] 1 S.C.R. 190, that standard requires that a decision be transparent, justifiable and intelligible and fall within a range of possible, acceptable outcomes.

[7] The only issue then is whether the Officer’s decision, that the Applicant can return to France, meets the relevant standard of review.

[8] In my opinion, it does not.

[9] The Applicant provided evidence to the Officer that his status as a Refugee in France “has likely lapsed”. The evidence was an email provided by a lawyer in France.

[10] The Officer was aware of the Applicant’s submissions that he is a stateless person. It does not appear, on the record, that the Officer considered the evidence submitted that supported this contention.

[11] It follows that the Officer’s decision is not “transparent” or justifiable.

[12] In the result, this application for judicial review will be allowed and the matter remitted to another Officer for redetermination, no question for certification arising.

**JUDGMENT for IMM-2402-17**

**THIS COURT'S JUDGMENT is that** the application for judicial review is allowed, the matter is remitted to another officer for redetermination, no question for certification arising.

"E. Heneghan"

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Judge

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

**DOCKET:** IMM-2402-17

**STYLE OF CAUSE:** PHU TAM HUYNH v. MCI

**PLACE OF HEARING:** TORONTO, ONTARIO

**DATE OF HEARING:** NOVEMBER 20, 2017

**JUDGMENT AND REASONS:** HENEGHAN J.

**DATED:** FEBRUARY 8, 2018

**APPEARANCES:**

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FOR THE APPLICANT

Melissa Mathieu

FOR THE RESPONDENT

**SOLICITORS OF RECORD:**

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Deputy Attorney General of  
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FOR THE RESPONDENT