

Federal Court



Cour fédérale

Date: 20190822

Docket: IMM-1757-18

Citation: 2019 FC 1094

Ottawa, Ontario, August 22, 2019

PRESENT: The Honourable Mr. Justice Norris

BETWEEN:

BRADLEY SHAKA

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

ORDER AND REASONS

[1] In a Judgment and Reasons dated June 11, 2019, the Court dismissed the applicant's application for *mandamus* and related declaratory relief (*Shaka v Canada (Citizenship and Immigration)*, 2019 FC 798 [*Shaka*]). The Court also declined to certify any questions of general importance under paragraph 74(d) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 (see *Shaka* at paras 81-84).

[2] By Notice of Motion dated June 21, 2019, the applicant moves in writing under Rule 397 of the *Federal Courts Rules*, SOR/98-106, for reconsideration of the refusal to certify the question he had proposed. The respondent opposes the motion.

[3] Rule 397(1)(b) provides that a party may request that the Court reconsider the terms of an order it has made on the grounds that “a matter that should have been dealt with has been overlooked or accidentally omitted.”

[4] The law is very clear that the purpose of a motion under Rule 397(1)(b) is to permit a party to raise with the Court the question of whether it had failed (inadvertently or accidentally) to deal with something that was put to it: see *Taker v Canada (Attorney General)*, 2012 FCA 83 at paras 3-4 [*Taker*] and *Yeager v Day*, 2013 FCA 258 at para 9. It cannot be used to reverse what has already been ordered (*Taker* at para 4).

[5] The law is equally clear that Rule 397(1)(b) is not meant to provide a losing party with an opportunity to re-argue its case: see *Bell Helicopter Textron Canada Limitée v Eurocopter*, 2013 FCA 261 at para 15 and *Georgoulas v Canada (Attorney General)*, 2016 FCA 245 at para 8. However, in twelve pages of written submissions (and six pages of reply submissions) that is exactly what the applicant has attempted to do.

[6] The motion is dismissed.

ORDER IN IMM-1757-18

THIS COURT ORDERS that

1. The motion for reconsideration is dismissed.

“John Norris”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-1757-18

STYLE OF CAUSE: BRADLEY SHAKA v THE MINISTER OF
CITIZENSHIP AND IMMIGRATION

MOTION IN WRITING CONSIDERED AT OTTAWA, ONTARIO PURSUANT TO
RULE 369 OF THE *FEDERAL COURTS RULES*

ORDER AND REASONS: NORRIS J.

DATED: AUGUST 22, 2019

WRITTEN REPRESENTATIONS BY:

Raoul Boulakia FOR THE APPLICANT

Nadine Silverman FOR THE RESPONDENT

SOLICITORS OF RECORD:

Raoul Boulakia FOR THE APPLICANT
Barrister and Solicitor
Toronto, Ontario

Attorney General of Canada FOR THE RESPONDENT
Toronto, Ontario