Federal Court  Cour fédérale

Date: 20200422

Docket: T-2125-18

Citation: 2020 FC 547

Ottawa, Ontario, April 22, 2020

PRESENT: The Honourable Madam Justice Elliott

BETWEEN:

MATHEW TULLY

Applicants

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

I. Overview

[1] The Applicant, Mr. Mathew Tully, is an American citizen who was born in the United States on October 2, 1973. His parents were also born in the United States. Mr. Tully's maternal grandfather was born in Canada. As a result, Mr. Tully's mother had a potential claim to Canadian citizenship through her father under the *Citizenship Act*, RSC 1985, c C-29 [*Citizenship Act*] that was first in force on February 15, 1977.

[2] On December 4, 2018, Mr. Tully applied for a certificate of Canadian Citizenship. A Citizenship Officer [Officer] refused the application on the ground that Mr. Tully did not qualify for citizenship under paragraph 3(3)(a) of the *Citizenship Act*, which limits citizenship by descent to the first generation born outside Canada.

[3] This judicial review arises from the Officer's December 11, 2018 refusal to grant a certificate of citizenship to Mr. Tully [Decision].

[4] For the reasons that follow, this application is dismissed. The Officer did not err in determining that Mr. Tully was not entitled to a certificate of citizenship on the facts of this case.

II. **Issues and Standard of Review**

A. *The Issues*

[5] Mr. Tully submits that the Officer determined his eligibility for a citizenship certificate under the wrong section of the *Citizenship Act*. He says that the Officer should have applied paragraph 3(1)(e) instead of paragraph 3(1)(g).

[6] Mr. Tully also submits that the "first generation" constraint imposed by paragraph 3(3)(a) of the Citizenship Act violates the provisions of subsection 15(1) of the *Canadian Charter of Rights and Freedoms*, Part I of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982* (UK), 1982, c 11 [*Charter*].

[7] In addition, Mr. Tully raises issues of “unclean hands” and “equitable tolling” in relation to the 1974 refusal of the Canadian Embassy in the United States and the Canadian Consulate in New York City to accept his mother’s attempt to register his birth. He states that in or around 1988 his father made a similar attempt to register his birth but that too was rejected.

B. *The Standard of Review*

[8] Mr. Tully submits that the standard of review of the Officer’s refusal is correctness as there was no “decision” made, in that there were no disputed facts to be assessed. He argues that no deference to the Officer was required as it was merely a mechanical application of the legislation using the Minister’s interpretation of the *Citizenship Act*.

[9] At one point in the recent past, Mr. Tully’s position that the standard of review is correctness had support on the basis that the interpretation of a section of the *Citizenship Act* is a question of law. However that position is no longer supported.

[10] The Minister argues that the standard of review is reasonableness. At the time this matter was argued, the Minister relied on the decision by a majority of the Federal Court of Appeal in *Vavilov v Canada (Citizenship and Immigration)*, 2017 FCA 132 [*Vavilov FCA*] to submit that the standard of review was reasonableness. The majority had relied on a series of decisions by the Supreme Court of Canada including, *Edmonton (City) v Edmonton East (Capilano) Shopping Centres Ltd*, 2016 SCC 47 and *Alberta (Information and Privacy Commissioner) v Alberta Teachers' Association*, 2011 SCC 61.

[11] At the time that this matter was argued, the Supreme Court of Canada had granted leave to hear an appeal of *Vavilov FCA* but no decision had been released. On December 19, 2019 the Supreme Court in *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [*Vavilov*] dismissed the appeal of *Vavilov FCA* and confirmed that the presumptive standard of review of administrative decisions is reasonableness, subject to certain exceptions that do not apply in this case.

[12] *Vavilov* has not changed the focus of previous jurisprudence such as *Dunsmuir v New Brunswick,* 2008 SCC 9 [*Dunsmuir*] and its progeny. The well-known administrative law requirement that the reasons demonstrate that a decision is transparent, intelligible and justified remains alive and well: *Vavilov* at para 15. Rather, *Vavilov* has sharpened the focus by confirming that both the reasoning process and the outcome of a decision are to be considered in assessing whether a decision is reasonable: *Vavilov* at para 86.

[13] My review will accordingly proceed on the basis that the standard is reasonableness. However, even if the standard of review had been correctness, the outcome would be the same.

III. **The Relevant Legislation**

[14] Prior to January 1, 1947, when *The Canadian Citizenship Act*, SC 1946, c 15 [the 1947 Act] was in force, there was no citizenship statute in Canada other than as defined in the 1910 *Immigration Act* that only applied to allow a person to enter, leave or remain in Canada: *Taylor v Canada (Minister of Citizenship and Immigration)*, 2007 FCA 349 at paragraph 31.

[15] On February 15, 1977, the new *Citizenship Act*, RSC 1985, c C-29 [the *Citizenship Act*] received royal assent. On April 17, 2009, the *Citizenship Act* was amended when Bill C-37 came into force [the 2009 Amendments].

[16] The most recent version of the *Citizenship Act* has been in force since July 12, 2019. The version that was in force when Mr. Tully's application was denied on December 11, 2018 was in force from December 5, 2018 to June 20, 2019. That is the version that was applied to Mr. Tully's application. It will be referred to as the *Citizenship Act, July 2019*.

[17] As set out in further detail below, Mr. Tully challenges the effect of the 2009 Amendments that were incorporated into the *Citizenship Act*.

[18] In determining not to grant a certificate of citizenship to Mr. Tully, the Officer found that the applicable section of the *Citizenship Act* was paragraph 3(1)(g) which applies to people born outside Canada between January 1, 1947 and February 15, 1977. Mr. Tully was born within this date range.

[19] Mr. Tully, as mentioned, believes that paragraph 3(1)(e) should have been applied by the Officer. Once the Officer determined that Mr. Tully's facts fell within paragraph 3(1)(g), the provisions of paragraph 3(3)(a) applied. This issue will be examined in the Analysis portion of these Reasons.

[20] The text of these paragraphs in the *Citizenship Act, July 2019* is set out below:

Persons who are citizens	Citoyens
3 (1) Subject to this Act, a person is a citizen if	3 (1) Sous réserve des autres dispositions de la présente loi, a qualité de citoyen toute personne :
[. . .]	[. . .]
e) the person was entitled, immediately before February 15, 1977, to become a citizen under paragraph 5(1)(b) of the former Act;	e) habile, au 14 février 1977, à devenir citoyen aux termes de l'alinéa 5(1)b) de l'ancienne loi;
[. . .]	[. . .]
(g) the person was born outside Canada before February 15, 1977 to a parent who was a citizen at the time of the birth and the person did not, before the coming into force of this paragraph, become a citizen;	g) qui, née à l'étranger avant le 15 février 1977 d'un père ou d'une mère ayant qualité de citoyen au moment de la naissance, n'est pas devenue citoyen avant l'entrée en vigueur du présent alinéa;
Not applicable — after first generation	Inapplicabilité après la première génération
(3) Paragraphs (1)(b), (f) to (j), (q) and (r) do not apply to a person born outside Canada	(3) Les alinéas (1)b), f) à j), q) et r) ne s'appliquent pas à la personne née à l'étranger dont, selon le cas:
(a) if, at the time of his or her birth, only one of the person's parents was a citizen and that parent was a citizen under paragraph (1)(b), (c.1), (e), (g), (h), (o), (p), (q) or (r) or both of the person's parents were citizens under any of those paragraphs;	a) au moment de la naissance, seul le père ou la mère avait qualité de citoyen, et ce, au titre des alinéas (1)b), c.1), e), g), h), o), p), q) ou r), ou les deux parents avaient cette qualité au titre de l'un de ces alinéas;

[21] Also to be considered in this application is paragraph 3(7)(e):

Deemed application	Application présumée
(7) Despite any provision of this Act or any Act respecting naturalization or citizenship	(7) Malgré les autres dispositions de la présente loi et l'ensemble des lois

that was in force in Canada at any time before the day on which this subsection comes into force [. . .] (e) a person referred to in paragraph (1)(g) or (h) is deemed to be a citizen from the time that he or she was born;	concernant la naturalisation ou la citoyenneté en vigueur au Canada avant l'entrée en vigueur du présent paragraphe : [. . .] e) la personne visée aux alinéas (1)g) ou h) est réputée être citoyen à partir du moment de sa naissance;

IV. **Decision under Review**

[22] The Decision is in the form of a letter addressed to Mr. Tully dated December 11, 2018. It appears from the underlying record that the letter was based on a Note to File (Note) outlining the relevant parts of the legislation. In addition, the Note set out the relevant demographic information for Mr. Tully's mother. The Note, together with the letter, provide the Reasons for the Decision.

[23] The most relevant parts of the explanatory letter are the following two paragraphs:

> The reasons why you are not eligible for a citizenship certificate are based on the Citizenship Act. Section 3 of the Act (as amended by Bill C-37 effective April 17, 2009) sets out who is a Canadian citizen. The pertinent paragraph for your application is 3(1)(g) which describes certain persons born outside Canada between January 1, 1947 and February 15, 1977 who acquired citizenship and the pertinent sub-section is 3(3) which limited citizenship by descent to the first generation born or adopted outside Canada.
>
> Sub-section 3(3) is specific to persons born outside Canada whose Canadian parent was also born outside Canada. Because you were born outside Canada on October 2, 1973 and your parent was also born outside Canada, you do not meet the statutory requirements for citizenship outlined in paragraph 3(1)(g) of the current Citizenship Act.

[24] The Note states that Mr. Tully's father was born in the United States therefore Mr. Tully has no claim to Canadian citizenship through his father. Mr. Tully has made no such claim.

[25] With respect to Mr. Tully's mother, the Note outlines that she was born in the United States on June 2, 1941 to a Canadian father and had a possible claim to Canadian citizenship under paragraph 4(1)(b) of the 1947 Act if she had been born in wedlock. It was not challenged that Mr. Tully's grandparents were married on October 31, 1936.

[26] From the foregoing it is clear that Mr. Tully's mother had a claim to Canadian citizenship under paragraph 4(1)(b) of the 1947 Act, had she applied. There is no evidence that she ever applied.

V. **Analysis**

A. *Does paragraph 3(1)(e) of the Citizenship Act, July 2019 assist Mr. Tully?*

[27] Paragraph 3(1)(e) of the *Citizenship Act* says that a person is a citizen if they were entitled, immediately before February 15, 1977, to become a citizen "under paragraph 5(1)(b) of the former Act."

[28] The definition of the "former Act" in the *Citizenship Act, July 2019* states that it is the *Canadian Citizenship Act,* chapter C-19 of the Revised Statutes of Canada, 1970 [the 1970 Act].

[29] Paragraph 5(1)(b) of the 1970 Act provided that a person born after December 31, 1946, outside of Canada to a Canadian father or to an unwed Canadian mother is a natural-born citizen

if their birth was registered at a consulate or with the Minister within two years of the birth, or within such extended period as the Minister might authorize in accordance with the regulations. The extended period of time ended on August 14, 2004.

[30] Neither Mr. Tully nor his mother fall within the provisions of paragraph 3(1)(e). Each of them fail to meet the mandated requirements set out in paragraph 5(1)(b) of the 1970 Act.

[31] Mr. Tully's mother does not meet the requirement because she was born before, not after, December 31, 1946.

[32] Mr. Tully was born after that date but there is no evidence that his birth was registered within the extended time. This is discussed in the analysis of paragraph 3(1)(g).

[33] In any event, the discriminatory issues identified with paragraph 5(1)(b) were addressed in the 2009 Amendments when paragraph 3(1)(g) was added to rectify the historic "born to a Canadian father or to an unwed Canadian mother" reference by providing that citizenship applies to a person who was born "to a parent who was a citizen at the time of the birth". Paragraph 3(1)(g) is more fully discussed in the following section.

[34] Mr. Tully argues that the decision by the Supreme Court of Canada in *Benner v Canada (Secretary of State)* 1997 SCC 376 [*Benner*] shows that a person may qualify for citizenship under more than one provision of the *Citizenship Act*. In *Benner* the applicant was the child of a first-generation Canadian mother, and had previously been denied citizenship on the basis that

married mothers could not pass on citizenship. Mr. Tully argues that there is no statutory wording that bans the granting of citizenship under paragraph 3(1)(e) of the *Citizenship Act*, even if the person was entitled to citizenship before February 15, 1977, and that he, like the applicant in *Benner*, should be granted citizenship.

[35] Mr. Benner did not fall under paragraph 3(1)(e) or under paragraph 5(1)(b) of the *Citizenship Act*. He fell under paragraph 5(2)(b) which does not assist Mr. Tully.

[36] *Benner* is discussed in more detail in discussing whether paragraph 3(3)(a) violates the *Charter*.

B. *Does paragraph 3(1)(g) of the Citizenship Act apply to Mr. Tully?*

[37] Paragraph 3(1)(g) of the *Citizenship Act* provides that a person who was born outside Canada before February 15, 1977, to a parent who was a citizen at the time of the birth, is a citizen. Mr. Tully's mother fits within these provisions: she was born in New York in 1941 to a Canadian born parent. Paragraph 3(7)(e) made Mr. Tully's mother a citizen of Canada retroactively from the date of her birth.

[38] Mr. Tully is endeavouring to claim citizenship through his mother whose father was a Canadian. Mr. Tully's mother comes within the first part of the provision in paragraph 5(1)(b) of the former Act. For that provision to apply to grant Mr. Tully citizenship requires the second part of paragraph 5(1)(b) to be met by the registration of her birth prior to the end of the extended period which was August 14, 2004.

[39] There is no evidence that either Mr. Tully's mother's birth or Mr. Tully's birth were registered during that extended period of time.

[40] Although Mr. Tully has said that both his mother and his father attempted to register his birth there are no records establishing that as a fact. Mr. Tully submits that there are no records because the applications were refused and not accepted.

[41] The Minister says that by 1988 all the records were computerized.

[42] The Court cannot speculate as to which possible version is accurate. As there is no evidence in the record that either birth was registered or an application for registration was received there is no proof that the second part of paragraph 5(1)(b) was met.

[43] Ultimately the registration of births or lack thereof makes no difference to the outcome given the 2009 Amendments. In *Kinsel v Canada (Citizenship and Immigration)*, 2014 FCA 126 [*Kinsel*] the Federal Court of Appeal considered a question with respect to paragraph 3(3)(a), which introduced derivative citizenship: does paragraph 3(3)(*a*) of the *Citizenship Act*, as amended by Bill C-37, preclude the appellants from receiving citizenship by descent?

[44] The opening sentence in *Kinsel* indicates the issue that Madam Justice Dawson addressed for the Court of Appeal:

> [1] In 2009, the *Citizenship Act*, R.S.C. 1985, c. C-29 (Act) was amended to extend citizenship to individuals who had lost or were denied their citizenship for a variety of reasons. At issue in this appeal is the scope of the amendment.

[45] The relevant provisions of the *Citizenship Act* being considered in *Kinsel* were paragraphs 3(1)(f) and 3(7)(d) that, as the Court of Appeal put it, "retroactively restored Canadian citizenship to persons, like the appellants' paternal grandmother, who ceased to be a Canadian citizen as a result of acquiring another nationality. Under Bill C-37, such persons were deemed to be citizens of Canada from the time they lost their citizenship."

[46] Relevant to Mr. Tully is the statement by the Court of Appeal at paragraph 7, identifying the effect of paragraph 3(1)(g) when combined with paragraph 3(7)(e) of the *Citizenship Act*:

> [7] Additionally, under paragraphs 3(1)(g) and 3(7)(e) of the Act, citizenship was granted retroactively to persons born abroad to a Canadian. Thus, the appellants' father was deemed to be a Canadian citizen from the time he was born.

[47] Applying this statement by the Court of Appeal to Mr. Tully's fact situation, his mother was retroactively granted citizenship with the passage of the 2009 Amendments. Even though she was born in New York City, Mr. Tully's mother was deemed to be a Canadian citizen from the day she was born. Previous legislative impediments to her being a citizen of Canada were completely erased.

[48] The appellants in *Kinsel* relied upon paragraph 3(1)(b) to argue that because their father was deemed to be a Canadian citizen from the time of his birth, they are Canadian citizens. The Court of Appeal did not agree:

> [44] In my respectful view, this ignores the effect of paragraph 3(3)(*a*) of the Act which came into force with the passing of Bill C-37. […]
>
> [45] In my view, the text of paragraph 3(3)(a) is unambiguous. Mr. Kinsel became a Canadian citizen by operation of paragraph 3(1)(g). <u>At the time of their births, the appellants' mother was not a</u>

> Canadian citizen. Paragraph 3(3)(a) of the Act operates to limit the grant of citizenship by descent to the first generation born outside of Canada to a Canadian parent. This limitation applies to the appellants.
>
> (emphasis in the original)

[49] There are many other cases that confirm the finding that paragraph 3(3)(a) limits citizenship by descent to the first generation.

[50] One such case is *Rabin v Canada (Citizenship and Immigration)*, 2010 FC 1094, [*Rabin*] the facts of which mirror those of Mr. Tully.

[51] Mr. Rabin's mother was born in Detroit in 1963. Her father was Canadian but she was never registered as a Canadian citizen before Mr. Rabin's birth in 1983. Nothing turns on the fact that Mr. Rabin was born after February 15, 1977 while Mr. Tully was born before then.

[52] When the 2009 Amendments came into force, Mr. Rabin's mother was entitled to apply for Canadian citizenship by virtue of paragraph 3(1)(g) as a person born outside Canada before February 15, 1977 to a parent who was a citizen of Canada at the time of her birth. This is identical to Mr. Tully's mother's fact situation.

[53] The Court in *Rabin* reviewed paragraph 3(3)(a) and found that it "expressly excludes from citizenship by descent persons born outside Canada if at the time of their birth . . . one of their parents is a Canadian citizen under paragraph (1)(b), (c.I), (e), (g) or (h) of the Act".

[54] Based on all of the foregoing, I find that paragraph 3(1)(g) does apply to Mr. Tully. It is therefore necessary to examine whether paragraph 3(3)(a) violates the *Charter* or the *Canadian Human Rights Act*.

C. *Does paragraph 3(3)(a) of the Citizenship Act, July 2019 violate the Charter or the Canadian Human Rights Act?*

[55] Mr. Tully argues that he was discriminated against on the basis of national origin. He submits that, in that respect, the *Citizenship Act*, with the 2009 Amendments, violates section 15 of the *Charter* and is not saved by section 1 of the *Charter*. Mr. Tully also submits that the nature of discrimination falls under the *Canadian Human Rights Act.*

[56] In *Canadian Doctors for Refugee Care v Canada (Attorney General)*, 2014 FC 651 [*Canadian Doctors*], Madam Justice Mactavish (as she then was) stated that the reference to "national origin" in subsection 15(1) of the *Charter* creates a prohibition. This "prohibition on discrimination between classes of non-citizens based on their country of origin is one that is also consistent with the provisions of the Refugee Convention, article 3 of which prohibits discrimination against refugees based on their country of origin": *Canadian Doctors* at para 768.

[57] However, subsection 3(3) of the *Citizenship Act* does not make a distinction based on national origin. It applies, regardless of country of origin. Within that, paragraph 3(3)(a) applies to every person born outside Canada to a Canadian parent who was also born outside Canada. The country of origin is not part of the examination of whether paragraph 3(3)(a) applies.

[58] It is also the case that *Benner* did not declare that paragraph 5(2)(b) was *Charter* non-compliant. It was decided on the narrow point of who was required to take an oath of citizenship under paragraph 5(2)(b):

> 105 I would therefore declare those provisions which make applicants under s. 5(2)(b) subject to oaths, security and criminal record checks not required of children born abroad of Canadian fathers before February 15, 1977, inapplicable to these s. 5(2)(b) applicants. However, because the parties were jointly unable to specify all the legislative provisions which could be affected by this constitutional challenge, the Court will remain seized of the case in the hope that the parties will now use their best efforts to agree quickly on the precise terms of the order. Following their agreement, the order will be incorporated into these reasons. Should the parties remain unable to agree, future submissions may be required.

[59] Subsequently, as reported at *Benner v Canada (Secretary of State)*, [1997] 3 SCR 389, at paragraph 1, an Order was incorporated into the Supreme Court's reasons:

> The requirement of an oath contained in s. 3(1)(c) of the *Citizenship Act* shall be read without reference to s. 5(2)(b) of that Act. The words "by a person authorized by regulation to make the application" in s. 5(2)(b) of the *Citizenship Act* are declared inoperative. Sections 12(3), 19, 20 and 22 of the *Citizenship Act* shall be read without reference to s. 5(2)(b) of that Act. Section 20 of the *Citizenship Regulations* shall be read without reference to s. 5(2)(b) of the *Citizenship Act.*

[60] As the 2009 Amendments did away with the oath in question, and eliminated the distinction between children born abroad to Canadian fathers and children born abroad to married Canadian mothers, the *Charter* contravention relied upon by Mr. Tully as identified in *Benner* no longer exists and cannot support his argument.

[61] As the *Citizenship Act* does not make a distinction based on national origin, there is no breach of the *Charter*.

[62] Mr. Tully also argued in his written materials that paragraph 3(1)(g) of the *Citizenship Act* violated the *Canadian Human Rights Act*. This argument was not fleshed other than on the basis of gender which is considered in the next section.

VI. **Further submissions and whether a Certified Question arises on these facts**

[63] Shortly before this application was heard, the Federal Court of Appeal released the decision in *Canada (Citizenship and Immigration) v Tennant*, 2019 FCA 206 [*Tennant*]. Neither the parties nor the Court had an opportunity to review and consider *Tennant* prior to the hearing.

[64] Whether, and if so, how, *Tennant* might affect the issues under consideration in this matter needed to be considered. To be fair to the parties, they were each provided with post-hearing time to consider *Tennant* and make any further submissions, including whether or not a certified question might arise on the facts.

[65] Both parties submitted, and I agree, that in light of the existing law and these facts, a serious question of general importance does not arise on these facts.

[66] More generally, regarding the impact of *Tennant* on his case, Mr. Tully submitted that it was clear there is only one possible outcome in his matter so the Court should issue an Order granting him citizenship, as was done in *Tennant*.

[67] As a point of interest and to show his connection to Canada, Mr. Tully also outlined his impressive family lineage in Canada. It began with the arrival in 1639 at Port Royal, now Nova Scotia, of his 7-times great-grandfather and grandmother. That great-grandfather arrived as a Lieutenant General and went on to become the Governor General of Port Royal.

[68] The Minister submitted that there is not only one possible outcome on the evidence – that Mr. Tully is a Canadian citizen – and that no such Order ought to issue.

[69] The Minister also observed that Mr. Tully's family lineage was not before the Officer and cannot be considered toward the merits of this matter.

[70] I do not believe that Mr. Tully was making submissions that his lineage could trump the provisions of the *Citizenship Act*. Mr. Tully may have put it forward as a matter of personal privilege to defend the connection his ancestors had, and still have, to Canada. In response to his perception that the Minister implied that he had little to no connection with Canada.

[71] Whatever the reason for putting forward his family lineage in Canada, it has no effect on the outcome of Mr. Tully's application.

[72] Mr. Tully also made a statement that his cousin Kenny, born of a Canadian male parent who was his mother's brother, could receive citizenship "today" under paragraph 3(1)(e) but that he could not. He submits that it is a form of sex or gender discrimination that because Kenny's

Canadian parent was male and Mr. Tully's was female he is not "entitled" to Canadian citizenship.

[73] That argument misses the point that, regardless of gender, the provisions of paragraph 5(1)(b) would prevail. The pre-condition to "entitlement" is birth registration within the extended period as detailed in the Analysis.

[74] In the result, *Tennant* does not apply to Mr. Tully's matter.

VII. **Conclusion**

[75] Mr. Tully did an admirable job of presenting this case and researching the law. He made an impassioned and heartfelt plea for citizenship.

[76] Mr. Tully can trace his family lineage back nine generations, all of whom resided in or were born in Canada. Mr. Tully is rightly proud of his heritage. Historically, he has a substantial connection to Canada including a strong personal attachment developed both as a young boy visiting his grandparents and now as a father spending an annual winter vacation with his own family at Mont Tremblant.

[77] Mr. Tully sought citizenship as he had a job offer in Toronto. An immigration lawyer advised him that he likely was a Canadian citizen; that made him ineligible for a work visa.

[78] Although not succeeding in this application, Mr. Tully is not out of options. It may be that the immigration lawyer he consulted or a family member can help Mr. Tully put together evidence to qualify for citizenship and he can apply again. There may also be other avenues available under either the *Immigration and Refugee Protection Act, SC 2001, c27* or other sections of the *Citizenship Act*.

[79] Unfortunately for Mr. Tully, as a result of paragraph 3(3)(a), the current legislation has no provision to retroactively grant Canadian citizenship to him as a second generation born outside Canada.

[80] The Decision and reasons for it meet the *Vavilov* requirement that "a reasonable decision is one that is based on an internally coherent and rational chain of analysis that is justified in relation to the facts and law that constrain the decision maker": *Vavilov* at para 85.

[81] For all the foregoing reasons, the application is dismissed, without costs.

JUDGMENT in T-2125-18

THIS COURT'S JUDGMENT is that the application is dismissed, without costs. No serious question of general importance is certified.

"E. Susan Elliott"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

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