

BETWEEN:

MOHAMMAD REZA MAHLOUJI KASHANI

Applicant

- AND -

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

REASONS FOR ORDER

(Delivered orally on the Bench
at Toronto, Ontario, on April 8, 1997, as edited)

McKEOWN J.

The applicant, a citizen of Iran, seeks judicial review of the decision of a visa officer dated June 17, 1996, refusing the applicant's application for permanent residence because he had failed to achieve the minimum 70 units of assessment required to qualify for immigration to Canada.

The issues are whether the visa officer erred: 1) in not assessing the applicant on his ability to make a significant contribution to the cultural or artistic life of Canada; 2) in ignoring relevant evidence and relying on irrelevant evidence; and 3) in breaching the applicant's right of fairness by not giving the applicant an opportunity to respond to the visa officer's concerns.

The applicant seeks entry as a self-employed person which is defined in section 2 of the *Immigration Regulations* as follows:

"self-employed person" means an immigrant who intends and has the ability to establish or purchase a business in Canada that will create an employment opportunity for himself and will make a significant contribution to the economy or the cultural or artistic life of Canada;

The applicant has presented no evidence on his ability to make a significant contribution to the cultural or artistic life of Canada, even though he had requested an

assessment as a self-employed person in this category.

The visa officer asked the applicant to do a jewellery design at the interview. The visa officer concluded that the design was basic. The visa officer made no error on this point.

The second issue relates to relevant evidence. The visa officer misstated the applicant's level of net income in Canadian dollars, or in the alternative, he incorrectly stated that a net income of \$30,000 U.S. per year was quite low for the level of business activity. He also referred to the lack of formal training as a jeweller in Iran where it is not customary to receive formal training to enter into the jewellery business. However, I am not going to engage in a microscopic examination of that evidence. It was open to the visa officer to decide that the applicant would not make a significant contribution to the economy of Canada. The decision of the visa officer is not patently unreasonable.

The applicant asserts that he was denied fairness by not being given an opportunity to respond to the visa officer's concerns. However, the onus is on the applicant to prove that he has the ability to establish a business in Canada and will create an employment opportunity for himself and will make a significant contribution to the economy. It was open to the visa officer to find that the applicant did not have a realistic plan of action and did not understand the jewellery market conditions in Canada. It was also open to him to find that the applicant did not have the necessary management skills in business that would make a significant contribution to Canada. Thus, there was no need for the visa officer to request the applicant to provide further evidence on these points. The onus was on the applicant, and not on the visa officer. The application is dismissed.

OTTAWA, ONTARIO
April 16, 1997

Judge