

**Date: 20080610**

**Docket: IMM-4008-07**

**Citation: 2008 FC 725**

**Ottawa, Ontario, June 10, 2008**

**PRESENT: THE CHIEF JUSTICE**

**BETWEEN:**

**ARTEM GLUSHANYTSYA**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP AND IMMIGRATION**

**Respondent**

**REASONS FOR JUDGMENT AND JUDGMENT**

[1] The applicant is a 16-year old citizen of Ukraine where he lives with his mother in Kiev. His parents divorced in 1996. He now wants to join his father in Canada. His father became a permanent resident here in 2000. However, for reasons related to his marriage breakdown, the father breached the requirement to disclose his son as a non-accompanying dependent when he applied for permanent residence. Consequently, pursuant to paragraph 117(9)(d) of the *Immigration and Refugee Protection Regulations*, the applicant cannot be sponsored as a family class member.

[2] This proceeding is the application for judicial review of the visa officer's refusal to grant humanitarian and compassionate consideration concerning the applicant's request for permanent residence.

[3] The tribunal record discloses limited information to explain why the best interests of the child dictated an exemption from paragraph 117(9)(d), as to facilitate his admission to Canada. I agree with the respondent's counsel that the CAIPS notes demonstrate an analysis consistent with the factors Justice Campbell suggested were relevant in *Gill v. Canada (Minister of Citizenship and Immigration)*, 2008 FC 613 at paragraph 17, a judgment issued after the visa officer's decision in this case. I am satisfied that it was open to the visa officer, on the information then available to him, to exercise his discretion as he did.

[4] The visa officer in Kiev could have interviewed the applicant. No interview was requested and none was legally required in the circumstances of this case. However, if the applicant chooses to reapply for permanent residence under section 25 of the *Immigration and Refugee Protection Act*, it is my sense that an interview would be helpful to understand better why the applicant wants to join his father and why his best interests dictate the positive exercise of the visa officer's discretion.

[5] I agree with counsel that this proceeding raises no serious question for certification.

**JUDGMENT**

**THIS COURT ORDERS AND ADJUDGES** that this application for judicial review is dismissed.

\_\_\_\_\_  
"Allan Lutfy"  
Chief Justice

**FEDERAL COURT**

**NAMES OF COUNSEL AND SOLICITORS OF RECORD**

**DOCKET:** IMM-4008-07

**STYLE OF CAUSE:** ARTEM GLUSHANYTSYA

and

MINISTER OF CITIZENSHIP AND IMMIGRATION

**PLACE OF HEARING:** Toronto, Ontario

**DATE OF HEARING:** June 2, 2008

**REASONS FOR JUDGMENT  
AND JUDGMENT:** THE CHIEF JUSTICE

**DATED:** June 10, 2008

**APPEARANCES:**

Paul VanderVennen for the Applicant

Modupe Oluyomi for the Respondent

**SOLICITORS OF RECORD:**

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