

Date: 20080918

Docket: T-791-07

Citation: 2008 FC 1046

Ottawa, Ontario, September 18, 2008

PRESENT: The Honourable Mr. Justice Barnes

BETWEEN:

ZANDRINA CARTER

Applicant

and

ATTORNEY GENERAL OF CANADA

Respondent

TRANSCRIPT OF REASONS FOR JUDGMENT AND JUDGMENT

Let the attached edited version of the transcript of my Reasons for Judgment delivered orally from the bench at Toronto, Ontario, on Monday, September 15, 2008, be filed to comply with section 51 of the *Federal Courts Act*.

JUDGMENT

THIS COURT ADJUDGES that this application for judicial review be dismissed.

“ R. L. Barnes ”

Judge

FEDERAL COURT OF CANADA

BETWEEN:

ZANDRINA CARTER

Applicant

- and -

ATTORNEY GENERAL OF CANADA

Respondent

HEARD BEFORE THE HONOURABLE MR. JUSTICE BARNES

in the Courts Administration Service, Courtroom 4C,

180 Queen Street West,

Toronto, Ontario

on Monday, September 15, 2008 at 11:06 a.m.

ORAL REASONS AND DECISION

APPEARANCES:

Zandrina Carter

Nicole Carter

Agent for the Applicant

Ms. Sandra Gruescu

For the Respondent

Also Present:

Mr. Alastair Hull

Court Registrar

Ms. Linda O'Brien

Court Reporter

A.S.A.P. Reporting Services Inc. © 2008

**200 Elgin Street, Suite 1105
Ottawa, Ontario K2P 1L5**

**130 King Street West, Suite 1800
Toronto, Ontario M5X 1E3**

(613) 564-2727

(416) 861-8720

Toronto, Ontario

JUSTICE BARNES: Please be seated.

These are the reasons for my decision in Carter v. the Attorney General of Canada given orally at Toronto.

This is an application for judicial review by Zandrina Carter challenging a decision of the Pension Appeals Board which refused her request for leave to appeal from an earlier decision of a Review Tribunal.

Ms. Carter claims to be entitled to a Canada Pension disability pension, but her application for those benefits was denied by the Review Tribunal because she did not qualify under the rules of the disability plan.

When leave to appeal was made, it was dismissed by the Pension Appeals Board for the same reasons as were stated by Justice Binks and I quote:

"The appellant seeks leave to appeal the decision of a Review Tribunal dated February 1, 2006. The appellant's heart condition developed in the year 2000, so the

1 appellant was not disabled
2 within the meaning of section
3 42(2) on or before her minimum
4 qualifying period (MQP) of
5 December of 1995. The
6 appellant's application is
7 therefore dismissed."

8 I can find no error in this
9 decision, and although I sympathize with Ms. Carter,
10 I am required to apply the law to the facts of her
11 case. I am not entitled to make exceptions to the
12 eligibility rules because an applicant is facing
13 financial or other hardship.

14 It is for Parliament to decide if
15 the eligibility rules for CPP disability benefits
16 need to be changed to account for cases like this
17 one.

18 I would, however, urge Ms. Carter
19 to inquire of Service Canada to see if she qualifies
20 for a retirement benefit which may assist her
21 financially.

22 Unfortunately, Ms. Carter, I cannot
23 give you any relief today, and I am required to
24 dismiss your application.

I HEREBY CERTIFY THAT I have, to the best
of my skill and ability, accurately recorded
by Shorthand and transcribed therefrom,
the foregoing proceeding.

Linda O'Brien, Computer-Aided Transcription

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: T-791-07

STYLE OF CAUSE: Carter
v.
AGC

PLACE OF HEARING: Toronto, Ontario

DATE OF HEARING: September 15, 2008

**REASONS FOR JUDGMENT
AND JUDGMENT BY:** Mr. Justice Barnes

DATED: September 18, 2008

APPEARANCES:

Ms. Zandrina Carter
(905) 823-6604

SELF-REPRESENTED

Ms. Sandra Gruescu
(613) 946-7693

FOR THE RESPONDENT

SOLICITORS OF RECORD:

Zandrina Carter
Mississauga, Ontario

SELF-REPRESENTED

John H. Sims, Q.C.
Deputy Attorney General of Canada

FOR THE RESPONDENT