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

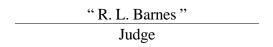
Respondent

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.



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

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200 Elgin Street, Suite 1105 Ottawa, Ontario K2P 1L5 130 King Street West, Suite 1800 Toronto, Ontario M5X 1E3

1	Toronto, Ontario
2	JUSTICE BARNES: Please be seated.
3	These are the reasons for my decision in Carter v.
4	the Attorney General of Canada given orally at
5	Toronto.
6	This is an application for judicial
7	review by Zandrina Carter challenging a decision of
8	the Pension Appeals Board which refused her request
9	for leave to appeal from an earlier decision of a
10	Review Tribunal.
11	Ms. Carter claims to be entitled to
12	a Canada Pension disability pension, but her
13	application for those benefits was denied by the
14	Review Tribunal because she did not qualify under
15	the rules of the disability plan.
16	When leave to appeal was made, it
17	was dismissed by the Pension Appeals Board for the
18	same reasons as were stated by Justice Binks and I
19	quote:
20	"The appellant seeks leave to
21	appeal the decision of a
22	Review Tribunal dated February
23	1, 2006. The appellant's
24	heart condition developed in
25	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.

- 1 The Crown is not seeking costs and
- 2 no order for costs will be made.

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 SELF-REPRESENTED

(905) 823-6604

Ms. Sandra Gruescu FOR THE RESPONDENT

(613) 946-7693

SOLICITORS OF RECORD:

Zandrina Carter SELF-REPRESENTED

Mississauga, Ontario

John H. Sims, Q.C. FOR THE RESPONDENT

Deputy Attorney General of Canada