

Federal Court



Cour fédérale

**Date: 20100210**

**Docket: T-1253-09**

**Citation: 2010 FC 143**

**Calgary, Alberta, February 10, 2010**

**PRESENT: The Honourable Mr. Justice Campbell**

**BETWEEN:**

**MOHAMED SAID MAHIOUT AND SADIA GUETTOUCHE**

**Applicants**

**and**

**MINISTER OF CITIZENSHIP AND IMMIGRATION**

**Respondent**

**REASONS FOR ORDER AND ORDER**

[1] The present Application is an appeal of negative citizenship decisions with respect to each Applicant who are husband and wife and citizens of Algeria. The Applicants made separate applications for citizenship in October 2006. Both applications were found to fail for essentially the same reason: the couple had not established or maintained their residence in Canada for the required 1095 days prior to the filing date.

[2] The Applicants are engineers who took their professional training in Algeria. The central feature in play in each citizenship application is that, because of Mr. Mahiout's employment with an international engineering firm, the couple spent a significant amount of time on various work assignments outside of Canada during the residency period. As a result of this factual circumstance, the Citizenship Judge correctly applied the criteria established by the decision in *Re Koo*, 1993 1 FC 286. In my opinion, in the circumstances at hand, the following two criterion required careful consideration: does the pattern of physical presence in Canada indicate a returning home or merely visiting the country; and what is the quality of the connection with Canada: is it more substantial than that which exists with any other country?

[3] In a citizenship decision reasons must be sufficiently clear and detailed so as to demonstrate that all relevant facts have been considered and weighed (*Canada (Minister of Citizenship and Immigration) v. Mahmoud*, 2009 FC 57). In addition, in the circumstances of the present case, it was necessary for the Citizenship Judge to undertake a comparison to determine whether the Applicants' connection with Canada is more substantial than with Brazil, Oman, Iran, India, and Angola (*Pourzand v. Canada (Minister of Citizenship and Immigration)* 2008 FC 395). I find that these two imperatives were not met in the decisions under appeal. No findings supported by critical analysis of the evidence were made by the Citizenship Judge in answer to the two questions central to the citizenship applications (see: Tribunal Record, p. 119 and p.119a with respect to Mr. Mahiout) (see: Tribunal Record, p. 126 and p. 126a with respect to Ms. Guettouche).

[4] As a result, I find the decisions under appeal were made in reviewable error.

**ORDER**

**THIS COURT ORDERS that** each decision under appeal is set aside and each matter is referred back for reconsideration before a different citizenship judge.

On the present Application, I award costs in the total amount of \$1,000 to the Applicants.

“Douglas R. Campbell”

Judge

**FEDERAL COURT**  
**SOLICITORS OF RECORD**

**DOCKET:** T-1253-09

**STYLE OF CAUSE:** MOHAMED SAID MAHIOUT AND  
SADIA GUETTOUCHE v. MINISTER  
OF CITIZENSHIP AND IMMIGRATION

**PLACE OF HEARING:** Calgary, Alberta

**DATE OF HEARING:** February 10, 2010

**REASONS FOR ORDER  
AND ORDER:** Campbell J.

**DATED:** February 10, 2010

**APPEARANCES:**

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Richard Garvin FOR THE RESPONDENT

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