

Federal Court



Cour fédérale

Date: 20120614

Docket: IMM-8131-11

Citation: 2012 FC 735

Ottawa, Ontario, this 14th day of June 2012

Present: The Honourable Mr. Justice Pinard

BETWEEN:

Mohammad SARFARAZ

Applicant

and

**MINISTER OF PUBLIC SAFETY
AND EMERGENCY PREPAREDNESS**

Respondent

REASONS FOR JUDGMENT AND JUDGMENT

[1] On November 9, 2011, Mohammad Sarfraz (the “applicant”) filed the present application for judicial review of the decision of Ivan Lerner, member of the Immigration Appeal Division of the Immigration and Refugee Board (the “IAD”), pursuant to subsection 72(1) of the *Immigration and Refugee Protection Act*, S.C. 2001, c. 27 (the “Act”). The IAD refused the applicant’s appeal of his removal order.

[2] The applicant was born in Pakistan, arrived in Canada on December 11, 2000 and was granted refugee status on May 23, 2001. The applicant was landed on January 17, 2002.

[3] On August 6, 2005, the applicant left Canada and returned to Pakistan. He returned to Canada on June 20, 2008. Upon arrival, an immigration officer allowed him to re-enter the country as a permanent resident. On June 30, 2008, the applicant filed an application to renew his permanent resident card and as a result, an examination of the applicant's compliance with the residency requirements under section 28 of the Act was undertaken.

[4] On May 14, 2009, the applicant was interviewed by an immigration officer who prepared a report under subsection 44(1) of the Act. The officer concluded in his report dated June 5, 2009 that the applicant had failed to fulfill his residency obligations under the Act, not having been sufficiently present in Canada during the last five years.

[5] It is accepted that the applicant was physically present in Canada from June 20, 2008 to June 5, 2009. However, prior to June 20, 2008, the applicant had been in Pakistan since August 6, 2005.

[6] On July 9, 2009, a departure order was issued against the applicant pursuant to subsection 44(2) of the Act due to his failure to comply with his residency requirements under section 28 of the Act, thereby being declared inadmissible by virtue of subsection 41(b) of the Act.

[7] The applicant appealed this deportation order, requesting a *de novo* hearing and claiming that his appeal should have been allowed due to humanitarian and compassionate grounds, notably, the best interests of his children.

[8] The applicant's claim was heard by the IAD on August 2, 2011. The IAD rendered its negative decision on October 26, 2011.

[9] The relevant legislation is annexed hereto for convenience.

[10] The only issue raised by the present application for judicial review is whether the IAD committed a reviewable error in failing to recognize that the applicant was a permanent resident as a result of his re-entry on June 20, 2008, specifically:

Did the IAD err in concluding that there was no *res judicata* resulting from the applicant's re-entry on June 20, 2008 as a permanent resident?

[11] This issue requires this Court to determine whether the decision of an immigration officer to allow a permanent resident to re-enter the country has an effect of *res judicata*, barring a subsequent determination by another officer of the applicant's compliance with the residency requirements of the Act. This is essentially a question of law to be reviewed based on a standard of correctness for the true issue at the heart of this judicial review is the effect of an immigration officer's decision to allow a permanent resident to re-enter the country (see *Mendoza v. Minister of Public Security and Emergency Preparedness*, 2007 FC 934, 317 F.T.R. 118 at para 12, for the proposition that questions of law are to be reviewed based on correctness).

[12] The applicant argues that an immigration officer's decision constitutes a binding determination of the residency requirements under the Act at that time of re-entry. Essentially, the applicant is asking this Court to find that once a person is permitted to re-enter Canada as a permanent resident, this status is preserved and cannot be re-examined, unless the person leaves Canada, the decision to allow re-entry as a permanent resident having an effect similar to *res judicata*, barring consideration of the residency requirements under the Act. The applicant is wrong.

[13] Even if this Court accepted the applicant's position that a decision by an immigration officer to allow a person to re-enter Canada constitutes a full examination of the residency requirements under the Act, nothing in the Act bars a subsequent examination once another application is submitted.

[14] As per the Act, every person seeking to enter Canada must appear for an examination to determine whether or not he has the right or authorization to enter the country (subsection 18(1) of the Act). As of right, under subsection 19(2) of the Act, an immigration officer "shall allow a permanent resident to enter Canada if satisfied following an examination on their entry that they have that status" (emphasis added). Based on this provision, the applicant contends that the immigration officer who allowed the applicant to re-enter the country on June 20, 2008 conducted a full examination of the applicant's compliance with the residency requirements, or should have, and that by allowing the applicant to enter as a returning resident, as stamped "RR" in his passport, he made a positive determination of the applicant's compliance with the residency requirements under the Act. However, nothing in the Act bars a subsequent determination by an officer when another application is made.

[15] Subsection 15(1) found in Division 2 of the Act dealing with examinations indicates that “[a]n officer is authorized to proceed with an examination where a person makes an application to the officer in accordance with this Act” (emphasis added). The officer has the obligation to conduct this examination “in accordance with any instructions that the Minister may give” (subsection 15(4) of the Act).

[16] Thus, the applicant is correct in that by allowing the applicant to re-enter Canada as a permanent resident, the immigration officer must have conducted an examination (see paragraph 37(a) of the *Immigration and Refugee Protection Regulations*, SOR 2002-227 (the “Regulations”).

[17] It is not clear on what basis the immigration officer allowed the applicant to return to Canada on June 20, 2008, as no reasons have been provided and the FOSS notes indicate that the applicant should be more closely examined as to his residency obligations. However, what is clear is that (1) upon re-entry, the applicant was not in compliance with the 730-day residency requirement, this finding by the IAD being undisputed; and (2) the applicant was not allowed to re-enter the country based on humanitarian and compassionate grounds pursuant to paragraph 28(2)(c) of Act, contrary to the applicant’s allegations, for the FOSS notes are devoid of any such comments or consideration of such grounds.

[18] On June 30, 2008, the applicant made a new application, not an application to re-enter Canada, but an application for a permanent resident card (see subsections 56(2) and 57(1) of the Regulations). Thus, an immigration officer undertook an analysis of the applicant’s residency requirements. As a result of this analysis, the immigration officer prepared a report pursuant to

subsection 44(1) of the Act, believing the applicant to be inadmissible. Nothing in the Act or the Regulations required the second immigration officer to blindly issue a permanent resident card to the applicant on the sole basis that he was allowed to re-enter the country earlier that same month. While the applicant is asking this Court to hold that there is some sort of *res judicata*, clearly the second immigration officer was not considering the same application that was determined on June 20, 2008.

[19] Moreover, I would like to add that a permanent resident of Canada has the obligation to comply with the residency requirements set out in section 28 of the Act. This is an ongoing obligation, being crucial to a person being allowed to preserve his status in Canada. On June 20, 2008, the applicant was allowed to re-enter Canada as a returning resident. At this time, it is hard to consider the applicant was truly in compliance with his residency requirements under the Act when the immigration officer noted that the applicant “should be examined closely for residency obligations” and a subsequent immigration officer examining a different application filed ten days later based on the same facts concluded that the applicant did not comply with his residency requirements, a finding not challenged by the applicant.

[20] Turning to the possible effect of *res judicata*, the facts of *Wan v. Canada (Minister of Citizenship and Immigration)* (2008), 74 Imm. L.R. (3d) 142 [*Wan*], relied upon both by the IAD and by the applicant, must be set out. In *Wan*, the appellant had applied for a travel document and the visa officer had found that the appellant, while not complying with the physical presence requirement, had established the existence of humanitarian and compassionate grounds, exercising his discretion under paragraph 28(2)(c) of the Act, granting the application for the travel document

on December 22, 2005. However, before the appellant's permanent resident card was issued, the appellant traveled to Hong Kong and then made another application from there, requesting a travel document to allow him to return to Canada. This time, the visa officer concluded, four months after the first decision, that the appellant had not complied with the residency requirements and that there were no humanitarian or compassionate grounds. Thus, the issue was: what was the effect of the first officer's conclusion as to the existence of humanitarian and compassionate grounds. The IAD, at paragraph 23 of its decision, held that a second visa officer can come to a different conclusion about the breach of residency obligations or the existence of humanitarian and compassionate grounds. The IAD went on to state at paragraph 24 that "[t]he only way that some resemblance to *res judicata*" applies before a visa officer is if in the likely circumstance the second determination is made on the same day by another visa officer" (also cited in the IAD's decision under review). At paragraph 27 of *Wan*, the IAD stated that:

. . . The possession of an expired or even a valid temporary or permanent resident card does not allow a permanent resident to travel outside of Canada for whatever period of time he wishes. Every such person must still comply with the residency obligation, as long as they do not become Canadian citizens.

[21] Thus, *Wan* does not affirm the existence of *res judicata* between immigration officers' determinations. Rather, the IAD found that such an effect is improbable, only occurring if decisions are rendered on the same day, on the same matter, by two different officers. Here, we are dealing with two different applications, made on different days, by different officers.

[22] On June 20, 2008, an immigration officer allowed the applicant to re-enter Canada as a permanent resident, as illustrated by his passport stamp. However, this re-entry did not bar an

examination of the applicant's compliance with the residency requirements once he applied for a permanent resident card. Rather, both parties agree that upon application for a permanent resident card, an immigration officer has to examine whether the applicant complies with the residency requirements under section 28 of the Act. A decision under subsection 19(2) of the Act to allow a permanent resident to re-enter Canada is not a decision barring an examination of the residency requirements under the Act when the applicant is applying for a permanent resident card, even if such an application is made only ten days after having been readmitted, especially when the first officer noted that "[c]lient should be examined closely for residency obligations" (at page 70 of the tribunal's Record). Thus, we cannot talk of *res judicata*.

[23] Furthermore, the IAD did not fail to consider the fact that the applicant was allowed to re-enter Canada on June 20, 2008, this fact being explicitly addressed in its decision, as were the applicant's arguments on this issue.

[24] Therefore, the IAD did not err in concluding that the applicant's re-entry in Canada on June 20, 2008 as a permanent resident did not have an effect of *res judicata*.

[25] Consequently, the application for judicial review is dismissed.

[26] Counsel for the parties indicated to the Court that they did not wish to propose any question for certification. Accordingly, no question is certified.

JUDGMENT

The application for judicial review of the decision of the Immigration Appeal Division of the Immigration and Refugee Board refusing the applicant's appeal of his removal order is dismissed.

"Yvon Pinard"

Judge

ANNEX

The relevant portions of the *Immigration and Refugee Protection Act*, S.C. 2001, c. 27, are as follow:

15. (1) An officer is authorized to proceed with an examination where a person makes an application to the officer in accordance with this Act.

(4) The officer shall conduct the examination in accordance with any instructions that the Minister may give.

18. (1) Every person seeking to enter Canada must appear for an examination to determine whether that person has a right to enter Canada or is or may become authorized to enter and remain in Canada.

(2) Subsection (1) also applies to persons who, without leaving Canada, seek to leave an area at an airport that is reserved for passengers who are in transit or who are waiting to depart Canada.

19. (1) Every Canadian citizen within the meaning of the *Citizenship Act* and every person registered as an Indian under the *Indian Act* has the right to enter and remain in Canada in accordance with this Act, and an officer shall allow the person to enter Canada if satisfied following an examination on their entry that the person is a citizen or registered Indian.

(2) An officer shall allow a permanent resident to enter Canada if satisfied following an examination on their entry that they have that status.

27. (1) A permanent resident of Canada has the right to enter and remain in Canada, subject to the provisions of this Act.

15. (1) L'agent peut procéder à un contrôle dans le cadre de toute demande qui lui est faite au titre de la présente loi.

(4) L'agent est tenu de se conformer aux instructions du ministre sur l'exécution du contrôle.

18. (1) Quiconque cherche à entrer au Canada est tenu de se soumettre au contrôle visant à déterminer s'il a le droit d'y entrer ou s'il est autorisé, ou peut l'être, à y entrer et à y séjourner.

(2) Le présent article s'applique également aux personnes qui, sans quitter le Canada, cherchent à quitter une zone aéroportuaire réservée aux passagers en transit ou en partance.

19. (1) Tout citoyen canadien, au sens de la *Loi sur la citoyenneté*, et toute personne inscrite comme Indien, en vertu de la *Loi sur les Indiens*, a le droit d'entrer au Canada et d'y séjourner conformément à la présente loi; l'agent le laisse entrer sur preuve, à la suite d'un contrôle fait à son arrivée, de sa qualité.

(2) L'agent laisse entrer au Canada le résident permanent sur preuve, à la suite d'un contrôle fait à son arrivée, qu'il a ce statut.

27. (1) Le résident permanent a, sous réserve des autres dispositions de la présente loi, le droit d'entrer au Canada et d'y séjourner.

(2) A permanent resident must comply with any conditions imposed under the regulations.

(2) Le résident permanent est assujéti aux conditions imposées par règlement.

28. (1) A permanent resident must comply with a residency obligation with respect to every five-year period.

28. (1) L'obligation de résidence est applicable à chaque période quinquennale.

(2) The following provisions govern the residency obligation under subsection (1):

(2) Les dispositions suivantes régissent l'obligation de résidence :

(a) a permanent resident complies with the residency obligation with respect to a five-year period if, on each of a total of at least 730 days in that five-year period, they are

a) le résident permanent se conforme à l'obligation dès lors que, pour au moins 730 jours pendant une période quinquennale, selon le cas :

- (i) physically present in Canada,
- (ii) outside Canada accompanying a Canadian citizen who is their spouse or common-law partner or, in the case of a child, their parent,
- (iii) outside Canada employed on a full-time basis by a Canadian business or in the federal public administration or the public service of a province,
- (iv) outside Canada accompanying a permanent resident who is their spouse or common-law partner or, in the case of a child, their parent and who is employed on a full-time basis by a Canadian business or in the federal public administration or the public service of a province, or
- (v) referred to in regulations providing for other means of compliance;

- (i) il est effectivement présent au Canada,
- (ii) il accompagne, hors du Canada, un citoyen canadien qui est son époux ou conjoint de fait ou, dans le cas d'un enfant, l'un de ses parents,
- (iii) il travaille, hors du Canada, à temps plein pour une entreprise canadienne ou pour l'administration publique fédérale ou provinciale,
- (iv) il accompagne, hors du Canada, un résident permanent qui est son époux ou conjoint de fait ou, dans le cas d'un enfant, l'un de ses parents, et qui travaille à temps plein pour une entreprise canadienne ou pour l'administration publique fédérale ou provinciale,
- (v) il se conforme au mode d'exécution prévu par règlement;

(b) it is sufficient for a permanent resident to demonstrate at examination

b) il suffit au résident permanent de prouver, lors du contrôle, qu'il se conformera à l'obligation pour la période quinquennale suivant l'acquisition de son statut, s'il est résident permanent depuis moins de cinq ans, et, dans le cas contraire, qu'il s'y est conformé pour la période quinquennale précédant le contrôle;

- (i) if they have been a permanent resident for less than five years, that they will be able to meet the residency obligation in respect of the five-year period immediately after they became a permanent

c) le constat par l'agent que des circonstances d'ordre humanitaire relatives au résident

resident;
(ii) if they have been a permanent resident for five years or more, that they have met the residency obligation in respect of the five-year period immediately before the examination; and

(c) a determination by an officer that humanitarian and compassionate considerations relating to a permanent resident, taking into account the best interests of a child directly affected by the determination, justify the retention of permanent resident status overcomes any breach of the residency obligation prior to the determination.

41. A person is inadmissible for failing to comply with this Act

(b) in the case of a permanent resident, through failing to comply with subsection 27(2) or section 28.

44. (1) An officer who is of the opinion that a permanent resident or a foreign national who is in Canada is inadmissible may prepare a report setting out the relevant facts, which report shall be transmitted to the Minister.

(2) If the Minister is of the opinion that the report is well-founded, the Minister may refer the report to the Immigration Division for an admissibility hearing, except in the case of a permanent resident who is inadmissible solely on the grounds that they have failed to comply with the residency obligation under section 28 and except, in the circumstances prescribed by the regulations, in the case of a foreign national. In those cases, the Minister may make a removal order.

permanent — compte tenu de l'intérêt supérieur de l'enfant directement touché — justifient le maintien du statut rend inopposable l'inobservation de l'obligation précédant le contrôle.

41. S'agissant de l'étranger, emportent interdiction de territoire pour manquement à la présente loi tout fait — acte ou omission — commis directement ou indirectement en contravention avec la présente loi et, s'agissant du résident permanent, le manquement à l'obligation de résidence et aux conditions imposées.

44. (1) S'il estime que le résident permanent ou l'étranger qui se trouve au Canada est interdit de territoire, l'agent peut établir un rapport circonstancié, qu'il transmet au ministre.

(2) S'il estime le rapport bien fondé, le ministre peut déléguer l'affaire à la Section de l'immigration pour enquête, sauf s'il s'agit d'un résident permanent interdit de territoire pour le seul motif qu'il n'a pas respecté l'obligation de résidence ou, dans les circonstances visées par les règlements, d'un étranger; il peut alors prendre une mesure de renvoi.

(3) An officer or the Immigration Division may impose any conditions, including the payment of a deposit or the posting of a guarantee for compliance with the conditions, that the officer or the Division considers necessary on a permanent resident or a foreign national who is the subject of a report, an admissibility hearing or, being in Canada, a removal order.

46. (1) A person loses permanent resident status

(a) when they become a Canadian citizen;

(b) on a final determination of a decision made outside of Canada that they have failed to comply with the residency obligation under section 28;

(c) when a removal order made against them comes into force; or

(d) on a final determination under section 109 to vacate a decision to allow their claim for refugee protection or a final determination under subsection 114(3) to vacate a decision to allow their application for protection.

63. (3) A permanent resident or a protected person may appeal to the Immigration Appeal Division against a decision at an examination or admissibility hearing to make a removal order against them.

(3) L'agent ou la Section de l'immigration peut imposer les conditions qu'il estime nécessaires, notamment la remise d'une garantie d'exécution, au résident permanent ou à l'étranger qui fait l'objet d'un rapport ou d'une enquête ou, étant au Canada, d'une mesure de renvoi.

46. (1) Emportent perte du statut de résident permanent les faits suivants :

a) l'obtention de la citoyenneté canadienne;

b) la confirmation en dernier ressort du constat, hors du Canada, de manquement à l'obligation de résidence;

c) la prise d'effet de la mesure de renvoi;

d) l'annulation en dernier ressort de la décision ayant accueilli la demande d'asile ou celle d'accorder la demande de protection.

63. (3) Le résident permanent ou la personne protégée peut interjeter appel de la mesure de renvoi prise au contrôle ou à l'enquête.

The relevant portions of the *Immigration and Refugee Protection Regulations*, SOR/2002-227, are as follow:

28. For the purposes of subsection 15(1) of the Act, a person makes an application in accordance with the Act by

28. Pour l'application du paragraphe 15(1) de la Loi, la demande est faite au titre de la Loi lorsque la personne, selon le cas :

- (a) submitting an application in writing;
- (b) seeking to enter Canada;
- (c) seeking to transit through Canada as provided in section 35; or
- (d) making a claim for refugee protection.

- a) présente la demande par écrit;
- b) cherche à entrer au Canada;
- c) cherche à transiter par le Canada aux termes de l'article 35;
- d) demande l'asile.

37. The examination of a person who seeks to enter Canada, or who makes an application to transit through Canada, ends only when

- (a) a determination is made that the person has a right to enter Canada, or is authorized to enter Canada as a temporary resident or permanent resident, the person is authorized to leave the port of entry at which the examination takes place and the person leaves the port of entry;
- (b) if the person is an in-transit passenger, the person departs from Canada;
- (c) the person is authorized to withdraw their application to enter Canada and an officer verifies their departure from Canada; or
- (d) a decision in respect of the person is made under subsection 44(2) of the Act and the person leaves the port of entry.

37. Le contrôle de la personne qui cherche à entrer au Canada ou qui fait une demande de transit ne prend fin que lorsqu'un des événements suivants survient :

- a) une décision est rendue selon laquelle la personne a le droit d'entrer au Canada ou est autorisée à entrer au Canada à titre de résident temporaire ou de résident permanent, la personne est autorisée à quitter le point d'entrée et quitte effectivement le point d'entrée;
- b) le passager en transit quitte le Canada;
- c) la personne est autorisée à retirer sa demande d'entrée au Canada et l'agent constate son départ du Canada;
- d) une décision est rendue en vertu du paragraphe 44(2) de la Loi à l'égard de cette personne et celle-ci quitte le point d'entrée.

56. (2) An application for a permanent resident card must be made in Canada and include

- (a) an application form that contains the following information, namely,
 - (i) the applicant's name and date and place of birth,
 - (ii) the applicant's gender, height and eye colour,
 - (iii) the date on which and the place where the applicant became a permanent resident,
 - (iv) the applicant's mailing address,
 - (v) the addresses of all of the applicant's places of residence during the

56. (2) La demande de carte de résident permanent doit être faite au Canada et comporter :

- a) un formulaire qui contient les renseignements suivants :
 - (i) les nom, date et lieu de naissance du demandeur,
 - (ii) son sexe, sa taille, et la couleur de ses yeux,
 - (iii) la date à laquelle il est devenu résident permanent et le lieu où il l'est devenu,
 - (iv) son adresse postale,
 - (v) l'adresse civique de chacune de ses résidences au cours des

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| <ul style="list-style-type: none"> (vi) previous five years, the names and addresses of the applicant's employers and educational institutions attended, during the previous five years, (vii) the periods during the previous five years that the applicant was absent from Canada, (viii) [Repealed, SOR/2008-188, s. 1] (ix) whether a report under subsection 44(1) of the Act has been made in respect of the applicant or whether a decision was made outside of Canada that they have failed to comply with the residency obligation under section 28 of the Act, and (x) whether the applicant has lost their permanent resident status or has been issued a removal order; <p>(c) a copy of</p> <ul style="list-style-type: none"> (i) any document described in paragraphs 50(1)(a) to (h) — or, if the applicant does not hold one of those documents, any document described in paragraphs 178(1)(a) and (b) — that is currently held by the applicant or was held by the applicant at the time they became a permanent resident, (ii) a certificate of identity issued in Canada to the applicant by the Minister of Foreign Affairs, or (iii) refugee travel papers issued in Canada to the applicant by the Minister of Foreign Affairs; <p>(d) a copy of</p> <ul style="list-style-type: none"> (i) the form IMM1000, entitled "Record of Landing", held by the applicant, (ii) a provincial driver's license held by the applicant, (iii) a photo-identity card held by the applicant and issued by a province, (iv) a student card held by the applicant | <ul style="list-style-type: none"> (vi) cinq dernières années, les nom et adresse de ses employeurs et des établissements scolaires qu'il a fréquentés au cours des cinq dernières années, (vii) ses périodes de séjour à l'étranger au cours des cinq dernières années, (viii) [Abrogé, DORS/2008-188, art. 1] (ix) la mention, le cas échéant, qu'il a fait l'objet d'un rapport aux termes du paragraphe 44(1) de la Loi ou qu'il a fait l'objet, hors du Canada, d'un constat de manquement à l'obligation de résidence visée à l'article 28 de la Loi, (x) la mention, le cas échéant, qu'il a perdu son statut de résident permanent ou a été l'objet d'une mesure de renvoi; <p>c) une copie de l'une des pièces suivantes :</p> <ul style="list-style-type: none"> (i) le document mentionné à l'un des alinéas 50(1)a) à h) ou, à défaut, le document mentionné à l'un des alinéas 178(1)a) et b), que détient le demandeur ou qu'il détenait à la date à laquelle il est devenu résident permanent, (ii) le certificat d'identité délivré au demandeur au Canada par le ministre des Affaires étrangères, (iii) le titre de voyage de réfugié délivré au demandeur au Canada par le ministre des Affaires étrangères; <p>d) une copie de l'un des documents suivants :</p> <ul style="list-style-type: none"> (i) le formulaire IMM1000 |
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- and issued by a provincially accredited college or university, or
- (v) the most recent notice of assessment within the meaning of the *Income Tax Act* received in relation to the applicant's income tax return; and
- (e) two identical photographs that
- (i) were taken not more than 12 months before the application was made,
- (ii) [Repealed, SOR/2008-188, s. 1]
- (iii) are in black and white or colour on paper,
- (iv) show a full front view of the applicant's head and shoulders and have a white background,
- (v) have a view of the applicant's head that is at least 25 mm (one inch) and at most 35 mm (1.375 inches) in length,
- (vi) show the applicant's face unobscured by sunglasses or any other object, and
- (vii) have a dimension of 35 mm (1.375 inches) by 45 mm (1.75 inches).
- intitulé « Fiche relative au droit d'établissement » dont le demandeur est titulaire,
- (ii) le permis de conduire provincial dont le demandeur est titulaire,
- (iii) la carte d'identité avec photo délivrée au demandeur par une province,
- (iv) la carte d'étudiant délivrée au demandeur par un collège ou une université accrédités auprès d'une province,
- (v) le plus récent avis de cotisation, au sens de la *Loi de l'impôt sur le revenu*, reçu relativement à la déclaration de revenu du demandeur;
- e) deux photographies identiques qui ont les caractéristiques suivantes :
- (i) elles ont été prises au cours des douze derniers mois précédant la date de la demande,
- (ii) [Abrogé, DORS/2008-188, art. 1]
- (iii) elles sont en couleur ou en noir et blanc sur papier,
- (iv) elles montrent la tête et les épaules du demandeur vu de face sur fond blanc,
- (v) la tête du demandeur y occupe un espace d'au moins 25 mm (1 pouce), mais d'au plus 35 mm (1,375 pouce) de long,
- (vi) le visage du demandeur n'est pas caché par des lunettes de soleil ou autres objets,
- (vii) leurs dimensions finies sont de 35 mm (1,375 pouce) sur 45 mm (1,75 pouce).

57. (1) Subject to subsection (3), every person who applies for a permanent resident card must make and sign the application on their own behalf.

57. (1) Sous réserve du paragraphe (3), toute personne qui fait une demande de carte de résident permanent doit la faire pour elle-même et la signer.

59. (1) An officer shall, on application, issue a new permanent resident card if

59. (1) L'agent délivre, sur demande, une nouvelle carte de résident permanent si les conditions suivantes sont réunies :

(a) the applicant has not lost permanent resident status under subsection 46(1) of the Act;

a) le demandeur n'a pas perdu son statut de résident permanent aux termes du paragraphe 46(1) de la Loi;

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET: IMM-8131-11

STYLE OF CAUSE: Mohammad SARFARAZ v. MINISTER OF PUBLIC SAFETY AND EMERGENCY PREPAREDNESS

PLACE OF HEARING: Montréal, Quebec

DATE OF HEARING: June 6, 2011

REASONS FOR JUDGMENT AND JUDGMENT: Pinard J.

DATED: June 14, 2012

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