

Federal Court



Cour fédérale

**Date: 20230707**

**Docket: IMM-4521-22**

**Citation: 2023 FC 928**

[ENGLISH TRANSLATION]  
Ottawa, Ontario, July 7, 2023

**PRESENT: The Honourable Associate Chief Justice Gagné**

**BETWEEN:**

**THE MINISTER OF CITIZENSHIP AND  
IMMIGRATION**

**Applicant**

**and**

**EDUARDO MENDES MANUEL (alias  
MAZEBO MOKONDI DORIS)**

**Respondent**

**JUDGMENT AND REASONS**

[1] The Minister of Citizenship and Immigration is challenging a decision of the Refugee Appeal Division [RAD], which allowed the respondent's appeal without considering the Minister's notice of intervention. Unlike the Refugee Protection Division [RPD], the RAD was satisfied with the respondent's identity and referred the matter back to the RPD to consider his refugee protection claim.

[2] The Minister is arguing that the RAD's decision should be set aside because the RAD failed to respect the principles of procedural fairness.

[3] The respondent submits it was open to the RAD to disregard the Minister's notice of intervention, which did not comply with section 4 of the *Refugee Appeal Division Rules*, SOR/2012-257, because he did not receive a copy of it before it was filed.

[4] Under subsection 4(1) of the Rules, to intervene in an appeal before the RAD, the Minister must provide to the appellant and to the RAD a written notice of intervention, together with any documentary evidence that the Minister wants to rely on in the appeal.

[5] Under subsection 4(5) of the Rules, the documents provided to the RAD must be accompanied by proof that they were provided to the appellant.

[6] The Certified Tribunal Record contains both proof of the RAD's receipt of the notice of intervention (page 520) and the statement that the document was provided to the respondent (page 514); both documents are stamped "ARCHIVES Reçu C.I.S.R. 14 FEV. [Feb] 2022 Received I.R.B.".

[7] Despite this, the RAD writes at paragraph 5 of its reasons that "[t]he Minister did not intervene in the appeal".

[8] It is impossible for the Court to know what happened before the RAD but there was clearly an error that undermined the proceeding before the RAD and made its decision unfair.

[9] This error was determinative and warrants the Court's intervention. The RAD's decision is set aside, and the matter is referred back to the RAD for a redetermination taking the Minister's notice of intervention into account.

[10] Since the issue at the heart of this dispute is whether the applicant is an Angolan citizen of the name of Eduardo Mendes Manuel or a Congolese citizen of the name of Mazebo Mokondji Doris, the style of cause will, with the parties' agreement, be amended by adding the second name as an alias.

[11] The parties did not propose any questions of general importance for certification, and no such questions arise from the facts of this case.

**JUDGMENT in IMM-4521-22**

**THIS COURT’S JUDGMENT is as follows:**

1. The application for judicial review is allowed, and the matter is referred back to the Refugee Appeal Division for redetermination by another member;
2. The style of cause is amended by adding “(alias Mazebo Mokondji Doris)” after the respondent’s name; and
3. No question of general importance is certified.

“Jocelyne Gagné”

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Associate Chief Justice

Certified true translation  
Johanna Kratz

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

**DOCKET:** IMM-4521-22

**STYLE OF CAUSE:** THE MINISTER OF CITIZENSHIP AND  
IMMIGRATION v EDUARDO MENDES MANUEL  
(alias MAZEBO MOKONDJI DORIS)

**PLACE OF HEARING:** MONTRÉAL, QUEBEC

**DATE OF HEARING:** JUNE 21, 2023

**JUDGMENT AND REASONS:** GAGNÉ ACJ

**DATED:** JULY 7, 2023

**APPEARANCES:**

Patricia Nobl FOR THE APPLICANT

Jugauce Mweze Murhula FOR THE RESPONDENT

**SOLICITORS OF RECORD:**

Attorney General of Canada FOR THE APPLICANT  
Montréal, Quebec

Jugauce Mweze Murhula FOR THE RESPONDENT  
Montréal, Quebec