

Date: 20091203

Docket: IMM-1249-09

Citation: 2009 FC 1235

Ottawa, Ontario, December 3, 2009

PRESENT: The Honourable Mr. Justice Mainville

BETWEEN:

ELOISE VERONICA ADAMS

Applicant

and

**THE MINISTER OF CITIZENSHIP
AND IMMIGRATION**

Respondent

FURTHER REASONS FOR JUDGMENT AND JUDGMENT

[1] On November 19, 2009, I issued a judgment in which the application for judicial review submitted by the Applicant in this case was denied. At the hearing the parties had requested an opportunity to make submissions on a certified question pursuant to paragraph 74(d) of the *Immigration and Refugee Protection Act* (the “Act”) once the decision was communicated to them. I provided the parties such an opportunity. The Applicant has submitted a proposed question for certification which is opposed by the Respondent.

[2] The question proposed by the Applicant is the following:

“Are the immigration officer’s notes concerning queries she made of the applicant evidence of the accuracy and truth of the information as recorded in her notes without an affidavit from the immigration officer attesting to the truth of what she has recorded?”

[3] This is a convoluted question largely unrelated to the issues at stake in the proceedings and which was not raised at the hearing. It shall consequently not be certified pursuant to paragraph 74(d) of the Act.

[4] The Applicant relies on *Canada (Minister of Citizenship and Immigration) v. Chou* 2001 FCA 299 and *Wang v. Canada (Minister of Citizenship and Immigration)* [1991] 2 F.C. 165 (FCA) to justify the proposed question. However neither decision is of assistance to the Applicant. Both *Chou* and *Wang* concern the requirement of a supporting affidavit from a visa officer if interview notes are to be taken as attesting to the truth of what was said at the interview. In this case, no interview took place and the Respondent did not rely on any interview notes to support its position. In addition, in *Wang*, Justice Mahoney notes that in order to rebut the presumption that proceedings were conducted fairly and in accordance with the law, evidence must be presented making out such a case. In this case, the Applicant submitted no such evidence and none appears in the record. Simply put, this case revolved around the failure by the Applicant to submit any evidence of wrongdoing by the officer concerned.

[5] In *Varela v. Canada (Minister of Citizenship and Immigration)*, 2009 FCA 145, [2009] F.C.J. No. 549, at para. 23, the Federal Court of Appeal noted that paragraph 74(d) of the Act is not

to be invoked lightly. The proposed question meets none of the criteria generally required to certify a question and shall consequently not be certified. No other question has been raised and none shall therefore be certified.

JUDGMENT

THIS COURT ORDERS AND ADJUDGES that no question of general importance be certified.

"Robert Mainville"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-1249-09

STYLE OF CAUSE: ELOISE VERONICA ADAMS v. MCI

PLACE OF HEARING: Toronto, Ontario

DATE OF HEARING: November 16, 2009

**FURTHER REASONS FOR
JUDGMENT AND JUDGMENT:** Mainville J.

DATED: December 3, 2009

APPEARANCES:

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