CITIZENSHIP AND IMMIGRATION

IMMIGRATION PRACTICE

Appeal from Federal Court order (public reasons issued at 2018 FC 114) granting in part appellant's *Immigration and Refugee Protection Act*, S.C. 2001, c. 27, s. 87 motion for non-disclosure of redacted information in visa officer's Certified Tribunal Record (CTR) — Underlying matter application for judicial review of visa officer's decision concluding respondent inadmissible to Canada pursuant to Act, s. 34 — Federal Court refusing to withhold disclosure of approximately half of claimed redactions subject to s. 87 — Whether Federal Court erred in failing to apply proper test under Act, s. 87 — Whether Federal Court erred in concluding disclosure of information subject to s. 87 privilege claims not injurious to national security — Appellant arguing Federal Court importing balancing exercise into s. 87 test — More specifically, appellant submitting that Federal Court erred in providing comments with respect to relevance of s. 87 information to respondent's underlying application for judicial review — Assessment made by judge in reaching conclusion on injury is determinant, should be enunciated clearly — If judge concluding that disclosure would be injurious in context of a s. 87 motion, disclosure must be prohibited — Here, while Federal Court's references to relevance of redacted information, usefulness to respondent, inappropriate, Federal Court not ordering disclosure of information found to be injurious on basis that respondent's interests outweighing any potential injury — Federal Court not conducting public interest balancing exercise akin to exercise under *Canada Evidence Act*, R.S.C., 1985, c. C-5, s. 38 — Rather, if it accepted injury, it confirmed prohibition on disclosure — With respect to second issue, Federal Court making contradictory findings relating to certain pages of CTR — No explanation provided for discrepancy — Judicial intervention thus required — Appellant also contending that Federal Court placing undue reliance on inadvertent disclosure — Federal Court not accepting that injury would result notwithstanding prior inadvertent disclosure — Federal Court owed deference to evidence of injury led by appellant — Should have further justified decision not to accept evidence on this point — Appeal allowed.

CANADA (ATTORNEY GENERAL) V. SOLTANIZADEH (A-73-18, 2019 FCA 202, Boivin, de Montigny and Woods JJ.A., public reasons for judgment dated June 6, 2019, 16 pp.)