

CITIZENSHIP AND IMMIGRATION

STATUS IN CANADA

Permanent Residents

Judicial review of decision by immigration officer denying applicant permanent residence visa on grounds of inadmissibility pursuant to *Immigration and Refugee Protection Act*, S.C. 2001, c. 27, s. 34(1)(f) — Applicant Eritrean citizen, involved with Eritrean People's Liberation Front, Eritrean Liberation Front — Officer concluding both organizations engaged in terrorism, subversion, that applicant's continued involvement in those organizations not made under duress — Applicant at no time requesting that the officer exercise "residual discretion" to issue visa despite finding of inadmissibility — Main issues whether officer having discretion to grant visa; whether officer erring in treating considerations of membership *per se* in an organization separately from issue of whether that membership created through duress — Nothing before officer suggesting that "discretion" in play, that despite finding of inadmissibility, officer should have issued visa — In any event, scheme of Act, specific wording and legislative intent pointing away from conclusion that word "may" in *Immigration and Refugee Protection Regulations*, SOR/2002-227, ss. 144, 146(2) granting residual discretion — Statutory scheme providing Minister with power of relief — Redundant for exemption power to be available at both ministerial level in Act, and at visa officer level in Regulations — Once finding of inadmissibility pursuant to Act, s. 34(1) made, visa officer having no remaining authority to issue visa — With respect to duress, evidence having to be considered as a whole to determine whether membership voluntary or coerced — Here, officer looking at all the evidence — Applicant's initial position not indicating any duress — Emphasis on duress increasing as time progressed — Reasonable for officer to put greater emphasis on applicant's early statement as to his reasons for joining, staying with organizations — Application dismissed.

DAMIR V. CANADA (CITIZENSHIP AND IMMIGRATION) (IMM-2453-17, 2018 FC 48, Phelan J., judgment dated January 18, 2018, 16 pp.)