Federal Court  Cour fédérale

Date: 20250212

Docket: IMM-8941-23

Citation: 2025 FC 274

Toronto, Ontario, February 12, 2025

PRESENT: The Honourable Justice Battista

BETWEEN:

MD SHAHABUDDIN HOWLADER

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

I. Overview

[1] The Applicant was refused a temporary resident permit (TRP) because he did not demonstrate a reason that was "compelling" or "unique". The requirement for a unique reason unreasonably raised the standard for issuing a TRP and resulted in the fettering of the Officer's discretion. The Officer also misapprehended the evidentiary record. As such, the application for judicial review is granted.

II. Background

[2] The Applicant is a citizen of Bangladesh who entered Canada in June 2017. After unsuccessful applications for a study permit and a visitor extension, he made a claim for refugee protection. The refugee claim was refused, as was the appeal from that decision and an application for judicial review to the Federal Court.

[3] The Applicant filed an application for a TRP and associated work permit in December 2021. His stated purpose for the application was to enable him to remain in Canada and support himself with a work permit until he was eligible to apply for permanent residence on humanitarian and compassionate grounds. He provided evidence of his important role as an employee of a restaurant that valued his skills and contributions, as well as evidence that the restaurant wished to continue to employ him. He also provided evidence of his volunteer activities and personal relationships in Canada.

[4] The Officer refused the application because the Applicant's desire to contribute to his employer's success was not "a compelling or unique" reason. The Officer also found that the Applicant's overstay was not accidental or inadvertent, but a flagrant disregard of Canadian immigration laws based on his refusal to depart.

III. Issues and Standards of Review

[5] The Applicant challenges the reasonableness of the decision refusing his application and claims that the Officer breached procedural fairness "by stating factually incorrect information and

not allowing the applicant to address the so-called issues of inadmissibility, flagrant violation of immigration regulations and non-compliance with the immigration rules."

[6] The question of procedural fairness asks whether the individual knew the case to meet and had the opportunity to respond to it (*Canadian Pacific Railway Company v Canada (Attorney General)*, 2018 FCA 69 at para 56).

[7] The substance of the Officer's decision is reviewed for its reasonableness (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 (*Vavilov*), affirmed in *Mason v Canada (Citizenship and Immigration)*, 2023 SCC 21 (*Mason*)). A reasonable decision is a decision that exhibits justification, intelligibility and transparency, including justification in relation to the decision's factual and legal constraints (*Vavilov* at para 99).

IV. Analysis

A. *There is no issue involving a breach of procedural fairness*

[8] The Applicant claims that procedural fairness was breached because he should have been provided an opportunity to respond to the Officer's factually incorrect conclusions regarding his immigration history. However, this does not raise an issue of procedural fairness.

[9] A decision maker's factual conclusions based on the evidence are tested on the standard of reasonableness. This standard involves an examination of whether the decision maker "fundamentally misapprehended or failed to account for the evidence" (*Vavilov* at para 126). If

there is a factual dispute, the dispute is resolved based on the responsiveness of the decision maker's conclusions to the evidence.

[10] The Officer reasonably assumed that the Applicant's immigration history was within his knowledge. Accordingly, there was no need to provide him with an opportunity to comment on that evidence prior to drawing conclusions from it. The Applicant's dispute with the Officer's conclusions will be assessed below on the standard of reasonableness rather than as a question of procedural fairness.

B. *The Officer misapprehended the evidence in the record regarding the Applicant's status*

[11] The Officer stated that the Applicant applied for a study permit and a visitor extension, which were both refused. A chart purporting to be the Applicant's immigration history was included with the Officer's reasons indicating that removal was "initiated" on October 5, 2022. The Officer concluded the decision by stating:

> I do not find that the applicant's overstay in Canada was inadvertent to [*sic*] accidental, rather, he has flagrantly disregarded Canadian immigration law by refusing to depart.

[12] The Applicant states that the Officer's conclusions regarding the Applicant's overstay and flagrant disregard for Canada's immigration laws are unreasonable because there is no justification for the Officer's conclusion.

[13] The Applicant presented evidence that he initially entered Canada at the end of June 2017 and was given six months' visitor status. He then traveled to Mexico and returned to Canada in

October 2017. This re-entry provided him with visitor status until April 2018. The chart included with the Officer's reasons indicate that he made a refugee protection claim in January 2018, which would have ended his temporary resident status; there is no indication that it ended prior to that time. The Officer's conclusion that the Applicant overstayed is therefore unreasonable because it is without support in the record.

[14] Similarly, despite the statement on the immigration status chart that removal was initiated in October 2022, there is nothing in the record indicating that this was the case. The Officer's conclusion that the Applicant flagrantly disregarded Canada's immigration laws by "refusing to depart" is unjustified and therefore unreasonable.

C. *The decision unreasonably elevated the standard for the issuance of a temporary resident permit*

[15] At the commencement of the hearing of this application, counsel for the Applicant raised a new issue by stating that the Officer applied an unreasonably elevated standard by requiring a "unique" and "compelling" reason to assess the TRP application.

[16] Counsel for the Respondent justifiably objected to the consideration of the issue given that it had not been previously raised. Upon considering the Respondent's request that the issue not be entertained, and considering the importance of the issue in assessing the reasonableness of the application, the Court granted two weeks to the Respondent to provide submissions on the issue.

[17] The issue raised by the Applicant reflects the observation by Justice Shirzad Ahmed that "the standard for assessing TRP applications remains unsettled" (*Thind v Canada (Citizenship and*

Immigration), 2022 FC 1644 at para 30). The unsettled state of the TRP standard was more fully described recently by Justice Russel Zinn:

> While subsection 24(1) of the Act requires that the issuance of a TRP be "justified in the circumstances," there is divergence in this Court's jurisprudence regarding the applicable evaluative standard for TRP applications. As Justice McHaffie noted in Shabdeen v. Canada (Citizenship and Immigration), 2020 FC 492 [Shabdeen] at para 14, some decisions describe the applicant's burden as adducing evidence of "something more than inconvenience:" Singh v. Canada (Citizenship and Immigration), 2019 FC 915 at para 22; Sellappah v. Canada (Citizenship and Immigration), 2018 FC 198 at para 9. Some decisions conclude that an applicant must show a "compelling reason" or "compelling need" to enter Canada: Osmani v Canada (Citizenship and Immigration), 2019 FC 872 at paras 15, 19; Abdelrahma v Canada (Citizenship and Immigration), 2018 FC 1085 at paras 8–9. Some decisions endorse the "unique or exceptional circumstances" and "compelling reasons" standard: César Nguesso v Canada (Citizenship and Immigration), 2015 FC 880 [Nguesso] at para 95; El Rahy v. Canada (Citizenship and Immigration), 2018 FC 1058 [Rahy #1] at para 12; El Rahy v. Canada (Citizenship and Immigration), 2020 FC 372 [Rahy #2] at para 65; Thind v. Canada (Citizenship and Immigration), 2022 FC 1644 at paras 23-29.
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> (*Obgonna v Canada (Citizenship and Immigration)*, 2024 FC 1467 (*Ogbonna*) at para 17).

[18] The divergence of opinion regarding the evaluative standard for the issuance of TRPs may be resolved through the exercise of statutory interpretation. The Applicant argues that the language authorizing the exercise of discretion under subsection 24(1) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 (IRPA), is broad and unconstrained, and that the use of qualifying words such as "compelling or unique reason(s)" narrows the breadth of the intended discretion in a manner that fetters an officer's discretion.

[19] The use of statutory interpretation to evaluate a grant of discretion in the context of judicial review does not proceed on a "*de novo*" basis, with a court seeking to discover the correct

interpretation of a provision (*Vavilov* at para 116). Rather, the entire administrative record, including the reasons, are examined to determine whether the interpretation of the provision by the decision maker is a reasonable one.

[20] In the present case, while the Officer did not explicitly consider the meaning of the provision, it is clear that the provision was interpreted as requiring a "compelling or unique" reason for the granting of a TRP (*Mason* at para 69, citing *Vavilov* at para 123). An interpretation of the statute therefore involves asking whether the officer's interpretation of section 24 as requiring a "compelling" or "unique" reason can be reasonably supported by subsection 24(1) of the IRPA. An examination of the reasons in light of the text, context and purpose of the provision is required (*Vavilov* at paras 115-118).

(1) The text of subsection 24(1)

[21] The Supreme Court has recently emphasized the importance of legislative text in the statutory interpretation exercise, referring to text as the "anchor of the interpretive exercise" and "the focus of interpretation" (*Quebec (Commission des droits de la personne et des droits de la jeunesse) v Directrice de la protection de la jeunesse du CISSS A*, 2024 SCC 43 (*CISSS*) at para 24, citing M Mancini, "The Purpose Error in the Modern Approach to Statutory Interpretation" (2022), 59 *Alta L Rev* 919, at pp 927, 930-931). The text is the starting point that reveals "the means chosen by the legislature to achieve its objective" (*CISSS* at para 24).

[22] However, the text is not an interpretation's ending point. As noted by the Supreme Court, legislation must be given an interpretation that ensures "the attainment of its object and carrying

out of its provisions according to their true intent, meaning and spirit" (*CISSS* at para 24; see also *Rizzo & Rizzo Shoes Ltd (Re)*, 1998 CanLII 837 (SCC), [1998] 1 SCR 27 at paras 21-22).

[23] In the absence of a statutory definition, the focus of a textual analysis is the grammatical and ordinary meaning of the words used by the legislature (*CISSS* at para 28). *Vavilov* provides guidance in measuring the breadth of a decision maker's discretion based on the words found in a statute. The Supreme Court stated that precise, narrow language indicated a decision maker's constrained ability to interpret a provision, in contrast to more "broad, open-ended or highly qualitative language":

> Whether an interpretation is justified will depend on the context, including the language chosen by the legislature in describing the limits and contours of the decision maker's authority. If a legislature wishes to precisely circumscribe an administrative decision maker's power in some respect, it can do so by using precise and narrow language and delineating the power in detail, thereby tightly constraining the decision maker's ability to interpret the provision. Conversely, where the legislature chooses to use broad, open-ended or highly qualitative language — for example, "in the public interest" — it clearly contemplates that the decision maker is to have greater flexibility in interpreting the meaning of such language.
>
> (*Vavilov* at para 110).

[24] Parliament's choice of terms in the IRPA to authorize the issuance of a TRP—"if an officer is of the opinion that it is justified in the circumstances"—reflects a broad, open-ended grant of authority as described by the Supreme Court. These words are analogous to the broad words used by the Supreme Court as an example of wide discretion, "in the public interest".

[25] How does the broad language in section 24 relate to the Officer's search for a "compelling or unique reason" before refusing relief under the provision? While the requirement of a

compelling or unique reason may initially seem to be captured by the broad, justified circumstances leading to the issuance of a TRP, the grammatical senses of the terms imply narrower criteria and a higher threshold for the granting of relief.

[26] The use of dictionary meanings in determining the meaning of words is not universally accepted. While the Supreme Court has recently employed this technique (*R v Breault*, 2023 SCC 9 at para 29; *CISSS* at paras 31, 34-35), Ruth Sullivan states that "[t]he ordinary meaning of a word or a group of words is not their dictionary meaning but the meaning that would be understood by a competent language user upon reading the words in their immediate context" *(Statutory Interpretation*, 3rd ed (Toronto: Irwin Law, 2016) at 61; see also Ruth Sullivan, "The Plain Meaning Rule and Other Ways to Cheat at Statutory Interpretation" 2021 26-5 Lex Electronica 153, 2021 CanLIIDocs 13058 at 169).

[27] Given that the present exercise of statutory interpretation involves the use of terms alleged to unjustifiably constrain the meaning of "justified in the circumstances", dictionary definitions may be useful in understanding the ordinary meaning of the text (*CISSS* at paras 33-35; *Google LLC v Canada (Privacy Commissioner)*, 2023 FCA 200 at para 89; *Canada v Hirschfield*, 2025 FCA 17 at para 76).

[28] "Justified" means "just, right" and its root, justify, carries the meaning "show… justice or rightness", "provide adequate grounds for", "be a good reason or excuse for" (Katherine Barber, ed, *Canadian Oxford Dictionary*, 2nd ed (Toronto: Oxford University Press, 2004) at 822 (COD)).

[29] The meaning of justification is also clarified with reference to the role it plays in the assessment of a reasonable decision, as described in *Vavilov*. The Supreme Court uses justification in two ways: first, justification as describing the internal logic of the reasons, and second, justification as describing the reasons' relationship to the facts and law, which act as "constraints".

[30] It is the latter sense which helps us understand the exercise in subsection 24(1): justification as a legal tool used to execute the power given to grant TRPs. Justification in this sense is the process of explaining, through reasons, the outcome of a decision in relation to several factors, including the evidence, the submissions of the parties, and the impact of the decision on the person concerned (*Vavilov* at paras 85-86, 125-128, 133-135). Reasonableness review, and the justification required by it, is recognized as highly contextual (*Vavilov* at paras 88, 90).

[31] The terms "compelling" and "unique" are not terms within the statute. Therefore, they are not technically amenable to a statutory interpretation analysis. However, understanding the meaning of these terms is necessary to determine whether they can reasonably be employed by officers applying subsection 24(1) of the IRPA.

[32] The meaning of "compelling" involves "arousing strong interest, attention, [and] conviction" and its root, "compel", means "force, oblige", "bring about by force" (COD at 312). This meaning conveys a strong motivation to follow a course of action or obtain a particular result.

[33] "Unique" means "of which there is only one; unequalled, having no like, equal or parallel", "unusual, remarkable", "limited in occurrence to a particular … situation" (COD at 1701). The ordinary sense of "unique" involves something that does not transpire commonly or regularly.

[34] In my view, the unqualified, general words used in subsection 24(1) of the IRPA authorize a wide margin of discretion in the issuance of TRPs. The breadth of this discretion can reasonably support an officer's requirement for "compelling" reasons or circumstances prior to granting relief. However, given the general terms that describe the discretion, a compelling reason will not necessarily be required in every circumstance. Whether a decision maker's requirement for a compelling reason is reasonable in the application of subsection 24(1) will depend on the justification provided in the reasons, the factual context, and other factors identified in *Vavilov* for the assessment of justification.

[35] For example, a decision maker might reasonably require a compelling reason to justify a TRP in dealing with an applicant with a serious inadmissibility; the compelling nature of a reason might rise with the risk posed by the circumstances underlying the inadmissibility. However, such a requirement may not be justified when faced with a minor non-compliance with the IRPA. The key to determining the reasonableness of a justification in a given circumstance will depend on the factual constraints, and the reasons provided by the officer.

[36] In my view, however, the broad language used in subsection 24(1) does not reasonably support a decision maker's requirement for "unique" reasons or circumstances for the issuance of a TRP.

[37] The only qualifications to the circumstances described in subsection 24(1) are the requirement of an applicant believed to be inadmissible or not meeting the requirements of the IRPA, and the specified circumstances described in subsections 24(2) to 24(7) that cannot lead to the issuance of a TRP. The fact that Parliament specifically turned its mind to describing

circumstances excluded from the relief provided by subsection 24(1), and did not include circumstances that are not "unique", supports an implied exclusion of the term from the limiting circumstances in the provision (Sullivan, *supra*, 3rd ed, pp 153-157). It is an indication that the provision's relief is not confined to unique reasons or circumstances.

[38] Otherwise, the breadth of possible circumstances involving inadmissibility, non-compliance and ineligibility that support requests for TRPs is revealed in the factual contexts described in this Court's jurisprudence, such as:

- Attempts to regularize status after being determined ineligible for permanent residence (*Farhat v Canada (Minister of Citizenship and Immigration)* 2006 FC 1275 (*Farhat*); *Palmero v Canada (Citizenship and Immigration)*, 2016 FC 1128 (*Palmero*) at para 7);

- Overstay of temporary resident status (*Alegroso v Canada (Citizenship and Immigration)*, 2024 FC 842 at para 10);

- Ineligibility for a post-graduate work permit (*Ogbonna* at paras 5-6);

- Inadmissibility for criminality or serious criminality (*Farhat* at para 13; *Nasso v Canada (Citizenship and Immigration)*, 2008 FC 1003 (*Nasso*) at para 6), misrepresentation (*Singh v Canada (Citizenship and Immigration)*, 2024 FC 826 (*Singh*) at para 6) or organized criminality (*Cesar Nguesso v Canada (Citizenship and Immigration)*, 2015 FC 880 (*Nguesso*) at para 3).

[39] While many of these decisions uphold the reasonableness of refusing relief under subsection 24(1) (*Farhat* at para 43; *Nasso* at para 1; *Nguesso* at para 127; *Singh* at para 2), they do illustrate the wide variety of possible circumstances capable of grounding requests for TRPs.

[40] There is no indication in the broad text of subsection 24(1) that Parliament intended the circumstances justifying the issuance of a TRP to be constrained beyond those circumstances it specifically described in the provision. As stated by Justice Russel Zinn: "adopting such a rigid standard of exceptionality would constrain the broad discretion intended by Parliament and could unjustly limit access to this remedial provision" (*Ogbonna* at para 27, see also paras 22-26).

(2) The context of subsection 24(1)

[41] The context of subsection 24(1) includes its role within the scheme and objects of the IRPA.

[42] Subsection 24(1) is a remedial provision, providing temporary resident status despite inadmissibility or the inability to meet the requirements of the IRPA. The breadth of the authority granted in subsection 24(1) can be demonstrated by contrasting its text with the text used in other remedial provisions within the IRPA, such as subsection 25(1) or section 42.1.

[43] Subsection 25(1) of the IRPA authorizes permanent residence or an exemption from any provision of the IRPA "if the Minister is of the opinion" that such relief "is justified by humanitarian and compassionate considerations" including "the best interests of a child directly affected". The Supreme Court has described the wide breadth of the discretionary authority conferred by subsection 25(1) (*Kanthasamy v Canada (Citizenship and Immigration)*, 2015 SCC

61 (*Kanthasamy*) at paras 30-33); however the authority granted by subsection 24(1) appears to be broader than subsection 25(1), because the granting of relief is not predicated by the existence of "humanitarian and compassionate" considerations. Justification "in the circumstances" is the only constraint on discretionary relief provided by TRPs.

[44] The breadth of discretion leading to relief under subsection 24(1) can also be seen by comparing its text with the text of section 42.1, another remedial provision. Subsection 42.1(1) relieves an applicant from inadmissibility when the Minister is satisfied that "it is not contrary to the national interest". Unlike this section, subsection 24(1) does not contain words ("not contrary to the national interest") that qualify or constrain the breadth of discretion.

[45] However, unlike the above remedial provisions that offer more limited forms of relief in the nature of an exemption from the requirements of the IRPA or a pathway to permanent residence, the possible types of relief offered by TRPs varies widely. Parliament has provided for TRPs that differ greatly in duration and consequent rights of TRP holders.

[46] TRPs may be issued with validity ranging from one day to three years, they may or may not authorize departure and re-entry, and they may or may not lead to a work permit or access to health benefits (*Immigration and Refugee Protection Regulations*, SOR/2002-227 (IRPR), rule 63). Under certain conditions, TRPs may lead to permanent residence through inclusion in the Permit Holders Class (IRPR, rr 64, 65), but this depends on the number and duration of TRPs issued to an applicant. The authority to cancel TRPs is also broad; they may be canceled "at any time" pursuant to section 24(1).

[47] The wide ability of a decision maker to calibrate the scope of a TRP supports a recognition that the circumstances in which TRPs may be issued are intended to be broad and varied. As described above, TRPs vary from short-term validity and limited benefits, to access to permanent residence. They may also be canceled "at any time". The statutory scheme is one that offers wide choice to decision makers in choosing the appropriate scope of relief as well as the withdrawal of that relief depending on the factual context.

[48] Given the broad authority provided by subsection 24(1), a "compelling reason" may reasonably be justified in appropriate circumstances. A restriction of circumstances or reasons to those which are "unique" is not reasonably supported by the context.

[49] Given that neither "compelling" nor "unique" are terms found within subsection 24(1), it may seem odd that the provision can reasonably support the use of one of those terms, but not the other. This is because the use of "compelling" in appropriate circumstances is respectful of the wide discretion and varied circumstances contemplated by the provision, while the use of "unique" in describing circumstances or reasons is not. The latter term has the effect of narrowing the scope of the provision in a manner that cannot be supported, while the former term can be used as long as its use is justified.

(3) Purpose of subsection 24(1)

[50] TRPs are described as a mechanism responding to the "strong" exclusion provisions within the IRPA. From 1927, a requirement to report the annual number of TRPs to Parliament was included in Canada's immigration legislation to ensure transparency in the exercise of this power

(*Temporary Resident Permits (TRPs): Background and purpose, IRCC Operational Instructions and Guidelines*).

[51] In examining the purpose of Minister's Permits, which were the previous version of TRPs, the Supreme Court found that they "introduced an element of flexibility and humanitarianism into the administration of immigration law". The Court described evidence indicating that Minister's Permits were "used in exceptional circumstances," but that reference was descriptive of historical evidence rather than descriptive of a test for granting relief (*Minister of Manpower and Immigration v Hardayal*, 1977 CanLII 162 (SCC), [1978] 1 SCR 470 at 476, 478).

[52] More recently, the Federal Court of Appeal described TRPs as conferring "probationary admission", designed to "mitigate, on a case-by-case basis, any undue restrictiveness of the medical inadmissibility provisions," which was the specific ground of inadmissibility being reviewed in that case (*Hilewitz v Canada (Minister of Citizenship and Immigration)*, 2003 FCA 420 at para 86, rev'd on appeal (though not on this point) in 2005 SCC 57).

[53] Appellate jurisprudence and evidence describing the origins of subsection 24(1) therefore recognize its purpose as remedial in nature, designed to alleviate the consequences of inadmissibility or inability to meet the requirements of the IRPA. Parliament seeks to achieve this purpose by granting broad discretion to grant relief in wide circumstances, using a mechanism—TRPs—that can be calibrated to meet that purpose.

[54] Given this essentially remedial purpose of subsection 24(1), the variety of possible circumstances warranting TRPs, and the different forms of TRPs available to meet those

circumstances, it is reasonable to expect a decision maker to describe how the outcome of a TRP application serves that purpose (*Vavilov* at para 108).

(4) The impact of policy

[55] While policy guidelines can be helpful in offering examples of considerations for decision makers exercising their discretion, they cannot fetter discretion or elevate a legislative threshold for relief (*Kanthasamy* at para 32). This Court has recognized the non-binding nature of policy guidelines, and the fact that policy cannot alter legislation (*Sani v Canada (Citizenship and Immigration)*, 2024 FC 396 at para 26, citing *Kanthasamy*; *Nazari v Canada (Citizenship and Immigration)*, 2024 FC 1641 at para 8, citing *Sani*).

[56] To allow policy to qualify legislation is to delegate the law-making authority of Parliament to public administration. As stated by Prof. Lorne Sossin (as he then was):

> Legislation and Regulations are subject to Parliamentary accountability and procedural formality (they must be enacted or issued in a particular fashion, subject to the *Statutory Instruments Act*, published in a particular form, vetted for compliance with constitutional strictures, and are subject to Parliamentary debate). Soft law is subject to no such criteria, and can be modified or discarded at will by administrative units on any policy grounds, with or without express statutory authority to do so.
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> ("The Rule of Policy: *Baker* and the Impact of Judicial Review in Administrative Discretion", in David Dyzenhaus, ed, *The Unity of Public Law* (Oxford: Hart Publishing, 2004) at 93).

[57] Policy is not legally binding. Statutes are legally binding. Policy cannot supplant statutes, nor can it dictate the parameters of a statutory grant of discretion (*Stemijon Investments Ltd v Canada (Attorney General)*, 2011 FCA 299 at para 60). Therefore, to the extent that policy

guidelines related to the application of subsection 24(1) confine the broad discretion and broad circumstances described in the provision, they fetter administrative discretion and their use is not justified or reasonable.

(5) Conclusion on the statutory interpretation of subsection 24(1)

[58] Subsection 24(1) provides a broad discretion in a wide set of circumstances through the use of a mechanism that can be calibrated to meet the particular factual context before a decision maker. Given the wide circumstances captured by the provision, the threshold for relief can vary as long as the decision maker provides justification.

[59] However, the circumstances that can lead to the issuance of a TRP cannot reasonably be narrowed further than those involving the inadmissibility or non-compliance of an applicant, and those specified in subsections 24(2) to 24(7). The requirement of a "compelling" reason may therefore, at times, be justified; the requirement of a "unique" reason or circumstance will not.

V. Conclusion

[60] The following conclusions can be made from a statutory interpretation of subsection 24(1):

1) The text, context, and purpose of subsection 24(1) reveal a broad discretion provided to officers in providing relief from inadmissibility or non-compliance with the IRPA.

2) A decision maker's requirement of a compelling reason for the issuance of a TRP under subsection 24(1) may be reasonably supported in appropriate circumstances

given the broad authority provided under the provision, and the broad circumstances to which that authority applies. However, the requirement of a compelling reason is not a uniform threshold for the granting of relief under the provision, and must be justified in a particular circumstance, particularly given the wide choice available in the calibration of TRPs.

3) Given the broad scope of circumstances captured by the plain language of subsection 24(1), and the fact that Parliament turned its mind to the description of specific circumstances excluded from the relief provided by the provision, it is not reasonable for decision makers to require unique reasons or circumstances before providing relief under the section.

[61] The Officer denied a TRP to the Applicant based on the lack of a unique or compelling reason for the request. The requirement of a unique reason was not reasonable given the vast circumstances which may lead to the issuance of a TRP. The requirement of a compelling reason was not intelligibly explained and may have been based on the Officer's mistaken impression that the Applicant "flagrantly disregarded" Canadian immigration laws. For these reasons, the decision to refuse the TRP was not reasonable.

JUDGMENT in IMM-8941-23

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is granted, the refusal of the application for a temporary resident permit (TRP) is set aside, and the matter is returned to a different Officer for redetermination.

2. There is no question to be certified.

"Michael Battista"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

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