Federal Court  Cour fédérale

Date: 20250609

Docket: IMM-14198-23

Citation: 2025 FC 1031

Toronto, Ontario, June 9, 2025

PRESENT: The Honourable Mr. Justice Southcott

BETWEEN:

MARYAM SEPASI-ASHTIANI

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

I. Overview

[1] This is an application for judicial review of a decision by an Immigration, Refugees and Citizenship Canada [IRCC] officer [the Officer], dated April 4, 2023, which denied the Applicant's application to sponsor her mother as a member of the family class, on the basis that the Applicant was not an eligible sponsor because she did not meet the minimum necessary income [MNI] requirement [the Decision].

[2] As explained in further detail below, this application for judicial review is granted, because the Decision is unreasonable in that the Officer erred in identifying the taxation years to be reviewed for purposes of assessing the Applicant's income.

II. **Background**

[3] The Applicant is a Canadian citizen who applied to sponsor her mother, a citizen of Iran, for permanent residence in Canada. The Applicant submitted the sponsorship application on November 10, 2021 [the Application]. However, the Application was deemed incomplete by IRCC. Following further submissions, the Application was "locked in" on December 28, 2022.

[4] On April 4, 2023, the Officer issued the Decision that is the subject of this application for judicial review, refusing the Application because the Applicant did not meet the MNI requirement. Further details of the Officer's reasoning will be set out later in these Reasons.

[5] The Applicant submitted a number of reconsideration requests to IRCC, all of which were rejected, as well as an appeal to the Immigration Appeal Division [IAD]. The IAD issued a decision on September 1, 2023, dismissing the appeal for lack of jurisdiction, because the Applicant had indicated in the Application that she wished to withdraw the Application if she was found ineligible. While I note them as background, those proceedings are not material to the issues in this application for judicial review.

[6] With the benefit of counsel, the Applicant subsequently commenced this application for judicial review on November 9, 2023, including seeking the required extension of time, because

the application was filed outside the limitation period prescribed by the *Immigration and Refugee Protection Act*, SC 2001, c 27 [IRPA].

III. **Decision under Review**

[7] IRCC communicated the Decision by letter dated April 4, 2023, which advised the Applicant that she was not an eligible sponsor because she does not meet the MNI requirement pursuant to subparagraph 133(1)(j)(i) of the *Immigration and Refugee Protection Regulations*, SOR/2002-227 [IRPR]. Subparagraph 133(1)(j)(i) provides as follows:

Requirements for sponsor	**Exigences : répondant**
133 (1) A sponsorship application shall only be approved by an officer if, on the day on which the application was filed and from that day until the day a decision is made with respect to the application, there is evidence that the sponsor	**133 (1)** L'agent n'accorde la demande de parrainage que sur preuve que, de la date du dépôt de la demande jusqu'à celle de la décision, le répondant, à la fois :
…	…
(j) if the sponsor resides	**j)** dans le cas où il réside :
(i) in a province other than a province referred to in paragraph 131(b),	**(i)** dans une province autre qu'une province visée à l'alinéa 131b) :
(A) has a total income that is at least equal to the minimum necessary income, if the sponsorship application was filed in respect of a foreign national other than a foreign national referred to in clause (B), or	**(A)** a un revenu total au moins égal à son revenu vital minimum, s'il a déposé une demande de parrainage à l'égard d'un étranger autre que l'un des étrangers visés à la division (B),
(B) has a total income that is at least equal to the minimum necessary	**(B)** a un revenu total au moins égal à son revenu vital minimum,

income, plus 30%, for each of the three consecutive taxation years immediately preceding the date of filing of the sponsorship application, if the sponsorship application was filed in respect of a foreign national who is	majoré de 30 %, pour chacune des trois années d'imposition consécutives précédant la date de dépôt de la demande de parrainage, s'il a déposé une demande de parrainage à l'égard de l'un des étrangers suivants :
(I) the sponsor's mother or father,	**(I)** l'un de ses parents,
(II) the mother or father of the sponsor's mother or father, or	**(II)** le parent de l'un ou l'autre de ses parents,
(III) an accompanying family member of the foreign national described in subclause (I) or (II), and	**(III)** un membre de la famille qui accompagne l'étranger visé aux subdivisions (I) ou (II),

[8] Further reasons for the Decision are set out in the Officer's Global Case Management System [GCMS] notes, which identify that the Officer concluded that the Applicant met the MNI requirement for 2019 and 2020 but did not meet the MNI requirement for 2018.

IV. **Issues and Standard of Review**

[9] The Applicant's submissions raise the following issues for the Court's determination:

A. Should an extension of time be granted for the filing of the Applicant's application for leave and judicial review?

B. Did the Officer err, either because the Decision is unreasonable or because the Officer breached applicable obligations of procedural fairness?

[10] As is implicit in the articulation of the second issue above, the merits of the Decision are reviewable on the reasonableness standard as informed by *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65. Issues of procedural fairness are reviewable on a standard akin to correctness, requiring the Court to consider whether the procedure followed was fair, having regard to all the circumstances (*Canadian Association of Refugee Lawyers v Canada (Immigration, Refugees and Citizenship)*, 2020 FCA 196 at para 35, leave to appeal to SCC refused, 39522 (5 August 2021)).

V. **Analysis**

A. *Should an extension of time be granted for the filing of the Applicant's application for leave and judicial review?*

[11] The Respondent does not oppose the Applicant's request for an extension of time for filing and serving her application for leave and judicial review. As such, I need not address this issue in any detail, other than to note that I accept the Applicant's written submissions in satisfaction of the applicable test. My Judgment will therefore grant the required extension of time.

B. *Did the Officer err, either because the Decision is unreasonable or because the Officer breached applicable obligations of procedural fairness?*

[12] My decision to allow this application for judicial review turns on the Applicant's argument surrounding the reasonableness of the Decision.

[13] It is common ground between the parties that the Officer was required to perform the assessment contemplated by subparagraph 133(1)(j)(i) of the IRPR, which involved assessing the Applicant's income against the MNI for each of the three consecutive taxation years immediately preceding the date of filing of the Application. Notably, it is also common ground between the parties that the reference in subparagraph 133(1)(j)(i) to "the date of filing of the sponsorship application", applied to the facts of the case at hand, means the "lock-in date" of December 28, 2022.

[14] While neither party has provided detailed submissions on the meaning of a "lock-in date" for purposes of an immigration application, the Applicant relies on the GCMS notes for her position that the Application, which was initially submitted on November 10, 2021, was "locked in" on December 28, 2022, and deemed by IRCC to be complete on January 3, 2023. As I read the GCMS notes, they reflect IRCC treating the Application as incomplete until it performed a completeness check on January 3, 2023, and, with the benefit of a submission provided by the Applicant on December 28, 2022, concluded that the Application was complete. In the GCMS notes entry dated April 4, 2023 (the date of the Decision), the Officer describes the Application as locked in on December 28, 2022.

[15] As previously noted, the Applicant argues that this date of December 28, 2022, represents the date of filing of the Application, for purposes of subparagraph 133(1)(j)(i) of the IRPR, such

that the three consecutive taxation years immediately preceding that date (requiring assessment by the Officer) are the years 2019, 2020, and 2021. In support of that position, the Applicant relies on jurisprudence including, in particular, *Gennai v Canada (Citizenship and Immigration)*, 2017 FCA 29, leave to appeal to SCC refused, 37525 (13 July 2017) [*Gennai*] and *Nematollahi v Canada (Citizenship and Immigration)*, 2017 FC 755 [*Nematollahi*].

[16] The Applicant relies on *Gennai* (at para 6) for the principle that an incomplete application is not an application within the meaning of the IRPA and the IRPR. The Applicant therefore submits that the Application did not represent a filed application within the meaning of subparagraph 133(1)(j)(i) of the IRPR until December 28, 2022.

[17] With respect to *Nematollahi* (a family class sponsorship case), the Applicant notes that authority's confirmation that the reference in subparagraph 133(1)(j)(i), to the three consecutive taxation years immediately preceding the date of filing, is intended to capture the three years immediately preceding the date of application, not some other three-year consecutive period (at para 31). The Applicant also relies on the explanation in *Nematollahi* that, after the application in that case was treated as complete in 2014, the officer was required to consider the taxation years 2011, 2012, and 2013, and it was unreasonable for the officer to instead consider the taxation years 2010, 2011, and 2012 (at paras 35–39).

[18] As previously noted, the Respondent agrees that, in the case at hand, it was the taxation years 2019, 2020, and 2021 that required assessment. The Respondent notes that the Officer's financial assessment refers to the Application having been accepted in 2021 and being assessed

using the 2018, 2019, and 2020 taxation years. The Respondent accepts that the Officer should have referred to the Application having been accepted in 2022 and the financial assessment being conducted based on the 2019, 2020, and 2021 taxation years.

[19] The point on which parties diverge is whether it was therefore unreasonable for the Officer to have made the Decision based on an assessment of the 2018, 2019, and 2020 taxation years. The Respondent argues that *Nematollahi* (in which consideration of the wrong years was found to be unreasonable) is distinguishable, because in that case the applicant had provided the officer with income information related to the three years that required assessment, before the officer made the decision on the application (at para 38). In contrast, in the case at hand, the Applicant provided the Officer with income information related to the 2018, 2019, and 2020 taxation years (which the Officer proceeded to assess) but not information related to the 2021 taxation year. While the parties agree that the Officer was entitled to ask the Applicant for more information (and, as the Applicant notes, did so in relation to taxation years other than 2021), the Respondent emphasizes that the Officer was under no obligation to do so.

[20] I am not persuaded by the Respondent's defence of the Decision. It is undisputed that the Officer assessed the Application erroneously, taking into account the wrong set of three consecutive taxation years. I appreciate that the Applicant had not provided information related to the 2021 taxation year. However, at IRCC's request, she provided IRCC with authority to obtain information about her income directly from the Canada Revenue Agency. Moreover, as noted above, the Officer was entitled to request that the Applicant provide additional information

and did so. As such, the Application may have had a different outcome had the Officer not erred in identifying the taxation years that required assessment.

[21] I therefore conclude that the Decision is unreasonable and, on that basis, will allow this application for judicial review. As such, it is unnecessary for the Court to address the Applicant's procedural fairness arguments.

[22] Neither party proposed any question for certification for appeal, and none is stated.

JUDGMENT IN IMM-14198-23

THIS COURT'S JUDGMENT is that:

1. The Applicant is granted the required extension of time for the filing of this application.

2. This application is granted, the Decision is set aside, and the matter is returned to a different IRCC officer for redetermination in accordance with the Court's reasons.

3. No question is certified for appeal.

"Richard F. Southcott"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	IMM-14198-23
STYLE OF CAUSE:	MARYAM SEPASI-ASHTIANI v THE MINISTER OF CITIZENSHIP AND IMMIGRATION
PLACE OF HEARING:	TORONTO, ONTARIO
DATE OF HEARING:	JUNE 3, 2025
JUDGMENT AND REASONS:	SOUTHCOTT J.
DATED:	JUNE 9, 2025

APPEARANCES:

Sadaf Tahriri	FOR THE APPLICANT
Nicole John	FOR THE RESPONDENT

SOLICITORS OF RECORD:

Barrister and Solicitor Toronto, Ontario	FOR THE APPLICANT
Attorney General of Canada Toronto, Ontario	FOR THE RESPONDENT