

Federal Court



Cour fédérale

**Date: 20250708**

**Docket: IMM-10309-24**

**Citation: 2025 FC 1214**

**Ottawa, Ontario, July 8, 2025**

**PRESENT: Madam Justice Sadrehashemi**

**BETWEEN:**

**RICHARD NYARKO OWUSU**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP AND  
IMMIGRATION**

**Respondent**

**JUDGMENT AND REASONS**

[1] The Applicant, Richard Nyarko Owusu, is awaiting a decision on his application for permanent residence through the overseas spousal sponsorship stream (“Sponsorship Application”). He applied to this Court for an order of *mandamus* compelling the Minister to make a decision on the Sponsorship Application. Mr. Owusu asserts that the Minister has unreasonably delayed the processing of his application.

[2] Mr. Owusu filed the Sponsorship Application over five years ago. An officer at Immigration, Refugees and Citizenship Canada (“IRCC”) refused the application in October 2022. Mr. Owusu’s sponsor appealed this refusal to the Immigration Appeal Division (“IAD”), but later in January 2023 discontinued the appeal on the Minister’s promise that the file would be sent back to be redetermined.

[3] The Sponsorship Application was sent back to be redetermined. Mr. Owusu received a procedural fairness letter in February 2023 outlining IRCC’s concerns with the application. Mr. Owusu responded the following month, providing further submissions and evidence in March 2023. Since March 2023, there is no evidence before me that there has been any action taken on Mr. Owusu’s file. The Minister has not filed any evidence on this judicial review explaining the steps that have been taken since March 2023, nor has the Minister provided any evidence about any complexity and challenges in processing the file since Mr. Owusu filed his response to the procedural fairness letter over two years ago.

[4] *Mandamus* is an equitable remedy that is used to compel the performance of a public duty. This Court’s ability to grant a writ of *mandamus* is provided for under subsections 18.1(3)(a) and 18.1(4) of the *Federal Courts Act*, RSC, 1985, c F-7. As set out in *Apotex v Canada (Attorney General)*, 1993 CanLII 3004 (FCA), [1994] 1 FC 742 (CA), in order to be entitled to an order of *mandamus* the following criteria must be met:

- (1) there must be a public legal duty to act;
- (2) the duty must be owed to the applicant;
- (3) there must be a clear right to performance of that duty;

- (4) where the duty sought to be enforced is discretionary, certain additional principles apply;
- (5) no other adequate remedy is available to the applicant;
- (6) the order sought will have some practical value or effect;
- (7) there is no equitable bar to the relief sought; and
- (8) on a “balance of convenience” an order of mandamus should be issued.

[5] The key issue on this judicial review is whether there has been an unreasonable delay in processing the Applicant’s Sponsorship Application. Given the Minister’s failure to provide any explanation for the two years of inaction on the Applicant’s file, I find that the Applicant has established the delay in this case is unreasonable and unjustified. I note that in this case the failure to provide any explanation for the inaction on the file is particularly troubling because the Applicant agreed to discontinue the appeal at the IAD over two years ago so that the file could be redetermined.

[6] The Minister referenced the need to do security screening, but no further information was provided about the particular steps that are required or why it has taken this length of time to complete any further steps. This Court has found that “to assess whether the length of a security review is reasonable, ... [the Court] must have some information about the review and the reasons for its length” (*Jahantigh v. Canada (Citizenship and Immigration)*, 2023 FC 1253 at para 20). No information about the review or the processing time was provided to the Court.

[7] In these circumstances, the balance of convenience favours the Applicant's request. I find an order of *mandamus* is warranted. The Respondent has not provided an adequate justification for the lengthy inaction on the Applicant's file, leading to the unreasonable delay in determining his Sponsorship Application. The application for judicial review is allowed.

**JUDGMENT in IMM-10309-24**

**THIS COURT'S JUDGMENT is that:**

1. The application for judicial review is granted;
2. A decision on the Applicant's Sponsorship Application must be made within 90 days from the date of this Judgment;
3. No costs are awarded; and
4. No serious question of general importance is certified.

"Lobat Sadrehashemi"

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Judge

**FEDERAL COURT**  
**SOLICITORS OF RECORD**

**DOCKET:** IMM-10309-24

**STYLE OF CAUSE:** RICHARD NYARKO OWUSU v THE MINISTER OF  
CITIZENSHIP AND IMMIGRATION

**PLACE OF HEARING:** TORONTO, ONTARIO

**DATE OF HEARING:** JULY 2, 2025

**JUDGMENT AND REASONS:** SADREHASHEMI J.

**DATED:** JULY 8, 2025

**APPEARANCES:**

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