Federal Court Cour fédérale

Date: 20250723

Docket: IMM-17584-24

Citation: 2025 FC 1316

Toronto, Ontario, July 23, 2025

PRESENT: The Honourable Madam Justice Turley

BETWEEN:

MAHBOOBEHSADAT EMADI

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

[1] The Applicant seeks a writ of *mandamus* compelling Immigration, Refugees and Citizenship Canada [IRCC] to decide her application for a permanent resident visa under the family class. For the following reasons, the Applicant has failed to establish that this extraordinary remedy should issue.

[2] The legal test for an order of *mandamus* is well established. The following requirements 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, in particular, (i) the applicant has satisfied all the requirements for a decision to be made; (ii) they have made a prior request that a decision be made; and (iii) the decision-maker has either expressly refused to make a decision or has taken unreasonably long to do so;
>
> (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) The Court finds no equitable bar to the relief sought; and
>
> (8) On a balance of convenience an order of *mandamus* should be issued:
>
> *Apotex Inc v Canada (Attorney General)*, 1993 CanLII 3004 (FCA), [1994] 1 FC 742 (CA) at 766–769, aff'd 1994 CanLII 47 (SCC), [1994] 3 SCR 1100.

[3] Here, the Applicant has failed to satisfy the third requirement of this test in two different respects. First, she has failed to satisfy all the requirements for a decision to be made. Second, she has failed to show that the delay is unreasonable. In both respects the determinative issue is that, according to the evidence, the processing delay since February 2025 has been due to the unavailability of the Applicant's spouse for an in-person interview.

[4] In January 2025, IRCC requested additional documentation from the Applicant to substantiate her relationship with her spouse. In addition, IRCC advised that the Applicant and her

spouse had been scheduled for an interview on February 17, 2025, "[i]n order for a determination of your permanent resident status to be made in accordance with the Immigration and Refugee Protection Act": Letter dated January 10, 2025, Certified Tribunal Record [CTR] at 166.

[5] In response, the Applicant provided supporting documentation. However, three days before the scheduled interview, Applicant's counsel informed IRCC that the spouse had to urgently travel to Iran. The interview was postponed until the spouse confirmed his return to Canada. As of the last Global Case Management System [GCMS] entry dated May 7, 2025, there is no indication of an interview having taken place: GCMS notes, CTR at 3. The Applicant did not file a further affidavit to address the status of this matter.

[6] Based on this evidence, the Applicant has failed to satisfy a requirement for a decision to be made on her application. As IRCC advised, an in-person interview of the Applicant and her spouse was a requirement under the *Immigration and Refugee Protection Act* for a decision on her spousal application. Significantly, the power to satisfy this requirement is entirely in the Applicant's hands, as the interview delay has been caused by her spouse's absence.

[7] The Applicant has similarly failed to establish that the delay is unreasonable. Three requirements must be satisfied for a finding of unreasonable delay: (i) the delay in question has been longer than the nature of the process required, *prima facie;* (ii) the applicant is not responsible for the delay; and (iii) the authority responsible for the delay has not provided a satisfactory justification: *Conille v Canada (Minister of Citizenship and Immigration)*, 1998 CanLII 9097 (FC), [1999] 2 FC 33 at 43. Given that the Applicant's spouse's absence from Canada is the reason for

the processing delay since February 2025, she has failed to establish that she is not responsible for the delay.

[8] Based on the foregoing, the remedy of *mandamus* is not warranted. The parties did not propose a question for certification, and I agree that none arise.

JUDGMENT in IMM-17584-24

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is dismissed.

2. There is no question for certification.

"Anne M. Turley"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	IMM-17584-24
STYLE OF CAUSE:	MAHBOOBEHSADAT EMADI v THE MINISTER OF CITIZENSHIP AND IMMIGRATION
PLACE OF HEARING:	TORONTO, ONTARIO
DATE OF HEARING:	JULY 22, 2025
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APPEARANCES:

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