

Federal Court



Cour fédérale

Date: 20250826

Docket: IMM-18310-24

Citation: 2025 FC 1422

Ottawa, Ontario, August 26, 2025

PRESENT: The Honourable Justice Darren R. Thorne

BETWEEN:

ICILDA AGATHA MORGAN

Applicant

and

THE MINISTER OF IMMIGRATION, REFUGEES AND CITIZENSHIP

Respondent

JUDGMENT AND REASONS

I. Overview

[1] The Applicant, Ms. Icilda Agatha Morgan, seeks judicial review of an Immigration, Refugees and Citizenship Canada [“IRCC”] immigration officer’s [“Officer”] decision denying her application for permanent resident status on humanitarian and compassionate [“H&C”] grounds.

[2] For the reasons that follow, I grant the Application, as I find the decision was unreasonable and rendered in a procedurally unfair manner.

II. Background

[3] Ms. Morgan is a citizen of Jamaica who arrived in Canada in 1991 as a visitor. She states that she married William Palmer, a Canadian citizen, in April 1998, and that he intended to sponsor her as a permanent resident. However, he died shortly after their marriage in June 1998, and she was unable to obtain landed immigrant status.

[4] Ultimately, Ms. Morgan has lived without status in Canada since 1991, but has worked and also volunteered intermittently in health care. In 2017, she submitted an application for permanent residence from within Canada based on H&C grounds. This was rejected in 2019. A subsequent judicial review of that decision was dismissed in 2021.

[5] In December 2022, she filed a second H&C application, as her health had deteriorated. Ms. Morgan is now 85 years old. She suffers from several co-morbid medical conditions including: diabetes, chronic renal insufficiency, hypertension, osteoarthritis, osteoporosis, chronic anemia, and cataracts. She submitted evidence from Rexdale Community Health verifying that she receives treatment and services for her conditions from that organization. She states that in February 2022, she suffered a fall on a transit bus, which has significantly affected her stamina, pain level, general coping and overall quality of life.

[6] She submits that she has no family in Jamaica. She has two children residing in the United States, who are unable to offer her any support (a third passed away in 1988), and an elderly sister in the United States, who resides in that country without formal status.

[7] In a decision dated September 11, 2024, the Officer refused the Applicant's H&C application, finding that her circumstances did not warrant an exemption under section 25 or 25.1 of the *Immigration and Refugee Protection Act*, SC 2001, c 27 ["IRPA"] and, interestingly, holding that the Applicant would not face undue hardship if she returned to Jamaica.

III. Issue and Standard of Review

[8] The issues at play in this judicial review application are those of both the reasonableness, and the procedural fairness, of the Decision.

[9] The standard of review of the merits of a decision is reasonableness: *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2018 SCC 65 at paras 10, 25 [Vavilov]. A reasonable decision is "one that is based on an internally coherent and rational chain of analysis and that is justified in relation to the facts and law that constrain the decision maker": *Vavilov* at para 85. In undertaking reasonableness review, the Court must assess whether the decision bears the hallmarks of reasonableness, namely justification, transparency and intelligibility: *Vavilov* at para 99. In particular, when reviewing a decision on this standard, "a court must consider the outcome of the administrative decision in light of its underlying rationale in order to ensure that the decision as a whole is transparent, intelligible and justified": *Vavilov* at para 15.

[10] Though a presumptive reasonableness standard of review applies to the merits of a decision, it is rather a correctness-like standard that applies to issues of procedural fairness: *Canadian Pacific Railway Company v Canada (Attorney General)*, 2018 FCA 69, [2019] 1 FCR 121 at paras 54–56 [CPR]. In short, a reviewing court must determine whether, given the

particular context and circumstances of the case, the process followed by the administrative decision-maker was fair, in that it gave the parties the right to be heard, as well as a full and fair opportunity to be informed of the evidence to be rebutted. Further, the Court must ask itself whether the procedure was fair in light of all the circumstances, with a particular emphasis on the completeness of the record.

IV. Analysis

A. *The Applicant's Right to Procedural Fairness was Breached and the Decision is Unreasonable*

[11] At the outset of the hearing in this matter, I brought to the attention of both counsel an issue with the record, as I had noticed that in the Applicant's Record there seemed to be two versions of the Officer's decision. On review, it was clear these were not merely the previous and current H&C decisions. These were rather two separate documents, which each purported to decide and reject the Applicant's current H&C Application. Each version of the decision bore identical IRCC H&C Application numbers, the same Unique Client Identifier ["UCI"] number, were dated September 11, 2024 and named as their author the same Senior Immigration Officer: ID number KM24633. However, though each document reached the same conclusion, and had roughly parallel sections setting out the reasoning with respect to considering various aspects of the Applicant's case and circumstances, the two versions contained slightly varying language and reasoning in certain places. Only one of the two versions was included in the Certified Tribunal Record ["CTR"].

[12] It emerged from our discussion that neither counsel had realized that there were two versions of the Officer's decision in the record. However, counsel for the Applicant explained

that both documents must have been sent to him and his client by the IRCC, as he had put everything that had been received into his Applicant's Record. Counsel for the Respondent forthrightly acknowledged that the two versions of the decision were clearly different documents, and that they contained different language in their reasoning. Respondent's counsel was uncertain what had happened, such that two versions of the decision had apparently been prepared and issued to the Applicant. To his credit, he immediately agreed with my observation that the CTR in this matter was obviously deficient, and conceded that not only was the record in this matter flawed, but further that the two versions of the decision rendered it unclear on what basis or reasoning the decision had been determined. He conceded that this constituted a serious procedural fairness issue that warranted the Application for judicial review being granted and the decision(s) being remitted for redetermination.

[13] That is also my conclusion. The record in this matter is deficient, through no fault of the Applicant, and this occasions a breach of procedural fairness. In addition, given the existence of the two parallel decisions, I find that the decision is also unreasonable. Though both versions of the decision ultimately reach the same final conclusion in rejecting the Applicant's H&C application, their differing language as to the reasoning behind this makes it unclear on what basis the decision was rendered. In short, given the two versions of the decision and their differing language, an internally coherent and rational chain of analysis cannot be discerned for the decision, and it cannot be said to exhibit the hallmarks of reasonableness. This is sufficient to quash the decision. The application for judicial review is therefore allowed.

V. Conclusion

[14] For these reasons, the impugned decision in this case is set aside and the matter is returned for redetermination by a different IRCC officer.

[15] The parties proposed no question for certification, and I agree that none arises.

JUDGMENT IN IMM-18310-24

THIS COURT'S JUDGMENT is that:

1. The judicial review application is granted.
2. The decision of the Officer dated September 11, 2024, is set aside and the matter is returned for redetermination by a different immigration officer.
3. No question of general importance is certified.

"Darren R. Thorne"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-18310-24

STYLE OF CAUSE: ICILDA AGATHA MORGAN v. MCI

PLACE OF HEARING: TORONTO, ONTARIO

DATE OF HEARING: AUGUST 21, 2025

REASONS AND JUDGMENT: THORNE J.

DATED: AUGUST 26, 2025

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