

Federal Court



Cour fédérale

Date: 20250922

Docket: IMM-23047-24

Citation: 2025 FC 1554

Toronto, Ontario, September 22, 2025

PRESENT: The Honourable Justice Fuhrer

BETWEEN:

Rukhshana Mohmed ASMAL

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

[1] This matter involves a judicial review of a denied application for permanent residence on humanitarian and compassionate [H&C] grounds. The Applicant seeks to have the denial quashed and the matter redetermined by a newly reconstituted tribunal. I note that the decision of a senior immigration officer denying the H&C application is dated November 23, 2024.

[2] I granted the judicial review from the bench indicating that the matter will be sent back for redetermination by a different decision maker, with the Applicant permitted to refile the H&C package, and noting that there is no question for certification. I also indicated that a formal judgment would follow describing what transpired in Court that lead to this result.

[3] At the outset of the oral hearing, I indicated that I had two preliminary issues. The first issue, and the only one worth repeating here, is that the certified tribunal record [CTR] was missing the Applicant's H&C submissions that are contained in the Applicant's Record, although the articles listed at the end of the submissions were reproduced in the CTR.

[4] After explaining my preliminary issues to the parties, the Respondent's counsel conceded the judicial review. In doing so, he referred to this Court's decision in *Togtokh v Canada (Citizenship and Immigration)*, 2018 FC 581 [*Togtokh*] at para 16 which outlines three scenarios raised by a deficient CTR. Counsel stated that the situation before the Court here is described by the second scenario: "[a] document is known to have been properly submitted by an applicant but is not in the CTR, and it is not clear whether that document, for reasons beyond an applicant's control, was before the decision-maker." *Togtokh* suggests that in such a situation, the decision should be overturned. I agree.

JUDGMENT in IMM-23047-24

THIS COURT'S JUDGMENT is that:

1. The judicial review application is granted.
2. The matter will be sent back for redetermination by a different decision maker with the Applicant permitted to refile the package comprising the application for permanent residence on humanitarian and compassionate grounds.
3. There is no question for certification.

"Janet M. Fuhrer"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-23047-24

STYLE OF CAUSE: RUKHSHANA MOHMED ASMAL v THE MINISTER
OF CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: TORONTO, ONTARIO

DATE OF HEARING: SEPTEMBER 22, 2025

JUDGMENT AND REASONS: FUHRER J.

DATED: SEPTEMBER 22, 2025

APPEARANCES:

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Lorne McClenaghan	FOR THE RESPONDENT

SOLICITORS OF RECORD:

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