

Federal Court



Cour fédérale

Date: 20250925

Docket: IMM-17963-24

Citation: 2025 FC 1585

Ottawa, Ontario, September 25, 2025

PRESENT: The Honourable Madam Justice Blackhawk

BETWEEN:

MD SERAJUL ISLAM

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

I. Overview

[1] This is an application for judicial review of a September 18, 2024 decision (Decision) of an Immigration Officer [Officer] that denied the Applicant's permanent residence spousal sponsorship application because they were not satisfied that the Applicant met the requirements set out in the *Immigration and Refugee Protection Act*, SC 2001, c 27, and the *Immigration and Refugee Protection Regulations*, SOR/2002-227.

[2] The Applicant argues that the Decision is unreasonable. In addition, the Applicant argues that he was denied procedural fairness, as he was not interviewed by the Officer or provided a Procedural Fairness Letter (PFL).

[3] The Respondent argues that the Decision was reasonable. In addition, the Respondent argues that the Applicant's procedural fairness was not breached in this case.

[4] For the reasons that follow, this application is dismissed.

II. Background

[5] The Applicant is a citizen of Bangladesh. He met his second wife, a citizen of Bangladesh and permanent resident of Canada in July 2022 (Sponsor). They married on October 17, 2022, in Canada.

[6] On December 16, 2023, the Applicant submitted a spousal sponsorship application.

[7] On May 3, 2024, the Applicant was advised that his application was transferred to the Immigration, Refugees and Citizenship (IRCC) office in Etobicoke from the Mississauga Processing Center.

[8] On July 30, 2024, the reviewing Officer sent a letter, asking the Applicant to provide further information to support the application by August 29, 2024. The letter set out a list of recommended documents to support the application. Of particular relevance to the Applicant, the

letter requests: police certificates from Kenya and Sri Lanka; proof of payment of the Right of Permanent Residence Fee; tax returns of the Applicant and Sponsor from 2020-2022 including T1 forms and Notices of Assessment; proof of residence for the Applicant and Sponsor for the last two years; copies of utility bills for the last three months; information from the financial institution where the Applicant and Sponsor hold a joint account and information that sets out when the account was opened; insurance and beneficiary information; photos with dates and description. The letter also notes:

If you cannot provide the above information and/or document(s), you must advise us in writing detailing the reasons why you are unable to comply to our request, along with supporting documentation.

Please understand that misrepresentation is an offence under section 127 of the Immigration and Refugee Protection Act, which may result in a finding of inadmissibility to Canada or removal from Canada.

[9] On August 27, 2025, the Applicant sent a response that included the following additional information to support his application: copies of the Applicant and Sponsor's drivers licences; the Applicant's birth certificate; the Applicant and Sponsor's tax filings from 2021-2023; an employment letter for the Sponsor; the Sponsor's phone bill; banking information for a jointly held account; a copy of a tenancy agreement from December 1, 2021; copies of insurance for the Applicant and Sponsor; a copy of the Applicant and the Sponsor's respective divorce certificates; photos; proof of payment of applicable permanent residence fees; and birth certificates of the Applicant and Sponsor's respective children.

[10] On September 18, 2024, the Officer denied the sponsorship application. The Decision states in part:

You have not satisfied me that you, the applicant, and your sponsor have provided sufficient compelling documents to demonstrate that you reside together and share a mutual level of interdependency normally associated to a married couple. ... To recall, the onus is on the applicant to make reliable and compelling submissions in order to satisfy the reviewing officer of any concerns.

...

Since you are the subject of removal order, this letter is being copied to the Canada Border Services Agency, Enforcement Centre. You will be contacted in the near future by that office to make removal arrangements.

[11] The Officer found that there was insufficient evidence to demonstrate that the couple lived together and shared a mutual level of interdependency associated with a married couple. Accordingly, the Officer was not satisfied that the relationship was genuine, rather the marriage was for the purpose of obtaining status in Canada.

III. Issues and Standard of Review

[12] The parties submit, and I agree, that the applicable standard of review applicable to the Decision in this case is reasonableness (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 (*Vavilov*) at paras 25, 86).

[13] Reasonableness review is a deferential standard and requires an evaluation of the administrative decision to determine if the decision is transparent, intelligible, and justified (*Vavilov* at paras 12–15, 95). The starting point for a reasonableness review is the reasons for decision. Pursuant to the *Vavilov* framework, 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).

[14] To intervene on an application for judicial review, the Court must find an error in the decision that is central or significant to render the decision unreasonable (*Vavilov* at para 100).

[15] The standard of review for procedural fairness issues is correctness, or akin to correctness (*Vavilov* at para 53; *Canadian Pacific Railway Company v Canada (Attorney General)*, 2018 FCA 69 at paras 54–56). The reviewing court must consider what level of procedural fairness is necessary in the circumstances and whether the “procedure followed by the administrative decision maker respect[s] the standards of fairness and natural justice” (*Chera v Canada (Citizenship and Immigration)*, 2023 FC 733 at para 13). In other words, a court must determine if the process followed by the decision maker achieved the level of fairness required in the circumstances (*Kyere v Canada (Public Safety and Emergency Preparedness)*, 2020 FC 120 at para 23, citing with approval *Mission Institution v Khela*, 2014 SCC 24 at para 79).

[16] The issues in this application are:

- a) Was the Officer’s decision reasonable?
- b) Has there been a breach of the duty of procedural fairness owed to the Applicant?

IV. Analysis

A. *Was the Officer's decision reasonable?*

[17] The Applicant argues that he provided clear and convincing proof that the relationship with his spouse was genuine. The Applicant argues that the Officer gave little to no weight to the evidence submitted in support of his application. The Applicant argues that the Officer's decision was capricious and not based on the totality of the evidence provided in support of the application.

[18] The Respondent argues that the Decision was reasonable. The Respondent argues that the Applicant's argument has no merit, as he is requesting this Court to reweigh and assess the evidence considered by the Officer, which is not the proper role of the Court in an application for judicial review (*Doyle v Canada (Attorney General)*, 2021 FCA 237 at paras 3-4).

[19] I agree with the Respondent that the Applicant is inviting this Court to substitute its assessment of the evidence, which is not the proper role for the Court on an application for judicial review.

[20] Further, I note that this Court has clarified that questions regarding the genuineness of a marriage are factual determinations and the decision maker's determinations are entitled to deference (*Idrizi v Canada (Citizenship and Immigration)*, 2019 FC 1187 (Idrizi)):

... Whether a marriage was entered into primarily for the purpose of immigration or is genuine is a highly factual inquiry and decision-makers are entitled to deference from reviewing courts. This is particularly the case when the decision-maker has the benefit of having questioned the spouses in person: see *Kim v*

Canada (Citizenship and Immigration), 2016 FC 1141 at para 9; *Ma v Canada (Citizenship and Immigration)*, 2016 FC 1283 at para 7; *Pabla v Canada (Citizenship and Immigration)*, 2018 FC 1141 at paras 11-13; *Wong v Canada (Citizenship and Immigration)*, 2019 FC 1017 at para 13; and *Basanti v Canada (Citizenship and Immigration)*, 2019 FC 1068 at para 13.

(*Idrizi* at para 21; see also *Boyacioglu v Canada (Citizenship and Immigration)*, 2021 FC 1356 at para 32.)

[21] The onus was on the applicant to put forward his best case and to ensure that the information and evidence set out in the application was complete, convincing and unambiguous (*Alvaro v Canada (Citizenship and Immigration)*, 2024 FC 1627 at para 27; *Kaur v Canada (Citizenship and Immigration)*, 2018 FC 657 at para 21, citing *Shahzad v Canada (Citizenship and Immigration)*, 2017 FC 999 at paras 19, 40 and *Canada (Citizenship and Immigration) v Genter*, 2018 FC 32 at para 13).

[22] A review of the GCMS notes indicate that the Officer refused the application because: there was limited documentation to support the Applicant's relationship with the sponsor; there were several inconsistencies in the documentation that did not support the claims of cohabitation; banking information submitted demonstrated little evidence of financial interdependency; WhatsApp conversations did not demonstrate that the couple were in a *bona fide* relationship; photos lacked date and time stamps; photo ID submitted contained discrepancies; and the phone bill submitted was only addressed to the sponsor. The Officer's Decision, considering the totality of the evidence submitted in support of the application was reasonable.

B. *Has there been a breach of the duty of procedural fairness owed to the Applicant?*

[23] The Applicant argues that the Officer ought to have conducted an interview of the Applicant and his spouse if there were concerns about the *bona fide* of the relationship. In addition, the Applicant argues that he was not sent a PFL and given an opportunity to address the Officer's concerns.

[24] The Respondent argues that the Applicant has failed to demonstrate that there was a breach of procedural fairness in this case. The Respondent argued that there is no general obligation for an officer to conduct an interview. Second, the Respondent argued that a review of the complete application and its history illustrates that the Applicant was made aware of the Respondent's concerns and given an opportunity to respond.

C. *Interview*

[25] Immigration officers do not have a general duty to provide interviews, seek clarification and additional information where the information presented in an application is insufficient (*Huang v Canada (Citizenship and Immigration)*, 2020 FC 241 at para 28, citing *Mbala v Canada (Minister of Citizenship and Immigration)*, 2006 FC 1057 at para 22).

[26] The Applicant failed to provide evidence to satisfy the *prima facie* element of his application, that he is in a *bona fide* marriage relationship. The Officer found that the evidence in support of the Applicant's spousal sponsorship application did not demonstrate that the couple were cohabitating or were interdependent. The Officer's assessment of the evidence was not a

veiled credibility finding that would trigger an interview, rather this was an assessment of the sufficiency of the evidence provided in support of the application.

[27] An officer's finding that the evidence is not sufficient to support an application is distinguishable from an officer's finding concerning the credibility of evidence in support of the claim (*Lv v Canada (Citizenship and Immigration)*, 2018 FC 935 at paras 40–41).

[28] The Applicant argues that the Officer ought to have conducted an interview because of the high stakes involved. The Applicant argues that the decision impacts his spouse and children, and he is now subject to removal.

[29] With respect, for the reasons set out above, I do not agree. Indeed, in the Applicant's Reply Memorandum he notes, "... an Officer is under no obligation to provide a procedural fairness letter and or an interview ...".

D. *Procedural Fairness Letter*

[30] The record for this application indicates that on July 30, 2024, the Officer sent the Applicant a letter requesting further evidence to support his claim. The letter set out an extensive list of recommended documentation that would support the Applicant's claim and highlighted several specific documents that the Applicant was to include to support his claim. Further, the letter indicates that the consequences for failure to supply the requested information or for the provision of misinformation may be denial of his claim.

[31] The central question for this Court in this application is, was the procedure fair, having regard to all the circumstances and the non-exhaustive list of factors enumerated by the Supreme Court in *Baker v Canada (Minister of Citizenship and Immigration)*, 1999 CanLII 699 SCC at paras 21–28. The Supreme Court underscores the importance of participatory rights; to ensure that administrative decisions are made applying a fair and open procedure that is appropriate for the nature of the decision, its statutory and social context and that the individuals impacted by a decision are afforded an opportunity to present their case fully and fairly.

[32] As noted above, the record illustrates that on July 30, 2024, the Officer sent a letter to the Applicant requesting additional information to support his application and on August 27, 2024, the Applicant responded to the request.

[33] I agree with the Respondent that, considered holistically, the facts of this case demonstrate that the Applicant was made aware of the case he had to meet and was provided an opportunity to respond.

V. Conclusion

[34] The Applicant has not persuaded me that the Officer made a reviewable error that would warrant this Court's intervention. The Decision is reasonable.

[35] The Applicant has not demonstrated that there has been a breach of procedural fairness. A holistic review of the application illustrates that the Applicant was provided notice of the Officer's concerns and afforded an opportunity to provide supplementary evidence to support his

claim. However, the Applicant failed to demonstrate with clear evidence that he was in a *bona fide* relationship.

[36] The parties did not advance questions for certification and I agree that there are none.

JUDGMENT in IMM-17963-24

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is dismissed.
2. No question is certified.

"Julie Blackhawk"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-17963-24

STYLE OF CAUSE: MD SERAJUL ISLAM v THE MINISTER OF
CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: HELD BY VIDEOCONFERENCE

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JUDGMENT AND REASONS: BLACKHAWK J.

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