Federal Court  Cour fédérale

Date: 20250926

Docket: IMM-19011-24

Citation: 2025 FC 1591

Toronto, Ontario, September 26, 2025

PRESENT: Madam Justice Whyte Nowak

BETWEEN:

LUOWEN HU

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

I. Overview

[1] The Applicant is a Chinese citizen who failed to land after his application for permanent residence was finalized. The Applicant sought an extension of time, which was denied [Extension Decision] by an officer [Officer] of Immigration, Refugees and Citizenship Canada [IRCC]. Over a year later, the Applicant requested that IRCC reactivate his visa. In a decision

dated August 29, 2024 [Decision], the Officer refused to re-open the Applicant's application. The Applicant now seeks judicial review of this Decision.

[2] For the reasons that follow, I find that the Applicant's submissions amount to a challenge to the reasonableness of the Extension Decision which the Applicant chose not to judicially review. These arguments do not undermine the reasonableness of the Decision which is properly the subject of this application for judicial review. Accordingly, this application is dismissed.

II. Facts

A. *The Applicant's request for an extension*

[3] The Applicant's application for permanent residence under the Quebec Selected Investor category was finalized on July 25, 2022. His Confirmation of Permanent Residence [CoPR] and visa were valid until June 22, 2023. On June 14, 2023, the Applicant's counsel wrote to the IRCC requesting an extension. The Applicant provided evidence to the IRCC that he was unable to land in Canada due to unexpected events that included a COVID-19 lockdown and serious health issues that he suffered from after he and his whole family were infected with COVID-19 which prevented his travel on doctor's orders.

[4] By Extension Decision dated June 28, 2023, the Officer refused the Applicant's request. The Officer considered that the Applicant had been provided with sufficient time to make appropriate arrangements to land in Canada. According to the Officer, "[a]ll visas must be used

for landing within their validities and extensions will not be granted." The Extension Decision advised that the Applicant could submit a new application and pay new processing fees.

[5] The Applicant never sought leave to judicially review the Extension Decision; rather, on June 30, 2023, the Applicant's representative requested a refund of the Applicant's Right to Permanent Residence Fee.

B. *The Applicant's request to re-open his visa*

[6] Over a full year later, by letter dated August 12, 2024, the Applicant's new representative requested that the Applicant's immigration visa be "reactivated" in order for the Applicant to complete his landing in Canada. The Applicant's representative reconveyed the Applicant's desire for him and his family to start a new life in Canada and reiterated that their failure to land was caused by "unexpected accidents" related to COVID-19 and the Applicant's hospitalization. The Applicant's representative submitted supporting documents that included the Applicant's inpatient hospital records from June 2023.

[7] By Decision dated August 29, 2024, the Officer denied the Applicant's request to re-open the Applicant's application. The relevant portion of the Global Case Management System notes that accompanied the Decision state:

> This refers to your recent email which was fully reviewed.
>
> As mentioned in our email dated 29 June 2023, your request for reopening your application is denied. This fully concludes your application.
>
> Should you wish to apply for permanent residence, you would need to submit a new application, fees and all other required

> documents and meet the requirements of the Act at the time of submission of a new application.

III. Issues and Standard of Review

[8] The first issue raised by the Applicant is whether the Officer erred in failing to acknowledge the discretion an officer has to extend or re-issue a visa (citing *Kheiri v Canada (Minister of Citizenship and Immigration),* 2000 FC 1383 at para 8). The Respondent argues that this argument has a collateral purpose of seeking a reconsideration of the Extension Decision, which the Applicant chose not to judicially review. Instead, the Respondent submits that the only issue that can be properly raised on this application is whether the Officer erred in deciding not to reconsider the Extension Decision. I agree.

[9] This issue is reviewable on a standard of reasonableness which looks to ensure that the decision is justified in light of the relevant legal and factual constraints (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at para 99 [*Vavilov*]).

[10] The burden rests with an applicant to satisfy the Court that any shortcomings or flaws in the decision under review are sufficiently central or significant to render the decision unreasonable (*Vavilov* at para 100).

IV. Analysis

[11] Immigration officers are entitled to reconsider their decisions based on new evidence or further submissions (*Canada (Citizenship and Immigration) v Kurukkal*, 2010 FCA 230 at paras 3-4).

[12] The exercise of reconsideration involves two steps: first, officers must decide whether they will entertain the request; and if the officer is willing to do so, the second step involves the actual reconsideration taking into account the information on file and any information provided in support of the reconsideration request (*AB v Canada (Citizenship and Immigration)*, 2021 FC 1206 at para 21 [*AB*]).

[13] I agree with the Respondent that the Decision reflects the Officer's determination not to entertain a reconsideration of the Extension Decision. While the Officer's reasons offer no explanation, this is not fatal to the reasonableness of the Decision in circumstances where the Applicant failed to meet his onus of demonstrating that reconsideration was in the interests of justice or that there were unusual circumstances warranting reconsideration (*AB* at para 22). Rather, the Applicant provided evidence and submissions that simply repeated those he had already given when he sought an extension of his CoPR and visa. The Applicant neither highlighted any error in the Extension Decision nor provided an explanation for having waited over one year to seek reconsideration of the Extension Decision. I agree with the Respondent that in these circumstances, it was reasonable for the Officer to decline to "open the door" to reconsideration (*AB* at para 21).

[14] As the consideration of evidence only occurs if an officer is willing to entertain reconsideration (which I have found did not occur in this case), there is no merit in the Applicant's second issue based on an alleged failure on the part of the Officer to consider relevant evidence.

V. Conclusion

[15] The Officer's Decision not to reconsider the Extension Decision is reasonable considering the factual and legal matrices that constrained the Officer. Accordingly, this application is dismissed.

JUDGMENT in IMM-19011-24

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is dismissed; and

2. There is no question for certification.

"Allyson Whyte Nowak"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

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