Federal Court Cour fédérale

Date: 20251007

Docket: IMM-9389-24

Citation: 2025 FC 1654

Ottawa, Ontario, October 7, 2025

PRESENT: The Honourable Madam Justice McVeigh

BETWEEN:

SURJIT SINGH SANDHU

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

[1] This is an application for judicial review requesting an order of *mandamus* directing Immigration, Refugees and Citizenship Canada [IRCC] to render a decision with respect to an outstanding application for a permanent residence visa.

I. Facts

[2] The Applicant, Surjit Singh Sandhu, and his wife, Ranbir Kaur, [collectively, the Applicants] are citizens of India. Their son, Hari Singh Sandhu, [the Sponsor] has been a permanent resident in Canada since 2019. In October 2021, he sponsored the Applicants under the Parent and Grandparent Sponsorship stream.

[3] In April 2022 and November 2022, the Sponsor was found ineligible because he did not meet the minimum necessary income requirement. On April 15, 2023, IRCC noted issuing a request for additional documents from the Sponsor. The Sponsor denies ever receiving the April 15 letter.

[4] In September 2023, IRCC found the Sponsor ineligible based on its determination that the Sponsor failed to respond to the April 15 request. The Applicant appealed IRCC's decision to the Immigration Appeal Division [IAD] of the Immigration Review Board. On October 11, 2023, the IAD set aside the decision and ordered IRCC to reopen the application.

[5] On November 9, 2023, the Sponsor requested urgent processing of the reopened application. In December 2023, the Sponsor visited the Canadian Border Services Agency [CBSA] office in Winnipeg to request information about the application. He was advised to make an appointment with IRCC. Additionally, he corresponded with IRCC directly and requested the assistance of his Member of Parliament in several attempts to expedite the processing of the application between November 2023 and May 2024.

[6] The Applicant brought a *mandamus* application on May 30, 2024. By order of the Court, this application was put in abeyance and if no decision was made by November 1, 2024, then the application for *mandamus* would resume.

[7] On June 6, 2024, IRCC reopened the application and sent the Applicant a procedural fairness letter requesting additional documents. The Applicant responded to the procedural fairness letter on July 12, 2024, and provided the requested documents on October 30, 2024. On July 23, 2024, IRCC confirmed the Sponsor's eligibility and requested additional documents from the Applicant. The Applicant provided the requested documents on August 19, 2024.

[8] No decision was made by November 1, 2024. As per the Court's Order, this application for judicial review resumed.

[9] On February 3, 2025, IRCC referred the reopened application to CBSA for security screening. As of July 30, 2025, CBSA's Centre for Immigration National Security Screening [CINSS] continued to conduct the security screening.

II. Issue

[10] The issue in this case is whether the Applicant meets the requirements for *mandamus*.

III. Analysis

A. *Mandamus*

[11] *Mandamus* is an extraordinary remedy which may only be granted where each of the criteria in the test is met.

(1) Legal test for *mandamus*

[12] There is no disagreement that the test for *mandamus* is comprised of the following criteria:

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 the performance of that duty, in particular:

    a. The Applicant must satisfy all conditions precedent giving rise to the duty;

    b. There was:

        (i) A prior demand for performance of the duty;

        (ii) A reasonable time to comply with the demand unless refused outright; and

        (iii) A subsequent refusal which can be either express or implied (e.g., through an unreasonable delay);

4. No other remedy is available to the Applicant;

5. The Court in the exercise of its discretion finds no equitable bar to the relief sought; and

6. On a balance of convenience, an order in the nature of *mandamus* should issue.

(*Apotex Inc v Canada (Attorney General)*, 1993 CanLII 3004, [1994] 1 FC 742 (FCA) at 766–769.)

[13] The issue in this case is pinpointed to the branch of the test respecting whether there has been a reasonable time to comply. The Applicant and Respondent addressed the other aspects of the test, but the crux of the matter is whether the time to begin assessing delay starts when the IAD reopened this case in October 2023, or when the sponsorship application was initially filed in October 2021.

[14] IRCC's estimated processing time for applicants in the parents and grandparents stream of the Family Sponsorship program is currently 26 months. The Applicant indicated that, at the time of the hearing, it had been 47 months since the application was initially filed, which is far longer than a reasonable delay.

[15] In contrast, the Respondent argues that the Court should only consider the period after the IAD's decision when determining whether there is unreasonable delay. The Respondent's position is that since the reset date of October 2023, only 23 months have elapsed. That is not even as long as the posted time, so it is a reasonable period of time and does not constitute an unreasonable delay.

[16] The Respondent's reasoning is in line with this Court's decision in *Tameh v Canada (Public Safety and Emergency Preparedness)*, 2017 FC 288 [*Tameh*], a case in which the Court initially set aside a decision by IRCC based on an inadmissibility finding. In a subsequent

application for *mandamus*, the court considered only the period beginning after its judicial review decision in assessing the reasonableness of a processing delay (*Tameh* at paras 3, 36, 57).

[17] The Sponsor has acknowledged that initially he did not qualify because of the income test, so some portion of the delay is attributable to him. But now that the delay has been 47 months, the entirety of it cannot be attributed to his initial ineligibility. He argued that IRCC reopened the case within a month of his appeal, at which point he did everything possible to get the matter determined.

[18] The Applicant argued that if I were to agree with the reset date of October 2023, then the clock being reset by errors made by IRCC would allow them to arbitrarily refuse all applications for the sake of extending their time available to make a decision.

[19] I find that there has not been an unreasonable delay on these facts. This is in line with this Court's decision in *Tameh*. I do not accept that IRCC would arbitrarily use the reset button to stymy all *mandamus* applications.

[20] The Applicant argues that *Tameh* is distinguishable because the judicial review decision in that case is related to an inadmissibility finding. However, that ignores the administrative law principles at play. Following the IAD's decision, the Applicant was allowed to make fresh submissions on the reopened application. The original application and the reopened application constitute distinct and separate administrative processes. They must be treated as such in the

context of this request for *mandamus* (see also *Haj Khalil v Canada (FC)*, 2007 FC 923 at paras 72–73, aff'd 2009 FCA 66).

[21] The Applicant asks this Court to treat the reopened application as though it had been in processing since 2021. He also invites this court to consider the information before IRCC when the first application was refused. These arguments are irreconcilable with the finality of administrative decisions and the parameters of reasonableness review.

[22] An administrative decision is final when it conclusively determines the question between the parties, when it is subject to variation only on successful appeal, and/or the decision maker has no further jurisdiction to rehear the question, vary, or rescind its finding (*Apotex Inc. v Canada (Attorney General) (T.D.)*, 1996 CanLII 11747 at paras 42–46; *Grandview v Doering*, 1975 CanLII 16 (SCC), [1976] 2 SCR 621 at 636).

[23] The IAD's decision in October 2023 was final. Issues arising from IRCC's handling of the permanent residence application up to that point should have been discussed before the IAD. The Applicant may not raise such issues now, since this would constitute a collateral attack (*R v Wilson*, 1983 CanLII 35 (SCC), [1983] 2 SCR 594 at 599).

[24] IRCC's current estimated processing time for this class of applicants is 26 months. At the time of the hearing, fewer than 24 months had passed since the IAD's decision. This is not an unreasonable period for processing a permanent residence application. Granting *mandamus* in this case would inappropriately circumvent IRCC's statutory obligation of carrying out thorough

security screening and undermine the basic rule of applications being processed in the order of their completed filing (*Mazarei v Canada (Citizenship and Immigration)*, 2014 FC 322 at paras 31–32).

[25] Since the IAD's decision, IRCC has taken steps to process the reopened application. The Respondent acknowledges that it has been a somewhat slow process. However, the Applicant provided new documents to IRCC less than one year ago, on October 30, 2024. The time that IRCC has spent processing the application with all the necessary information in its possession has not been unreasonably long.

[26] IRCC cannot determine whether the Applicant is inadmissible before CNISS provides a recommendation based on its findings in the security screening process. The screening by CNISS has only been ongoing since February 2025, which is not an inordinate delay. The Applicant argued that his case is simply not complicated, but the Respondent filed evidence that the pending security screening with CNISS indicates, "a complex application."

[27] As the Applicant acknowledges, IRCC statements about estimated processing times on its website do not provide the basis of an entitlement to *mandamus* relief. Such guidelines may be afforded some weight in assessing delay, but do not constitute representations that are binding on the Respondent (*Jia v Canada (Citizenship and Immigration)*, 2014 FC 596 at para 92).

[28] Although IRCC may strive to process applications within target timeframes, expecting all applications to fall within the estimations would ignore the complexity of Canada's immigration

system. In this case, the reopened application has been determined by IRCC to be complex or non-routine, but the difference between the posted processing time and the actual time spent processing since the IAD's decision is less than the posted time. Further, the Minister has a statutory duty to ensure the integrity of the immigration system, including by investigating potential inadmissibility risks before granting permanent residence (IRPA, ss 11(1), 21(1)).

[29] At the same time, I wish to acknowledge the Sponsor's pleas and medical evidence regarding how this long period of separation has affected him. His parents have applied for visitor visas and have been refused as their intention is to make Canada their home. The Sponsor has presented that he cannot go to India to visit as he needs to maintain his income for the income test.

[30] The separation of this family has been endured for a long time, but the statutory obligation and the actual effect of security screening is of great importance. The balance lies with the Respondent, but with acknowledgment of the Applicants' and the Sponsor's plight being in limbo for this long.

[31] The Applicant sought costs under rule 22 of the *Federal Courts Citizenship, Immigration and Refugee Protection Rules*, SOR/93-22. The Applicant was not successful, so no costs are ordered.

JUDGMENT in IMM-9389-247

THIS COURT'S JUDGMENT is that:

1. The application is dismissed.

2. No question is certified.

3. No costs are awarded.

"Glennys L. McVeigh"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	IMM-9389-24
STYLE OF CAUSE:	SURJIT SINGH SANDHU v THE MINISTER OF CITIZENSHIP AND IMMIGRATION
PLACE OF HEARING:	WINNIPEG, MANITOBA
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