

Federal Court



Cour fédérale

Date: 20250912

Docket: IMM-17686-24

Citation: 2025 FC 1519

Ottawa, Ontario, September 12, 2025

PRESENT: The Honourable Mr. Justice Lafrenière

BETWEEN:

CHERRY ROSE MACARAEG

Applicant

and

**THE MINISTER OF CITIZENSHIP
AND IMMIGRATION**

Respondent

JUDGMENT AND REASONS

[1] The Applicant, Cherry Rose Macaraeg, a Canadian permanent resident, seeks judicial review of a decision dated September 11, 2024 by an Officer with Immigration, Refugees and Citizenship Canada [IRCC] refusing to reconsider the rejection of her application to sponsor her parents, both citizens and residents of the Philippines [Reconsideration Decision].

[2] At the hearing, I advised counsel for the parties that I would be granting the application. Here are my brief reasons.

[3] On October 17, 2023, the Applicant received an Invitation to Sponsor from IRCC under the Parent and Grandparent Sponsorship Program.

[4] The Applicant submitted her sponsorship application in November of 2023.

[5] On June 10, 2024, IRCC sent a letter by email regarding additional information required to complete the sponsorship application [Request Letter].

[6] On July 18, 2024, the Applicant received a letter from IRCC informing her that her sponsorship application would not proceed further as the application was incomplete and therefore did not meet the requirements for processing [Rejection Letter].

[7] On July 19, 2024, the Applicant submitted a reconsideration request to IRCC, along with the corrected forms, explaining that she had been checking her mailbox and email “religiously” since she submitted the sponsorship application and that she had never received any mail to update or correct her application.

[8] On September 11, 2024, the Applicant received the Reconsideration Decision, the operative parts of which read as follows:

“We have received your request for reconsideration and after careful review, we have determined that your application is

incomplete and does not meet the requirements for processing. Therefore, your request cannot be accepted.

Consequently, your application will not be processed or be put in queue for processing under the PGP 2023...”

[9] The Applicant submits that the Officer’s refusal to reconsider is unreasonable and inconsistent with the evidence provided. She argues that the Officer failed to consider her explanation and did not acknowledge that the communication failure was beyond her control, neglecting the principles of procedural fairness. I agree.

[10] The jurisprudence confirms that immigration officers have the jurisdiction to reconsider their decisions on the basis of new evidence or further submissions (*Canada (Citizenship and Immigration) v Kurukkal*, 2010 FCA 230 at para 5; *Hussein v Canada (Citizenship and Immigration)*, 2018 FC 44 at paras 52-53 [*Hussein*]). The process consists of two steps: first, the officer must decide whether to “open the door to a reconsideration”; if the officer decides to re-open the case, the second stage involves an actual reconsideration of the decision on its merits (*Hussein* at para 55; *Gill v Canada (Citizenship and Immigration)*, 2018 FC 1202 at para 12).

[11] In the present case, it appears that the Officer was satisfied that there were some circumstances presented by the Applicant that may warrant reconsideration of the Rejection Letter. Otherwise, why would the Officer preface the Reconsideration Decision with the words “after careful review”? However, in circular reasoning, the Officer simply repeats facts that were already known in rejecting the reconsideration request. The Officer does not engage at all with the explanation provided by the Applicant.

[12] The Reconsideration Decision is not justified as there is no sufficient reason for it and must accordingly be set aside.

[13] As a footnote, I wish to add that the law has long held that once it is established that a communication was correctly sent by a visa officer to an address that has been provided by an applicant, the risk of non-delivery of correspondence between the respondent and the applicant seeking immigration status in Canada lies with the person applying: *Chandrakantbhai Patel v Canada (Citizenship and Immigration)*, 2015 FC 900 at paras 18-42; and see *Cruz v Canada (Citizenship and Immigration)*, 2016 FC 1114. However, this is a rebuttal presumption.

[14] The affidavit of a paralegal employed by the Department of Justice filed in response to the present application establishes that the Request Letter was sent to the email provided by the Applicant on June 10, 2024. There is no dispute that there was no response from the Applicant within the 30-day deadline set out in the Request Letter. The Officer was accordingly justified in rejecting the application once the deadline had passed, based on the information at hand. However, that is not the end the matter.

[15] The evidence of the paralegal, which is largely hearsay, must be weighed against the affidavit of the Applicant. At paragraph 5 of her affidavit, the Applicant declares under oath that “(she) did not receive (the Request Letter) from IRCC and was therefore unaware of any such request until after the deadline had passed” and at paragraph 6, that “(she) did not receive any correspondence from IRCC on (June 10, 2024).”

[16] The Respondent did not cross-examine the Applicant, nor did the Respondent file an affidavit from the Officer who sent the email communication to confirm that it was sent and that there was no indication that the communication may have failed or bounced-back.

[17] As it is, in a similar case, *Maredia v Canada (Citizenship and Immigration)*, 2025 FC 1053 at paras 25-28, the Court has uncontested evidence that the email and attached letter were not received by the Applicant.

[18] The Officer assigned to reconsider the Reconsideration Decision should bear the above facts in mind.

JUDGMENT IN IMM-17686-24

THIS COURT’S JUDGMENT is that:

1. The application is allowed.
2. The Reconsideration Decision is set aside and the Applicant’s request is remitted back for reconsideration on its merits by a different officer.
3. No question is certified.

“Roger R. Lafrenière”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-17686-24

STYLE OF CAUSE: CHERRY ROSE MACARAEG v THE MINISTER OF
CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: TORONTO, ONTARIO

DATE OF HEARING: SEPTEMBER 11, 2025

JUDGMENT AND REASONS: LAFRENIÈRE J.

DATED: SEPTEMBER 12, 2025

APPEARANCES:

James Feliks Morrison	FOR THE APPLICANT
Nichole John	FOR THE RESPONDENT

SOLICITORS OF RECORD:

Zarei Law Professional Corporation Barristers and Solicitors Toronto, Ontario	FOR THE APPLICANT
Attorney General of Canada Toronto, Ontario	FOR THE RESPONDENT