

Federal Court



Cour fédérale

Date: 20251030

Docket: IMM-14805-24

Citation: 2025 FC 1753

Toronto, Ontario, October 30, 2025

PRESENT: The Honourable Mr. Justice A. Grant

BETWEEN:

**ROKROFI LAH
SOVANNA LAH**

Applicants

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

I. OVERVIEW

[1] This is a judicial review of a decision by Immigration, Refugees and Citizenship Canada [IRCC] to reject Sovanna Lah’s application for permanent residence [PR] on the grounds that she is inadmissible to Canada due to misrepresentation. More specifically, an IRCC officer found

that the Applicant's brother, Mr. Rokrofi Lah [Mr. Lah], concealed the existence of his daughter in his efforts to sponsor the Applicant.

[2] For the reasons that follow, I believe that this application should be dismissed.

II. BACKGROUND

A. *Facts*

[3] Mr. Lah came to Canada from Cambodia via spousal sponsorship by his now ex-wife in 2018. He became a Canadian citizen on April 18, 2023.

[4] Mr. Lah has a daughter from a previous relationship who lives in Cambodia under the sole custody of her mother. Mr. Lah originally included his daughter as a dependent when he applied for PR in Canada, but he was ultimately unable to bring her to Canada because her mother did not permit her to complete the mandatory medical examination.

[5] On November 1, 2023, Mr. Lah applied to sponsor Ms. Lah to become a permanent resident in Canada under paragraph 117(1)(h) of the IRPR, which is sometimes referred to as the "lonely Canadian" sponsorship stream. It permits Canadian citizens or permanent residents to sponsor certain relatives who would not otherwise be eligible for sponsorship **if** the sponsor has no other ordinarily sponsorable relatives under the family class living abroad or in Canada. The existence of Mr. Lah's daughter would have rendered Ms. Lah ineligible for sponsorship under this stream. In his sponsorship materials, Mr. Lah stated that he has no children.

[6] On March 26, 2024, Ms. Lah received a procedural fairness letter from IRCC explaining that, because Mr. Lah had not claimed his daughter on the application, both she and Mr. Lah had engaged in misrepresentation in their application. The letter also expressed the concern that because Mr. Lah has a daughter, Ms. Lah was not eligible for sponsorship under IRPR paragraph 117(1)(h).

[7] Mr. Lah responded to the procedural fairness letter by explaining that omitting his daughter was an innocent misunderstanding. Mr. Lah explained that prior to his own application for permanent residence, a Cambodian court had granted full custody over his daughter to his ex-wife, and that his ex-wife would not allow their daughter to be examined for the purposes of applying for permanent residence in Canada. He further explained that his representative at the time advised him that if his daughter was not medically examined, she could not be included as a family member for a future application. Mr. Lah explained that, from what he understood, his daughter was no longer his daughter according to the court in Cambodia, and according to IRCC. Mr. Lah also noted that he had reported his daughter to IRCC when he completed his own PR application, which showed that he never intended to mislead IRCC by not mentioning her on the sponsorship application.

B. *Decision under review*

[8] On May 13, 2024, Ms. Lah's PR application was rejected on the grounds of misrepresentation. The reviewing officer found that Mr. Lah had deliberately attempted to mislead IRCC by making it appear that he was eligible to sponsor his sister when he was not. The consequence of this finding was not simply that Ms. Lah's application was rejected, but

pursuant to paragraph 40(2)(1) of the *Immigration and Refugee Protection Act* [IRPA], she would continue to be inadmissible for a period of five years from the date of the determination.

III. RELEVANT PROVISIONS

[9] Inadmissibility to Canada on the grounds of misrepresentation is governed by subsection 40(1) of the IRPA:

Misrepresentation

40 (1) A permanent resident or a foreign national is inadmissible for misrepresentation

(a) for directly or indirectly misrepresenting or withholding material facts relating to a relevant matter that induces or could induce an error in the administration of this Act;

...

Faussees déclarations

40 (1) Emportent interdiction de territoire pour fausses déclarations les faits suivants :

a) directement ou indirectement, faire une présentation erronée sur un fait important quant à un objet pertinent, ou une réticence sur ce fait, ce qui entraîne ou risque d'entraîner une erreur dans l'application de la présente loi;

...

[10] Paragraph 117(1)(h) of the IRPR states:

117 (1) A foreign national is a member of the family class if, with respect to a sponsor, the foreign national is

...

(h) a relative of the sponsor, regardless of age, if the sponsor does not have a spouse, a common-law partner, a conjugal partner, a child, a mother or father, a relative who is a child of that mother or father, a relative who is a child of a child of that mother or father, a mother or father of that mother or father or a relative who is a child of the mother or father of that

117 (1) Appartiennent à la catégorie du regroupement familial du fait de la relation qu'ils ont avec le répondant les étrangers suivants :

...

h) tout autre membre de sa parenté, sans égard à son âge, à défaut d'époux, de conjoint de fait, de partenaire conjugal, d'enfant, de parents, de membre de sa famille qui est l'enfant de l'un ou l'autre de ses parents, de membre de sa famille qui est l'enfant d'un enfant de l'un ou l'autre de ses parents, de parents de l'un ou l'autre de ses parents ou de membre de sa famille qui est l'enfant de l'un ou l'autre des parents de l'un ou l'autre de

mother or father

(i) who is a Canadian citizen, Indian or permanent resident, or

(ii) whose application to enter and remain in Canada as a permanent resident the sponsor may otherwise sponsor.

ses parents, qui est :

(i) soit un citoyen canadien, un Indien ou un résident permanent,

(ii) soit une personne susceptible de voir sa demande d'entrée et de séjour au Canada à titre de résident permanent par ailleurs parrainée par le répondant.

[11] IRPR paragraph 117(9)(d) excludes unexamined, non-accompanying relatives from the family class:

(9) A foreign national shall not be considered a member of the family class by virtue of their relationship to a sponsor if

...

(d) subject to subsection (10), the sponsor previously made an application for permanent residence and became a permanent resident and, at the time of that application, the foreign national was a non-accompanying family member of the sponsor and was not examined.

(9) Ne sont pas considérées comme appartenant à la catégorie du regroupement familial du fait de leur relation avec le répondant les personnes suivantes :

...

d) sous réserve du paragraphe (10), dans le cas où le répondant est devenu résident permanent à la suite d'une demande à cet effet, l'étranger qui, à l'époque où cette demande a été faite, était un membre de la famille du répondant n'accompagnant pas ce dernier et n'a pas fait l'objet d'un contrôle.

IV. ISSUES and STANDARD OF REVIEW

[12] The sole issue on this application is whether IRCC's determination was reasonable.

[13] The parties do not dispute that the standard of review on the substance of the officer's decision is reasonableness: *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at para 23 [Vavilov]. In conducting a reasonableness review, a court "must consider the

outcome of the administrative decision in light of its underlying rationale in order to ensure that the decision as a whole is transparent, intelligible and justified” (*Vavilov* at para 15). It is a deferential standard, but remains a robust form of review and is not a “rubber-stamping” process or a means of sheltering administrative decision-makers from accountability (*Vavilov* at para 13).

V. ANALYSIS

[14] For the reasons that follow, I find that it was reasonable for the officer to conclude that the Applicant was inadmissible to Canada for misrepresentation because of the statements made by her brother in her sponsorship application.

[15] At the outset, I wish to make it clear that I do have some sympathy for the positions of the Applicant and Mr. Lah. As a practical reality, it appears that the Applicant is the only relative that Mr. Lah could sponsor for permanent residence in Canada. He has no other relatives, except his daughter, for whom he has no custodial rights. In this sense, Mr. Lah’s response to the procedural fairness letter was understandable. As I mentioned at the hearing into this matter, the definition of who is, and who is not, a family member varies widely, depending on the context.

[16] This is certainly true under Canadian immigration law, which defines family members in various ways, depending on the context. In light of these legal and regulatory definitions that don’t always correspond with peoples’ felt or lived experience, it is not implausible that Mr. Lah understood that his daughter was not his daughter for reporting purposes to IRCC. That does not, however, mean that Mr. Lah and the Applicant met the duty of candour in their application, or that the officer’s decision was unreasonable.

[17] Mr. Lah could have mentioned his daughter in his forms and explained why he could not sponsor her and why, therefore, he should be able to sponsor his sister.

[18] Mr. Lah did not do this. This was not simply an omission, or a failure to be clear about his legal relationship with his daughter. On one of his forms, he wrote, “I have no children.” On the document listing his siblings and children, under his own name, he wrote, “None.” His representative at the time also confirmed in their submissions that he had no children. There was no ambiguity in his statements. His application included multiple explicit claims that he had no children, which is simply not true.

[19] I understand the Applicant’s arguments on judicial review to be essentially twofold. First, she argues that, to the extent that there was a misrepresentation, it was immaterial because Mr. Lah could not sponsor his daughter. To this extent, then, the Applicant argues that the existence of Mr. Lah’s daughter is immaterial to her sponsorship application because the restrictions set out at paragraph 117(1)(h) of the IRPR do not apply to relatives that the sponsor could not otherwise sponsor. Second, the Applicant argues that the officer did not reasonably consider the “innocent mistake” exception to the application of the misrepresentation provision under the IRPA. I will briefly consider each of these arguments.

A. *Materiality*

[20] I do not accept that Mr. Lah’s affirmative statement that he had no children was immaterial to the Applicant’s sponsorship application. It is true that, by the terms of s.117(9)(d) of the IRPR, it appears that Mr. Lah could not sponsor his daughter because she was not

examined in association with his own application for permanent residence. However, as the officer noted, there is a public policy that aims to alleviate the otherwise hard-edged effect of this provision, which the Applicant's daughter may very well have benefitted from: see the *Consecutive public policy to facilitate the immigration of certain sponsored foreign nationals excluded under paragraph 117(9)(d) or 125(1)(d) of the Immigration and Refugee Protection Regulations*. If, as appears to be the case, Mr. Lah's daughter was eligible to be sponsored under this Policy, then it is clear that he could not also have sponsored the Applicant.

[21] More fundamentally, however, I agree with the Respondent, that Mr. Lah's misrepresentation foreclosed an entire line of inquiry into the sponsorship application that may very well have been material to its outcome. In this sense, the misrepresentation may have induced an error in the administration of the IRPA and, as such, it was reasonable to conclude that the Applicant was inadmissible pursuant to s.40 of the Act.

[22] Of course, if Mr. Lah's daughter would ultimately not be eligible for sponsorship under the Regulations or the public policy, the Applicant could potentially have been included under s.117(1)(h) of the Regulations. The point, however, is that this was a determination for IRCC, and not the Applicant, to make, and it was impeded from doing so by Mr. Lah's misstatements. This is made particularly clear by the broad scope, and conditional tense used in s.40: "directly or indirectly misrepresenting" facts that "induces or could induce" an error in the administration of the Act.

[23] It follows that I reject the Applicant's arguments with respect to the materiality of Mr. Lah's misrepresentation.

B. *Innocent Mistake*

[24] I have also concluded that the officer reasonably considered whether Mr. Lah's misstatements were simply an innocent error. In oral submissions, the Applicant suggested that the officer did not consider this possibility. However, this is clearly not the case. The officer stated, in part, as follows:

The rep implies that he did not declare the child because she had not been examined on the sponsor's own past application, leading to a misinterpretation of whether or not she ought to be declared on this one. The rep states: "It seems improbable that Mr. Lah would then attempt to intentionally conceal [his child] on a future application". I have considered this reasoning and find that, in my view, it is not a reliable explanation. The submitted letter referenced above states outright that "I have no children." The message conveyed is that the sponsor has no children, full stop. There seems to be little ambiguity in the statement, and I note that it is reinforced elsewhere in their submissions. Moreover, there was a motivation to not declare the child since the existence of the child could render this applicant ineligible. I find this to be a more likely explanation than that the sponsor made an honest error. I have reviewed all of the rep's statements and reasoning on this point, but find that they do not persuade me that this was an inadvertent misrepresentation.

[25] As can be seen from the above, the deciding officer explicitly considered Mr. Lah's explanation that he had made an innocent mistake but concluded that it was more likely that Mr. Lah omitted his daughter from the application to avoid any possible ineligibility of the Applicant. Considering the evidence before the officer, particularly Mr. Lah's multiple explicit denials that he had children and the fact that this made him appear eligible to sponsor his sister, this was a reasonable conclusion.

[26] On judicial review, the role of the court is to hold administrative decision-makers accountable by safeguarding the legality, rationality, and fairness of administrative processes; the court is not to conduct a fresh analysis of the facts and draw its own conclusions (*Vavilov* at para 13).

[27] In this matter, it may well have been the case that Mr. Lah's misstatements were genuinely borne of his misunderstanding of his legal relationship with his daughter, and his corresponding reporting requirements to IRCC. This possibility, however, does not render the officer's decision unreasonable. On the contrary, I find the officer's conclusions to be amongst the range of possible outcomes. The reasons provided for that outcome were reasonably justified, transparent, and intelligible and, in these circumstances, I am obliged to defer to the officer's determination.

VI. CONCLUSION

[28] This application for judicial review is dismissed. The parties did not propose a question for certification and I agree that none arises.

JUDGMENT in IMM-14805-24

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is dismissed.
2. There is no question for certification.

"Angus G. Grant"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-14805-24

STYLE OF CAUSE: ROKROFI LAH AND SOVANNA LAH v THE
MINISTER OF CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: HELD BY WAY OF VIDEOCONFERENCE

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