

Federal Court



Cour fédérale

Date: 20251030

Docket: IMM-507-25

Citation: 2025 FC 1754

Toronto, Ontario, October 30, 2025

PRESENT: The Honourable Mr. Justice A. Grant

BETWEEN:

ANAR GULA AHMADZAI

Applicant

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 refuse Anar Gula Ahmadzai's application for permanent residence [PR].

[2] Mrs. Ahmadzai's application was sponsored by her son, Mohammed Ibrahim Ahmadzai [the Sponsor], a former NATO interpreter in Afghanistan.

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

II. BACKGROUND

A. *Relevant Government Policies on the Resettlement of Eligible Afghan Nationals and Their Families*

[4] Canada has had several special public policies that permitted Afghan nationals who assisted the Canadian government in Afghanistan to immigrate to Canada along with their families. Two of these policies are relevant to the matter at hand:

“P24 Policy”: Temporary public policy for the resettlement of Afghan nationals with a significant and/or enduring relationship to Canada

“P28 Policy”: Updated Temporary Public Policy for the Issuance of Permanent Resident Visas for Families of Afghan Nationals Who Came to Canada Under Previous Public Policies

[5] The P24 Policy permitted eligible Afghan nationals to apply for PR in Canada as members of the Convention Refugee Abroad Class, along with their immediate families and *de facto* dependents, in light of the collapse of the Government of Afghanistan in 2021.

[6] The P28 Policy permitted eligible Afghan nationals who landed in Canada in 2009 or 2012 to sponsor their relatives, including *de facto* dependents, to come to Canada.

B. *Facts*

[7] On August 9, 2021, the Sponsor was invited by email to apply for PR in Canada under the P24 Policy.

[8] The email stated, “You are receiving this message because you, your immediate family members, and your *de-facto* family members may be eligible.” It also included the following instructions for how to apply for family members who may qualify as *de facto* dependents:

If you believe you have de facto family members that qualify as dependants, please attach a letter describing how this individual is dependent upon you financially and/or emotionally (for example relatives who reside in your household); the length of time they have been dependent upon you; and why there are no suitable alternative arrangements to support this individual. For each de facto dependant please submit another IMM0008 as well as a Schedule A (for all individuals 18 years old or over) and an IMM5406 (for all individuals 18 years old or over). Please also include a scan of the passport or Tazkira for every person as well (if available).

Please send your completed application package to:
IRCC.INROCOPP-PIPCORORI.IRCC@cic.sc.ca ... Your application number will be sent to you by email once your application is created.

[9] In response to this email, the Sponsor applied, along with his spouse and children, for a PR visa on August 15, 2021. The Sponsor came to Canada with his spouse and children on March 17, 2022, and they became PRs on May 4, 2022.

[10] According to IRCC’s records, on July 13, 2022, the Sponsor sent what appears to be an informal request to IRCC to have his mother and brother added as his *de facto* dependents.

[11] Roughly a year after obtaining PR status, on May 23, 2023, the Sponsor replied directly to the initial August 2021 email from IRCC with the following message:

I am writing to request support with brining [sic] my brother and mother from Afghanistan.

I, Mohammad Ibrahim Ahmadzai...am currently in Canada and their lives are in grave danger because of their relation with tmme

[sic] and my brothers previous position with the former Afghan government

My brother s wife and his two children were killed by the Taliban and his live is [sic] grave danger.

Please let me know if there is a way I can bring my brother to Canada.

[12] On June 2, 2023, the Applicant received an auto-reply response stating:

Thank you for contacting the Resettlement Operations Centre in Ottawa. We are unable to address your request.

Please communicate directly with the Resettlement Assistance service provider organization responsible for your case.

Service provider organization information can be found here [hyperlink].

[13] On August 18, 2023, the Sponsor sent a PR application for Mrs. Ahmadzai and his brother to the aforementioned IRCC email address, following the instructions he had originally received on August 9, 2021, which were for the P24 Policy.

[14] On August 21, 2023, the Sponsor received the same auto-reply message from IRCC that he had received on June 2, 2023.

[15] The Sponsor assumed that, despite the auto-reply message, an IRCC officer would still review the application.

[16] On September 1, 2023, the Sponsor reached out to his MP's office with the assistance of staff at a community organization and a lawyer at a community legal clinic to inquire about the status of the PR application for his mother and brother. On September 7, 2023, a staff member at

the MP's office responded saying that IRCC did not have a record of the application in their system. On September 11, 2023, the MP's staff member provided a mailing address where the Sponsor could send the application. The MP's office also provided forms for the P28 Policy, which the Sponsor completed and submitted by mail along with the other application materials on September 29, 2023.

[17] On April 24, 2024, the Sponsor received a procedural fairness letter from IRCC. The letter explained that IRCC was concerned that Mrs. Ahmadzai was not eligible because she had applied under the P28 Policy, which only applied to relatives of translators who had come to Canada in 2009 or 2012. The procedural fairness letter also flagged that there was an error in Mrs. Ahmadzai's statutory declaration—she had indicated that the Sponsor had landed in Canada in 2009 or 2012, when in fact he arrived in 2022.

[18] The Sponsor responded to the procedural fairness letter on May 22, 2024. He provided an affidavit and documentation of Mrs. Ahmadzai's financial and medical dependency on him. He also explained that he had completed the application forms with assistance, and that the indication on the forms that he had landed in 2009 or 2012 was an error. He noted that he had specified elsewhere in the documentation that he had arrived in Canada in 2022.

[19] The response also included a support letter from Mrs. Ahmadzai's counsel submitting that her application should be considered because IRCC had not communicated clearly with the Sponsor. The letter from counsel also submitted that the application should be granted on humanitarian and compassionate [H&C] grounds under section 25 of the *Immigration and*

Refugee Protection Act [IRPA] owing to the Sponsor's brave service to Canada, the killing of the Sponsor's brother's wife and children, and Mrs. Ahmadzai's dependency on the Sponsor.

C. *Decision Under Review*

[20] On November 5, 2024, Mrs. Ahmadzai's application under the P28 Policy was rejected.

[21] The reviewing officer concluded that Mrs. Ahmadzai was not eligible under the P28 Policy and that H&C factors did not warrant extraordinary relief. In arriving at this conclusion, the decision-maker also acknowledged that the Sponsor had come to Canada under the P24 Policy, but noted that Mrs. Ahmadzai was not included in his application prior to his landing in Canada.

III. ISSUES and STANDARD of REVIEW

[22] The Applicant raises the following issues on judicial review of the Officer's decision:

1. Was the decision to refuse the Applicant's application unreasonable?
2. Was the decision to refuse the Applicant's application tainted by procedural unfairness?

[23] On the first issue, the appropriate standard of review is reasonableness: *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at paras 16-17, 23, 25, 99-110; *Kanthasamy v Canada (Citizenship and Immigration)*, 2015 SCC 61 at paras 44-45. On the question of the fairness of the process that led to the decision under review, the standard is essentially correctness: *Kaur v Canada (Citizenship and Immigration)*, 2021 FC 1242 at para 10; *Canadian Pacific Railway Company v Canada (Attorney General)*, 2018 FCA 69 at para 54.

IV. ANALYSIS

[24] The Applicant, Mrs. Ahmadzai, acknowledges that she was not eligible under the P28 Policy. However, she submits that the decision-maker erred in three different respects. First, she asserts that the officer failed to exercise any discretion on her request for H&C relief. Second the Applicant argues that she had a legitimate expectation that her application would be processed under the P24 Policy and that this expectation was not met. Finally, the Applicant argues that the decision-maker had discretion to “convert” her application under the P28 Policy into an application under the P24 Policy. As noted above, I have concluded that none of these arguments can succeed. My reasons follow.

A. *H&C Consideration*

[25] Relying on this Court’s decision in *Kaur v Canada (Citizenship and Immigration)*, 2022 FC 1690, the Applicant argues that the decision-maker failed to adequately exercise their discretion in considering the request for H&C relief. Respectfully, the *Kaur* decision is of no assistance to the Applicant for at least two reasons. First, that case was not one that involved a request for H&C relief. In *Kaur*, the Applicant had submitted an application under a public policy, but in the process of applying, she omitted a required educational document. Realizing the error, the Applicant then submitted the document prior to a decision being made. Despite this, the visa officer in that case rejected the application without considering the educational document, as it appeared that the application had been flagged as incomplete. In these circumstances, my colleague Justice Furlanetto concluded that, as the decision on the application had not actually been rendered prior to the submission of the educational document, it was

unreasonable for the decision-maker not to consider it. This is simply not the situation that arises in this case.

[26] Second, unlike *Kaur*, in this case the officer acknowledged that the Applicant had applied under the wrong policy, and did consider whether the facts warranted H&C relief. The officer also noted that even under the correct policy, the Sponsor had not included the Applicant in his own application for permanent residence.

[27] Moreover, in my view the decision-maker adequately considered the information that had been submitted in support of the H&C request. Specifically, the officer considered both the Applicant's health concerns, and her claimed financial dependency on the Sponsor, but concluded that the evidence was not sufficient to attract H&C relief. In considering the reasons, I am satisfied that the officer was reasonably responsive to the information provided, and that the officer justified the outcome with adequate reasons.

B. *Legitimate Expectations*

[28] The Applicant further argues that poor communication from Canadian officials and a lack of clarity in the process created a legitimate expectation that her application would be considered under the P24 policy. This argument must also fail. First, the officer did, in fact, refer to the P24 policy, but noted (reasonably in my view) that the Sponsor neither included the Applicant in his application for permanent residence, nor added her prior to his departure for Canada. The clear implication of this finding was that even under the P24 policy, the Applicant was not eligible for permanent residence. This being the case, the Applicant required H&C relief for her application

to be accepted in this case, regardless of the question of legitimate expectations, and irrespective of which policy was considered. As I have noted above, in my view the officer's conclusion on the H&C considerations was reasonable.

[29] The Applicant maintains that the P24 Policy did not, as the Respondent maintains, require applicants to include *de facto* family members prior to their resettlement to Canada. Or, if this requirement existed, it was not adequately communicated to prospective applicants. As such, she argues that had the officer considered her application under the P24 Policy, it ought to have been granted. I disagree. The public policy at issue exempted eligible applicants from certain, but not all, requirements associated with permanent residence applications submitted under the Convention Refugee Abroad Class. Family members of applicants in this class can also obtain permanent residence, but only if they are included in the applicant's application, or are added prior to the applicant's departure for Canada: see *Immigration and Refugee Protection Regulations*, s141(1)(a).

[30] Unfortunately for the Applicant, I have been provided with no clear evidence establishing that this requirement was waived under the public policy in question. On the contrary, the information before me tends to suggest the contrary. In an updated version of the policy provided by the Respondent, it is quite clear that this requirement was not waived under the P24 Policy. Moreover, in the initial correspondence provided to the Sponsor when he was invited to apply for permanent residence, it was clear that he was expected to include all the family members that he wished to be eligible for resettlement to Canada. The correspondence provided (in part):

IMM0008 - Generic Application Form for Canada. Please fill out this form with your information and the information for all of your family/dependents. The form only has space for 5 people, however,

if you have more than 5 people (not including de facto family members), complete one IMM0008DEP - Additional Dependants / Declaration Form for each additional family member.

...

If you believe you have de facto family members that qualify as dependants, please attach a letter describing how this individual is dependent upon you financially and/or emotionally (for example relatives who reside in your household); the length of time they have been dependent upon you; and why there are no suitable alternative arrangements to support this individual. For each de facto dependant please submit another IMM0008 as well as a Schedule A (for all individuals 18 years old or over) and an IMM5406 (for all individuals 18 years old or over). Please also include a scan of the passport or Tazkira for every person as well (if available).

[31] A legitimate expectation can only arise where, amongst other things, there is a “clear and unequivocal” representation that a particular procedure will be followed: *Agraira v Canada (Public Safety and Emergency Preparedness)*, 2013 SCC 36 at paras 94-95. In this case, there is simply no such representation. Moreover, even if there had been a representation that the Applicant’s application would have been considered under the P24 Policy, the result would have been the same, as she was not eligible under either of the policies at issue in this case. The bottom line is that the only pathway for the Applicant to succeed in her application was through an exercise of H&C relief.

C. Conversion

[32] The Applicant further argues that the application should have been converted into an application under the P24 Policy. However, for the reasons set out above, even if the officer was under some kind of obligation to formally convert the application into a P24 application, the

result would have been the same. To reiterate, under either of the policies in question, the Applicant could only have obtained status through an exercise of H&C discretion. The question of conversion, therefore, could not have been determinative of the Applicant's application.

V. CONCLUSION

[33] Counsel for the Respondent commenced her submission by acknowledging that this is a sympathetic case. The Sponsor provided an important service to Canada, in recognition of which he and his immediate family were resettled to Canada. However, I have not been convinced that the decision in respect of the Applicant was unreasonable.

[34] To summarize, Mrs. Ahmadzai was not eligible for the public policy to which she applied, and was similarly not eligible for the "correct" policy that she suggests should have been considered. Beyond this, the officer evaluated the limited evidence provided in support of the Applicant's request for an exemption from the IRPA and reasonably concluded that one was not warranted in the circumstances.

[35] As a result, 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-507-25

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is dismissed.
2. No question is certified for appeal.
3. There is no order as to costs.

"Angus G. Grant"
Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-507-25

STYLE OF CAUSE: ANAR GULA AHMADZAI v THE MINISTER OF
CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: HELD BY WAY OF VIDEOCONFERENCE

DATE OF HEARING: OCTOBER 14, 2025

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DATED: OCTOBER 30, 2025

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