Federal Court  Cour fédérale

Date: 20260115

Docket: IMM-24497-24

Citation: 2026 FC 57

Calgary, Alberta, January 15, 2026

PRESENT: Mr. Justice Brouwer

BETWEEN:

ALONA KUZNETSOV

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

I. Background

[1] Alona Kuznetsov wanted to sponsor her mother to immigrate to Canada. She received a notification from Immigration, Refugees and Citizenship Canada [IRCC] on May 22, 2024, inviting her to apply to sponsor her family members through the Parents and Grandparents

Program [PGP], and she did so two months later, on July 15, 2024, submitting an application for her mother (the principal applicant) and her mother's common-law spouse.

[2] On November 6, 2024, IRCC notified Ms. Kuznetsov that her application had been reviewed and was found to be incomplete. IRCC identified which forms and documents were incomplete and detailed the specific information that was missing from them, noting in particular that the IMM 5406 forms for the principal Applicant and her dependents were incomplete and advising: "For Section B, please ensure that you include ALL children, including ALL adopted, step-children, and **those who are currently a Canadian citizen or permanent resident**, regardless of age" (emphasis in the original). Ms. Kuznetsov was given 30 days to submit the missing information and was warned by IRCC that "Failing to respond to this request within the deadline will result in your application being returned to you as unprocessed. This means that your application will not be accepted into the 2024 PGP program." The letter includes the following bold, all-caps, partially underlined text in red the middle of the third page:

THIS IS YOUR <u>ONLY</u> REMINDER.
YOU HAVE <u>30 DAYS</u> TO RESPOND.

[3] Ms. Kuznetsov responded four days later, providing updated forms and documents. However, the updated IMM 5406 forms for the principal applicant and her common-law spouse were still incomplete as they were still missing the requested information about step-children. As a result, the application was returned to Ms. Kuznetsov as unprocessed.

[4] Ms. Kuznetsov retained counsel, who brought the within application for leave and judicial review. In preparation for the judicial review hearing the Court noticed that a large

portion of the memorandum of argument filed by the Applicant's counsel appeared to be made up of unmarked, unattributed verbatim quotations from jurisprudence, separated by semicolons. The Applicant was directed to serve and file "an amended version of the Memorandum of Argument that clearly demarcates those portions of the text that are quotations, and that clearly pinpoints their source(s)." In response the Applicant's counsel simply italicized the direct quotations – 10 of the 28 paragraphs in the memorandum – which were from Federal Court decisions issued between 12 and 21 years ago.

II. Analysis

[5] Ms. Kuznetsov seeks judicial review of the determination that her application was incomplete. Her counsel maintains that the application was not incomplete and argues that IRCC acted unreasonably and procedurally unfairly in returning it as incomplete.

[6] The Respondent denies unreasonableness and unfairness but raises a preliminary issue: she asserts that IRCC's determination that the sponsorship application was incomplete and would not be processed is not a reviewable decision.

A. *The matter is justiciable*

[7] The Respondent relies on several decisions of this Court finding that IRCC returns of applications as "incomplete" are not reviewable "matters" under section 18.1 of the *Federal Courts Act.* RSC 1985, C F-7 (FCA). In particular she relies on Justice Russell's reasoning in *Sheikh v Canada (MCI),* 2020 FC 199 [*Sheikh*], determining that although the Courts apply a

broad approach in defining what constitutes a "matter" capable of judicial review under section 18.1 of the FCA (*Air Canada v Toronto Port Authority*, 2011 FCA 347 at paras 24-25), they have nevertheless "restricted this liberal interpretation of 'matter' under s 18.1 of the Federal Courts Act to matters that affect a party's rights, impose legal obligations on a party, or prejudicially affect a party directly" (*Sheikh* at para 62, citing *Mfudi v Canada (Citizenship and Immigration)*, 2019 FC 1319 at para 7). Justice Russell determined in *Sheikh* that the return of a sponsorship application by an applicant who had not received an invitation to apply and who did not qualify for an invitation did not cause prejudice and therefore was not judicially reviewable (*Sheikh* at para 67).

[8] *Sheikh* has been followed by my colleagues in other cases relied on by the Respondent, including *Sadeghian v Canada (MCI)*, 2024 FC 1144 at paras 7-11; *San Juan Valdelamar v Canada (MCI)*, 2024 FC 1867 at para. 10; *Zhou v Canada (MCI)*, 2021 FC 1424 at paras 56-58; and *Adnan v Canada (Citizenship and Immigration)*, 2025 FC 1462 at para 9. As noted by the Respondent, in each of these cases the Court found that the return of the incomplete application at issue was not justiciable. The Respondent asserts that these authorities establish a general rule of non-justiciability that applies to all applications returned by IRCC as incomplete.

[9] I am unable to accept this proposition.

[10] To begin with, in each of the decisions cited above the reviewing judge had to start by assessing whether the return of the application as incomplete was authorized by the legislation and regulations. Then it had to determine whether the decision to not allow the application to be

processed under the administrative scheme in place at the time affected the applicant's rights, imposed legal obligations on the applicant, or prejudicially affected the applicant directly (*Sheikh* at para 64). Although in the cases cited by the Respondent the Court concluded that the returns were not justiciable, those conclusions were made on the records before the Court in those cases. Different facts regarding, for example, the basis upon which incompleteness was determined, or prejudice flowing directly to an applicant, might have resulted in different outcomes.

[11] As such, I do not believe that the determination of justiciability can or should be made on the basis of categories of applications, such as all immigration applications. Not only will the facts and the requirements of each application or type of application vary, but so too will the evidence of impacts on rights and, notably, prejudice.

[12] More generally, I share the rule of law concerns expressed by Justice Michael Battista in *Devgon v Canada (Citizenship and Immigration)*, 2025 FC 2005:

> [37] The rule of law requires the decision to return the Applicants' application as incomplete to be justiciable (*MacKinnon*, at paras 83, 208-9). The error described below— the Officer's imposition of an unjustified requirement to the requirements for a complete application — provides an example of the injustices that would result if determinations of complete applications were not justiciable. Requesting the Court to determine this matter non-justiciable is a request for the Court to turn its eyes away from unreasonableness in public administration, amounting to an abdication of the Court's fundamental responsibility on judicial review.

[13] As Justice Anne Turley determined in *Goel*: "Decisions to reject an application for incompleteness cannot be immune from judicial review where an applicant disputes the

determination that it is indeed incomplete" (*Goel v Canada (Citizenship and Immigration)*, 2025 FC 275 at para 9).

[14] In the present case, the Applicant asserts that the application submitted to IRCC was not incomplete. I am not prepared to simply dismiss this assertion and decline to review the decision. I agree with Justice Battista that to do so would be an abdication of my role as a judge. In my view, section 18.1 of the FCA combined with section 72 of the *Immigration and Refugee Protection Act*, SC 2001, c 27 guarantees Ms. Kuznetsov the right to seek judicial review of the refusal to process her sponsorship application, and leave having been granted for that purpose, to a decision on the merits of the judicial review by this Court.

B. *The decision is reasonable*

[15] The Applicant's counsel denies that Ms. Kuznetsov's application was incomplete. According to him, Ms. Kuznetsov provided all the information required in response to IRCC's Procedural Fairness Letter [PFL], including duly completed immigration forms, and the Officer's finding to the contrary was "irrational," had "no basis in fact" and was unreasonable. He asserts that IRCC ignored the amended complete forms and appears to be suggesting – without evidence - that IRCC was unable to see the amendments as a result of an "IT glitch."

[16] These claims are wholly contradicted by the record, which shows that the amended forms submitted in response to the PFL were in fact received and reviewed by IRCC but that the requested details about family members were still missing, and the Applicant provided no explanation as to why she was unable to provide them. The Officer's finding that the forms were

incomplete reflects the record and was entirely reasonable. Moreover, the information that was missing was explicitly required by section 10(2)(a) of the *Immigration and Refugee Protection Regulations*, SOR/2002-227 [IRPR], and its absence from the application required the officer to return the application to Ms. Kuznetsov (IRPR, s 12).

C. *The decision was procedurally fair*

[17] The Applicant's counsel also asserts that "there has been a breach of procedural fairness to the Applicant in that the Respondent failed to give the Applicant an opportunity to respond to concerns with respect to the application forms that were properly signed and submitted for the family members within the deadline." In support of this argument, counsel relies on a number of authorities, of varying relevance, to confirm the relatively uncontroversial principle that procedural fairness may require an officer to give notice and a chance to respond to a concern about the completeness of an application.

[18] The problem with counsel's argument is that the Officer met this requirement: they issued a PFL setting out in exceptional detail precisely what documents and information were missing and providing 30 days to respond. They moreover made exceedingly clear that a failure to respond, with either the missing information or an explanation for why it was not being provided, would result in the application being returned unprocessed, as happened here. Though counsel's memorandum is far from clear, he appears to be asserting that procedural fairness required IRCC to issue a second PFL requesting the same information sought in the first one.

[19] Counsel has provided no authority for this position. The law is clear that applicants bear the onus to submit complete applications. It was appropriate for IRCC to issue the PFL it did and to allow the Applicant to submit the missing information or explain the reason for its absence; however, when the Applicant failed to provide all the missing information, it was fair to reject the application as incomplete without providing yet another opportunity to submit the missing information. I agree with the Respondent that there has been no breach of procedural fairness.

[20] The parties have not proposed a serious question for certification, and I agree that none arises.

JUDGMENT in IMM-24497-24

THIS COURT'S JUDGMENT is that:

1. The application is dismissed.

2. No question is certified.

"Andrew J. Brouwer"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

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