Federal Court  Cour fédérale

Date: 20260116

Docket: IMM-12698-24

Citation: 2026 FC 68

Vancouver, British Columbia, January 16, 2026

PRESENT: The Honourable Madam Justice Saint-Fleur

BETWEEN:

SUPANICH MANGMEESRI

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

I. Overview

[1] The Applicant seeks judicial review of the refusal of her application for permanent residence on humanitarian and compassionate [H&C] grounds by a senior immigration officer [Officer] dated June 28, 2024 [Decision] under subsection 25(1) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [*IRPA*].

[2] For the following reasons, this application for judicial review is granted.

II. Background Facts

[3] The Applicant, Supanich Mangmeesri [Applicant], is a 38-year-old citizen of Thailand and is currently in Canada on an expired visitor visa. This visa was granted in December 2020 and was valid until September 2023. The Applicant applied for a subsequent visitor visa in September 2023, which was denied, and in May 2024, which is currently pending. The Applicant also held a valid temporary resident visa which was granted in February 2019 and expired in January 2024.

[4] The Applicant last entered Canada on January 23, 2020. Her daughter was born in Canada on June 5, 2020, and is currently enrolled in preschool.

[5] On September 23, 2022, the Applicant applied for permanent residence based on H&C considerations. The Applicant asserts her personal circumstances warrants an exemption from the requirement for her to apply for permanent residence from a visa office outside of Canada.

[6] In her application, the Applicant stated she became pregnant in Thailand but left due to the stigma associated with unmarried pregnancies and single motherhood. She fears her daughter will grow up without stability and will be shunned by their community in Thailand, and the Applicant will be forced to remarry and will be forbidden from maintaining contact with her daughter.

III. Decision Under Review

[7] The Officer determined there was no basis to grant an exemption to the Applicant. The Officer assessed the Applicant's establishment in Canada; the best interests of the child [BIOC] impacted, namely those of the Applicant's Canadian-born daughter; and the hardship the Applicant would face if she were to return to Thailand.

A. *Establishment*

[8] The Officer determined the Applicant's establishment and integration in Canadian society is relatively minimal and not determinative of this assessment. In particular, the Officer concluded the Applicant's evidence was insufficient to establish her financial independence, how the Applicant supports herself and her daughter, the Applicant's work history in Canada, whether the Applicant has held a work permit in Canada in the last four years, and her contributions to Canadian society. The Officer similarly determined there was a lack of evidence on her English as a second language and French as a second language skills, noting only her new partner's submissions that the Applicant is "working very hard on learning English and the progress is very noticeable".

[9] Conversely, the Officer noted the Applicant's evidence does not establish she would be unable to re-establish herself in Thailand with her daughter. The Applicant has lived in Thailand for most of her life and has a record of education and stable employment there, given her university degree and her employment as an English teacher in Thailand for almost a decade. The Officer further stated the presence of the Applicant's family in the area where she regularly

resides when in Thailand further supports the possibility of re-establishment. Establishment efforts typically require more than a mere physical presence in Canada and, given the considerations addressed above regarding the Applicant's situation, the Officer assigned this factor little weight.

B. *Best Interests of the Child*

[10] The Officer then turned to an assessment of the BIOC, namely the interests of the Applicant's Canadian-born daughter. The Officer concluded the Applicant's evidence does not demonstrate how the Applicant's departure from Canada would significantly harm the well-being of her 5-year-old daughter. While the Applicant's daughter has been exposed to preschool programming in Canada, she could adjust to her new environment in Thailand because of her young age, the general resilience of children, and the support of her mother, uncle, and grandparents in Thailand. The Officer further concludes "it is always in the best interests for a child to remain with their parent."

[11] The Officer also noted the Applicant's evidence on a mutual dependence between herself and her personal ties in Canada does not support her claim she would incur difficulties if these ties were to be severed. Instead, as addressed by the Officer in their assessment of the Applicant's establishment in Canada, the Applicant spent most of her life in Thailand where she has a regular residence, family, a history of employment and education, and is accustomed to the language, customs, society, and culture. Accordingly, the Officer granted little weight to this factor.

C. *Hardship*

[12] On the element of hardship, the Officer noted their empathy for the Applicant, particularly in reference to the stigma of single motherhood in Thailand and acknowledged the two expert reports in the record. The Applicant provided two reports: one from a psychologist in Vancouver, and the second from an Associate Professor of sociology at the University of British Columbia. The psychologist's report details the Applicant's stress and general concerns about returning to Thailand as a single mother and the sociologist's report addresses the social stigmas experienced by unmarried pregnant women and single mothers in Thailand. The Officer considered the Applicant's concerns to be "very normal" given her immigration status and further determined the social context evidence was insufficient for the Officer to conclude H&C relief should be granted. The Officer underlined that H&C relief is reserved as an exceptional remedy to unforeseen circumstances; however, coming to Canada to give birth and refusing to return to Thailand are neither exceptional nor unforeseen circumstances.

[13] The Officer was not satisfied the Applicant had a reasonable expectation she would be permitted to reside in Canada permanently. Instead, the Applicant chose to remain in Canada despite having the option to return to Thailand and commence her application for permanent residence in the normal course. Thus, the Officer gave this factor little weight.

[14] While there would be some hardship associated with leaving Canada and commencing her application from abroad, the Officer was not satisfied this level of hardship is sufficient to grant relief based on H&C considerations. The Officer further determined the Applicant's documentary evidence does not establish circumstances exist to warrant H&C relief, noting the

Officer is not required to address all of the evidence before them (*Ozdemir v Canada (Minister of Citizenship and Immigration)*, 2001 FCA 331).

IV. Issues and Standard of Review

[15] The issues on this judicial review are whether the Decision is reasonable and was reached in a procedurally fair manner.

[16] The parties concur, and I agree, the standard of review of the merits of the Decision is reasonableness. In this respect, the role of the reviewing court is to examine the decision-maker's reasoning and determine whether the decision is based on an "internally coherent and rational chain of analysis" and is "justified in relation to the facts and law that constrain the decision maker" (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at paras 85-86 [*Vavilov*]; *Mason v Canada (Citizenship and Immigration)*, 2023 SCC 21 at para 64). A decision will be reasonable if, when read as a whole and taking into account the administrative setting, it bears the hallmarks of justification, transparency, and intelligibility (*Vavilov* at paras 91-95, 99-100).

[17] Procedural fairness arguments are to be reviewed on a standard of correctness or akin to correctness for which "the ultimate question remains whether the applicant knew the case to meet and had a full and fair chance to respond" (*Canadian Pacific Railway Company v Canada (Attorney General)*, 2018 FCA 69 at para 46-47, 56; *Schofer v Attorney General of Canada*, 2025 FC 50 at para 15; see also *Canadian Association of Refugee Lawyers v Canada (Immigration, Refugees and Citizenship)*, 2020 FCA 196 at para 35).

V. Relevant Legislative Dispositions

[18] Subsection 25(1) of the *IRPA* permits the Minister to grant an exemption from any applicable criteria or obligation under the *IRPA* if it is justified by H&C considerations:

Humanitarian and compassionate considerations — request of foreign national	**Séjour pour motif d'ordre humanitaire à la demande de l'étranger**
25 (1) Subject to subsection (1.2), the Minister must, on request of a foreign national in Canada who applies for permanent resident status and who is inadmissible — other than under section 34, 35, 35.1 or 37 — or who does not meet the requirements of this Act, and may, on request of a foreign national outside Canada — other than a foreign national who is inadmissible under section 34, 35, 35.1 or 37 — who applies for a permanent resident visa, examine the circumstances concerning the foreign national and may grant the foreign national permanent resident status or an exemption from any applicable criteria or obligations of this Act if the Minister is of the opinion that it is justified by humanitarian and compassionate considerations relating to the foreign national, taking into account the best interests of a child directly affected.	**25 (1)** Sous réserve du paragraphe (1.2), le ministre doit, sur demande d'un étranger se trouvant au Canada qui demande le statut de résident permanent et qui soit est interdit de territoire — sauf si c'est en raison d'un cas visé aux articles 34, 35, 35.1 ou 37 —, soit ne se conforme pas à la présente loi, et peut, sur demande d'un étranger se trouvant hors du Canada — sauf s'il est interdit de territoire au titre des articles 34, 35, 35.1 ou 37 — qui demande un visa de résident permanent, étudier le cas de cet étranger; il peut lui octroyer le statut de résident permanent ou lever tout ou partie des critères et obligations applicables, s'il estime que des considérations d'ordre humanitaire relatives à l'étranger le justifient, compte tenu de l'intérêt supérieur de l'enfant directement touché.

VI. Analysis

A. *The Officer Did Not Breach Procedural Fairness*

[19] The Applicant alleges she was deprived of procedural fairness because the Officer improperly framed their concerns as a matter of insufficiency of evidence when, in fact, they are veiled credibility findings. Consequently, she should have received notice of the Officer's concerns by way of a procedural fairness letter.

[20] The Applicant alleges the Officer's characterization of the psychologist's and the sociologist's reports suggest a dismissal of the expert evidence as generic and unexceptional. The Officer's reference to the sociologist's report, particularly the evidence being insufficient to establish the Applicant's circumstances as "unusual" considering those similarly situated to her, demonstrates how the Officer diminishes the significance of the report. The Applicant further claims the Officer does not engage with contradictory evidence in these reports and drew a negative credibility inference because these reports were produced at the request of counsel.

[21] I disagree. The Officer's treatment of this expert evidence is not proof they made veiled credibility findings. In fact, I find nothing in the Decision suggests the Officer made such findings. Rather, the Officer substantively engaged with the expert evidence. The Officer acknowledged the reports provided information on the cultural context in Thailand on the stigma experienced by unmarried mothers and the short and long-term mental health impacts to the Applicants. The Officer also acknowledged the stress and anxiety one might experience when faced with the potential of removal. There is no indication the Officer did not believe the

Applicant was not distressed or was not psychologically affected by the situation as indicated in the psychologist's report.

B. *Assessment of the Bests Interests of the Child*

(1) The Applicant's Submissions

[22] The Applicant alleges the Officer's assessment of the BIOC is unreasonable because it does not meaningfully engage with her daughter's circumstances. The Applicant's daughter is a 5-year-old Canadian-born child who has lived her entire life in Vancouver with the Applicant as her sole parent and primary caregiver. The Applicant's daughter is "deeply integrated" in her community as a preschool student participating in childcare activities and local community events.

[23] The Applicant asserts the Officer was not alert, alive, or sensitive to her daughter's best interests because the Officer did not assess the substantive content of the expert reports. These reports address the likely psychological and development impact separation and removal will have on the Applicant's daughter. The Applicant alleges the Officer only generally acknowledges the existence of these reports and does not grapple with these conclusions. The Applicant claims this demonstrates these reports were not properly weighed in the BIOC assessment.

[24] The Applicant also claims the Decision is deficient as the Officer pays "almost no attention" to the Applicant's daughter. Instead, the Decision is focused on the Applicant,

subordinating what should be a central and significant assessment. The Officer further ignored the effects of family separation and a return to Thailand on the Applicant's daughter. In particular, the Officer does not consider the possibility of the daughter remaining in Canada without her mother and how this would be "deeply destabilizing".

[25] Finally, the Applicant submits a reading of the Decision shows the Officer improperly assessed the hardship to the Applicant's daughter in the BIOC assessment. The Officer concluded the Applicant's daughter will not suffer "enough" harm to justify H&C relief because her basic needs can be met in Thailand. Instead of determining what outcome best supports her well-being and development, the Officer has only concerned themselves with whether a minimum standard of care is available in Thailand.

(2) The Respondent's Submissions

[26] The Respondent submits the Officer properly conducted the BIOC assessment which was reasonable based on the minimal evidence provided.

[27] The Respondent submits the Officer properly assessed the two expert reports before them. Neither report provided specific details as to the impact on the Applicant's daughter if she was to return to Thailand with her mother. The evidence before the Officer was that of general country condition evidence and comments regarding the possible challenges faced by the Applicant and her daughter. These reports noted no evidence of mood or behavioural disorders, or physical or psychological difficulties. Moreover, the Respondent submits the Applicant's position that the Officer only dealt with the expert reports in general terms is without merit. The

Officer dealt with these reports in a general manner only because the reports only provided general information. The Respondent notes the Applicant did not add additional evidence to demonstrate how her daughter's best interests would be adversely affected if she was to return to Thailand.

[28] The Respondent submits the Applicant's preference as to her daughter's lifestyle, that she remains in Canada because of the opportunities available to her, is not sufficient evidence to grant relief on H&C grounds.

(3) The Officer's Assessment is Unreasonable

[29] I agree the Officer ignored the effects of family separation on the Applicant's daughter. The Officer's failure to discuss the non-removal of the child as a part of the BIOC assessment renders the Decision unreasonable.

[30] This Court developed an analytical framework in *Williams v Canada (Citizenship and Immigration)*, 2012 FC 166 at paragraph 63 [*Williams*] for officers to rely on to determine the best interests of the child. Notably, this assessment requires the officer to identify the decision best upholding the child's interests and balance this factor against others when deciding an applicant's application:

> [56] "What is abundantly clear from the jurisprudence that an officer need not strictly apply the *Williams* approach, "so long as the officer identifies and defines the best interests and gives them considerable weight"": *Patousia v Canada (Minister of Citizenship and Immigration)*, 2017 FC 876 at para 55 [*Patousia*] .

[31] Therefore, as stated by Justice Turley in *Baig v Canada (Citizenship and Immigration)*, 2025 FC 1769 at paragraph 36, the BIOC assessment must consider the impact of non-removal of the parent, the removal of the parent and not the child, or the removal of both the parent and child:

> [36] Furthermore, a BIOC analysis requires an assessment of the benefit to the child of the non-removal of the parent from Canada, in conjunction with an assessment of the hardship the child would face if their parent was removed or if the child was to accompany the removed parent: *Canada (Minister of Citizenship and Immigration) v Hawthorne*, 2002 FCA 475 at para 4; *Liu v Canada (Citizenship and Immigration)*, 2019 FC 184 at para 40; *Garraway v Canada (Immigration, Refugees and Citizenship)*, 2017 FC 286 at para 19; *Joseph v Canada (Citizenship and Immigration)*, 2013 FC 993 at para 19; *Miller v Canada (Citizenship and Immigration)*, 2012 FC 1173 at para 24.

[32] Such analysis also requires the "identification and selection of the best option available for the well-being and development of a child, not merely the avoidance of difficulties or hardship" (*Bibi v Canada (Citizenship and Immigration)*, 2025 FC 84 at para 13 citing *Osun v Canada (Citizenship and Immigration)*, 2020 FC 295 at paras 21–26; *Natesan v Canada (Citizenship and Immigration)*, 2022 FC 540 at para 22; *Fazal v Canada (Citizenship and Immigration)*, 2023 FC 1654 at paras 26–29).

[33] I recognize, as pointed to by the Respondent, the Officer acknowledged it is in the best interests of the Applicant's daughter to not be separated from the Applicant as it is always in the best interests for a child to remain with their parent. However, the Applicant clearly stated her daughter would remain in Canada under the care of her friends if she was required to return to Thailand to apply for permanent residence. In the circumstances, the Officer should have addressed this evidence and assessed the hardship of the Applicant's daughter remaining in

Canada without her mother. The Officer did not consider this scenario in their analysis of the BIOC.

[34] By ignoring the effects of family separation on the Applicant's daughter not engaging with the Applicant's submissions and evidence in that regard, the Officer provided an incomplete BIOC analysis. This renders the Decision unreasonable. It is not necessary to address the Applicant's other submissions.

VII. Conclusion

[35] For the reasons set out above, this application for judicial review is granted.

[36] Neither party proposed a question for certification, and I agree none arise.

JUDGMENT in IMM-12698-24

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is granted.
2. The Officer's Decision is set aside, and the matter is remitted for redetermination.
3. There are no questions to be certified.

"L. Saint-Fleur"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	IMM-12698-24
STYLE OF CAUSE:	SUPANICH MANGMEESRI v THE MINISTER OF CITIZENSHIP AND IMMIGRATION
PLACE OF HEARING:	VANCOUVER (BRITISH COLUMBIA)
DATE OF HEARING:	JANUARY 12, 2026
JUDGMENT AND REASONS:	SAINT-FLEUR J.
DATED:	JANUARY 16, 2026

APPEARANCES:

Joshua Slayen	FOR THE APPLICANT
Jocelyne Mui	FOR THE RESPONDENT

SOLICITORS OF RECORD:

Slayen Immigration Law Barristers and Solicitors Vancouver (British Columbia)	FOR THE APPLICANT
Attorney General of Canada Vancouver (British Columbia)	FOR THE RESPONDENT