

Federal Court



Cour fédérale

**Date: 20260223**

**Docket: IMM-19376-24**

**Citation: 2026 FC 250**

**Ottawa, Ontario, February 23, 2026**

**PRESENT: The Honourable Madam Justice Heneghan**

**BETWEEN:**

**SUMERA JABEEN  
ABDUL MATEEN**

**Applicants**

**and**

**THE MINISTER OF CITIZENSHIP AND  
IMMIGRATION**

**Respondent**

**REASONS AND JUDGMENT**

[1] Mr. Zubair Mohammed (the “Sponsor”), his wife Sumera Jabeen (the “Female Applicant”) and their eldest child Abdul Mateen (the “Male Applicant”), collectively “the Applicants” seek judicial review of the decision of a migration officer (the “Officer”) refusing the family sponsorship application filed in respect of the Applicants, by the Sponsor. The application requested the positive exercise of discretion on humanitarian and compassionate (“H

and C”) grounds pursuant to subsection 25 (1) of the *Immigration and Refugee Protection Act*, S.C. 2001, c. 27 (the “Act”).

[2] The Sponsor was born in India. He married on July 23, 1995, and his first child was born on May 20, 1998. The Sponsor landed in Canada on June 7, 1998. He did not declare the Applicants on that application, and they were not examined. The Sponsor became a Canadian citizen on March 1, 2004.

[3] The Sponsor resides in Canada with two other children of the family. Those children are Canadian citizens.

[4] In March of 2022, the Sponsor made a family sponsorship application for permanent residence on behalf of his wife and their eldest child. He specifically asked for consideration of H and C factors, including the best interests of his children, including children who are Canadian citizens.

[5] The Female Applicant is a citizen of India. She is residing in Saudi Arabia on a temporary basis with three of her children, two of whom are minors. The third child is an adult. All three children are Canadian citizens, by birth, since their father is a Canadian citizen.

[6] The Male Applicant was aged 23 at the lock-in date. He lives in Australia.

[7] A procedural fairness letter was sent to the Applicants. According to the Global Case Management System (“GCMS”) notes, the Officer was waiting for a response to that letter before addressing H and C factors which, in this case, included the best interests of the children, the Sponsor’s establishment in Canada, insecurity of their status in Saudi Arabia, risks associated with living in Saudi Arabia and family reunification.

[8] The Applicants replied to the procedural fairness letter on July 17, 2024.

[9] In the decision, made on August 14, 2024, the Officer determined that the Applicants were excluded from the definition of the “family class” pursuant to paragraph 117(9)(d) of the *Immigration and Refugee Protection Regulations* (SOR/2002-227) (the “Regulations”) since neither was examined at the time the Sponsor applied for permanent residence. As well, the Officer found that the Male Applicant is not a “dependent child” as defined in section 2 of the Regulations.

[10] The Officer also found that there were insufficient grounds for the positive exercise of discretion on H and C grounds, noting among other things that the Female Applicant and the three children residing with her in Saudi Arabia were citizens of India and could achieve the goal of family reunification by relocating in that country. The Officer also observed that the family could reunite in Saudi Arabia. The Officer also noted the lack of social and cultural ties of the Applicants to Canada.

[11] The Applicants now argue that, among other things, the Officer unreasonably discounted the evidence of the establishment of the Sponsor in Canada and unreasonably focused on family reunification in India or Saudi Arabia when family reunification in Canada is a specific goal set out in the Act.

[12] As well, the Applicants submit that the Officer breached their right to procedural fairness by consulting extrinsic evidence about country conditions in Saudi Arabia without giving them the opportunity to respond to that evidence.

[13] The Applicants also argue that the failure of the Officer to interview them breached their rights to procedural fairness.

[14] The Minister of Citizenship and Immigration (the “Respondent”) first raises an objection to the standing of the Sponsor to bring this application for judicial review and otherwise, argues that the decision is reasonable.

[15] The objection to the role of the Sponsor in this application is based upon subsection

18.1(1) of the *Federal Courts Act* (R.S.C., 1985, c. F-7) and which provides as follows:

**Application for judicial review**

18.1 (1) An application for judicial review may be made by the Attorney General of Canada or by anyone directly affected by the matter in respect of which relief is sought.

**Demande de contrôle judiciaire**

18.1 (1) Une demande de contrôle judiciaire peut être présentée par le procureur général du Canada ou par quiconque est directement touché par l’objet de la demande.

[16] The Applicants did not make substantive arguments in response to this argument.

[17] Although the Respondent had the right to object to the participation of the Sponsor in this application for judicial review, her arguments do not change the substance of the challenge made by the Applicants.

[18] The Sponsor is not “directly affected” by the decision of the Officer. His interest in the application is a “personal” interest which does not give him standing.

[19] Any issue of procedural fairness is reviewable on the standard of correctness; see the decision in *Canada (Citizenship and Immigration) v. Khosa*, [2009] 1 S.C.R. 339.

[20] Following the decision in *Canada (Minister of Citizenship and Immigration) v. Vavilov*, [2019] 4 S.C.R. 653, the merits of the decision are reviewable on the standard of reasonableness.

[21] In considering reasonableness, the Court is to ask if the decision under review “bears the hallmarks of reasonableness – justification, transparency and intelligibility – and whether it is justified in relation to the relevant factual and legal constraints that bear on the decision”, see *Vavilov, supra*, at paragraph 99.

[22] It is not necessary for me to address all the arguments of the Applicants about the merits of the decision. I agree with the submissions that the Officer unreasonably ignored section 3 of the Act which addressed the goal of family reunification and unreasonably focused on family reunification in two other countries.

[23] Paragraph 3(1)(d) provides as follows:

3 (1) The objectives of this Act with respect to immigration are...

3 (1) En matière d'immigration, la présente loi a pour objet...

(d) to see that families are reunited in Canada

d) de veiller à la réunification des familles au Canada;

[24] In my opinion, the Officer's refusal of the application on H and C grounds was unreasonable.

[25] In my opinion, the fact that the Female Applicant "may" move to India with her children is irrelevant to the Sponsor's application for the reunification of his family in Canada where he is a citizen.

[26] I am satisfied that the Officer reasonably addressed the situation of the Male Applicant. The evidence shows that he is living independently in Australia. It is open to this Applicant to apply for permanent residence in Canada in the usual way.

[27] I am satisfied that there was no breach of procedural fairness as argued by the Applicants.

[28] The application for judicial review will be allowed in part. The negative decision with respect to the Female Applicant will be set aside and the matter remitted to a different officer for redetermination. The application for judicial review with respect to the Sponsor and the Male Applicant will be dismissed. The style of cause will be amended with immediate effect to remove the Sponsor as an applicant. There is no question for certification.

**JUDGMENT IN IMM-19376-24**

**THIS COURT'S JUDGMENT is that:**

1. The application for judicial review is allowed in part.
2. The application on behalf of the Female Applicant is allowed, the decision is set aside and the matter is remitted to a different officer for redetermination.
3. The application on behalf of the Male Applicant is dismissed.
4. The style of cause is hereby amended to remove the Sponsor as an applicant.
5. There is no question for certification.

“E. Heneghan”

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Judge

**FEDERAL COURT**  
**SOLICITORS OF RECORD**

**DOCKET:** IMM-19376-24

**STYLE OF CAUSE:** SUMERA JABEEN ET AL v. THE MINISTER OF  
CITIZENSHIP AND IMMIGRATION

**PLACE OF HEARING:** TORONTO, ONTARIO

**DATE OF HEARING:** SEPTEMBER 25, 2025

**REASONS AND JUDGMENT:** HENEGHAN J.

**DATED:** FEBRUARY 23, 2026

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