Federal Court  Cour fédérale

Date: 20260223

Docket: IMM-7245-24

Citation: 2026 FC 256

Ottawa, Ontario, February 23, 2026

PRESENT: Madam Justice Conroy

BETWEEN:

ASHER WALKER
(Through Litigation Guardian GERALDINE SADOWAY)

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

[1] The Applicant, Asher Walker, a two-year old resident of Indonesia, seeks through his third-party litigation counsel, judicial review of a decision of an immigration officer [Officer] to refuse his temporary resident application [TRP] pursuant to s. 24(1) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [IRPA].

[2] Andy F. and his husband Ferdinandus, permanent residents of Canada, seek to adopt the Applicant. Andy and Ferdinandus were both declared Convention Refugees in 2019 based on persecution they faced in Indonesia as a result of their sexual orientation.

[3] The record indicates that Indonesian law presents several barriers to the proposed adoption. Indonesian law prohibits adoption by non-residents. As refugees, and not yet Canadian citizens, neither Andy nor Ferdinandus can reside in Indonesia without putting their refugee status at risk. In addition, Indonesian law prohibits adoption by same-sex couples or unmarried individuals.

[4] Due to these legal barriers, the couple sought to bring Asher into Canada by way of a TRP pursuant to s. 24(1) of IRPA.

[5] The Officer refused Asher's TRP application, finding that it was in the best interests of the child that Asher's "situation be assessed though a proper permanent immigration process."

[6] For the reasons that follow, I conclude that the Applicant has failed to establish that the Officer's decision is unreasonable.

I. Background

[7] Andy and his husband Ferdinandus have resided in Canada since 2015. The couple's refugee claim was accepted in 2019.

[8] That same year, Andy and Ferdinandus signed an adoption agreement with Andy's sister and her husband to adopt the sister's biological daughter, Ashley. When Andy and Ferdinandus

applied for permanent residence status, they included Ashley as their dependant. Their application included a request for a humanitarian and compassionate [H&C] exemption from the requirement for a legal adoption order because Indonesia prohibits same-sex couples from adopting. The couple, along with Ashley, obtained permanent residence status and Ashley arrived in Canada in December 2022.

[9] Asher was born in 2023 in Indonesia to a woman who is not related to Andy or Ferdinandus. Asher's birth certificate names no father.

[10] Shortly after Asher's birth, Andy and Ferdinandus expressed an interest in adopting him. Andy's nieces stepped in to act as Asher's temporary caregivers in Indonesia. The couple supports Asher by sending a monthly sum of $5000 CAD for his care.

[11] In July 2023, Andy, Ferdinandus and Ashley travelled to Thailand for three weeks to meet Asher in-person.

[12] On November 2, 2023, Andy signed a document titled "Statement of Granting Guardianship Rights" (translation from Indonesian) with Asher's biological mother. Andy and Ferdinandus acknowledge that they do not have a legal adoption order for Asher, and maintain they cannot obtain one from Indonesia, as they are a same-sex couple.

[13] The Minister of Citizenship and Immigration [Respondent] notes that the guardianship agreement does not comply with the laws of Indonesia because no application was made to an Indonesian court to have Andy appointed as guardian. She also asserts that a guardianship order

would not be available because Andy was not domiciled in Indonesia at the time of the guardianship agreement's execution, as required by Indonesian law.

[14] The Respondent further raises the issue of there being no evidence as to whether the Applicant's biological mother had independent legal advice prior to signing the guardianship agreement.

[15] On February 15, 2024, a TRP application, pursuant to s. 24(1) of the IRPA was made on Asher's behalf, so that he may join Andy and Ferdinandus in Canada. Included in the TRP application is an opinion letter from the Children's Resource and Consultation Centre of Ontario dated December 20, 2023 [Opinion Letter]. Also included is a statutory declaration signed by Andy and Ferdinandus as Asher's "parents."

[16] Throughout the Applicant's written submissions before the Court, the couple is referred to as the Applicant's "intended parents." The Respondent takes issue with this characterization and emphasizes that, currently, Andy and Ferdinandus have no parental or guardianship rights to care for the Applicant in Canada; his legal parent is his biological mother.

II. Decision Under Review

[17] By decision letter dated April 18, 2024, the Officer refused Asher's TRP application. The decision letter states: "Your request for a temporary resident permit has been refused. Please apply through the proper adoption/sponsorship process where H&C is applicable and could be considered to exempt you from a requirement of the immigration Act."

[18] The Global Case Management System [GCMS] notes, which form part of the reasons, recognize that Asher was a year old at the time, that Andy and Ferdinandus were declared refugees, are permanent residents and intend to adopt Asher. The relevant portions of the GCMS notes provide:

> • The couple have an adopted daughter, Ashley Walker … and that is the biological child of Andy's biological sister …. The child was added as a dependent on the couple's PR application and she was granted permanent residence based on H&C considerations though the asylum process. The child became a PR in December 2022.
>
> • In this current application, the couple have provided a notarized document that does not appear to have been issued by a court. The document, issued by a notary, has been provided to show that that sponsor Andy, has been given guardianship rights by the biological mother of applicant Asher Walker. I note that the sponsors have not physically been present in Indonesia as they could lose their PR status due to having obtained their status through the asylum process. Additionally, I note that for a guardianship agreement to be recognised in Indonesia, guardianship documents should be issued by a court of competent jurisdiction. According to the terms and procedures for appointing a guardian /government regulation of the republic of Indonesia, guardianship should be determined through the courts to ensure that all the requirements to obtain guardianship have been met. One of the requirements mentioned for guardianship is that the guardian must be an Indonesian citizen, who permanently resides in Indonesia.
>
> • In review, I attribute little weight to the guardianship document provided as the sponsors have failed to demonstrate that they meet the criteria's stated to obtain a guardianship that would be recognised by Indonesia. Though I take note of all the information provided in this application and the arguments put forth by the council [*sic*] to demonstrate that considerable barriers to the adoption/immigration appear to be present for the applicant to be sponsored/adopted, and I am sensitive to these issues, this does not preclude the couple from following the correct immigration pathway and submitting a sponsorship application where a proper assessment of this situation can take place and a TRP/H&C could be applied if warranted by the decision maker during the process to exempt the applicant from a requirement.

> • The Best interest of the child in this application is that their situation be assessed though a proper permanent immigration process, where their complete situation can be properly assessed to ensure that they are not being trafficked, and that the adoption was not entered into primarily for the purpose of acquiring any status or privilege under the Act.
>
> • I note that at this time, as stated by the sponsors, the child appears to be well taken cared for in Indonesia and there appears to be insufficient grounds to merit the issuance of a temporary resident permit.
>
> • To conclude, I am not satisfied that the circumstances faced by the applicant is justified by the issuance of a temporary resident permit in line with A24.
>
> Application refused.

III. ISSUES AND STANDARD OF REVIEW

[19] The Respondent raises as a preliminary issue whether Andy and Ferdinandus had the legal authority to initiate the TRP application or pursue leave and judicial review of that decision on behalf of Asher.

[20] The Applicant presents the following two grounds for judicial review**:**

a) Did the Officer unreasonably fetter their discretion by finding that a TRP application was not the "correct" process for the Applicant?

b) Was the Officer's best interests of the child [BIOC] analysis insufficient?

[21] The parties agree, and I concur, that the applicable standard of review is reasonableness: *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at paras 23, 25 [*Vavilov*]; *Vaguedano Alvarez v Canada (Citizenship and Immigration)*, 2011 FC 667 at para 18.

[22] In assessing reasonableness, the Court takes a "reasons first" approach and determines whether the decision, including both its rationale and outcome, is transparent, intelligible and justified: *Mason v Canada (Citizenship and Immigration)*, 2023 SCC 21 at para 8. A reasonable decision is one that is based on an internally coherent and rational chain of analysis and that is justified in relation to the facts and law that constrain the decision-maker: *Vavilov* at paras 15, 85.

[23] This approach further demands that the reasons be considered in light of the record and understood in the legal and administrative context in which they were given: *Vavilov* at para 91. However, "it is not open to a reviewing court to disregard the flawed basis for a decision and substitute its own justification for the outcome": *Vavilov* at para 95.

IV. ANALYSIS

[24] I first consider the Respondent's preliminary objection to this application and then provide an overview of the applicable legislative scheme. Finally, I consider the substantive issues.

A. *Preliminary objection - Authority to Commence TRP and Judicial Review Applications*

[25] The Respondent argues that neither Andy nor Ferdinandus had the legal authority to file the TRP application, nor the present application for judicial review in the Applicant's name, as neither are his legal guardian. The guardianship agreement has no force in Indonesian law.

[26] The Respondent previously raised this concern in its opposition to a motion to appoint Andy as litigation guardian in this proceeding. The Associate Judge agreed with the Respondent

that Andy should not be appointed litigation guardian. He was not satisfied that the guardianship agreement entitled Andy to act as the Applicant's representative because it was not approved by an Indonesian court.

[27] The Associate Judge was also concerned about the potential for a conflict of interest between Andy and the Applicant; his Order noted that "[Andy's] statutory declaration included in the moving motion record states that it is his dream to have a son and a daughter. Whether that is in the applicant's best interests remains to be determined." For these reasons, the motion to appoint Andy as the Applicant's litigation guardian on this application was dismissed.

[28] However, a later Order by the same Associate Judge allowed the Applicant's informal motion, made on consent of the Respondent, for the appointment of a third-party member of the immigration bar to act as litigation guardian.

[29] I see no merit to the Respondent's position that, at this stage, the application for judicial review should be dismissed due to Andy's and Ferdinandus' lack of legal authority with respect to the Applicant. The Applicant's litigation guardian is not Andy and is instead a third-party appointed with the Respondent's consent.

[30] On the question of whether the TRP application should itself be considered void *ab initio* because Andy and Ferdinandus lacked the legal authority to seek a TRP on the Applicant's behalf, this was not a basis for the Officer's TRP refusal decision. The issue is never discussed in the refusal letter or GCMS notes. I am not persuaded that it is the Court's role dismiss the application on grounds never previously raised or considered by the Officer.

B. *Legal framework*

[31] By way of background, counsel for the Applicant submits that, broadly speaking, there are three available immigration routes for intercountry adoptions:

1. The "conventional route" – This involves, (a) adopting the child in their country of origin, and (b) then an application for permanent residency, by way of sponsorship of the child as a member of the family class (see, IRPA s. 117);

2. Application for permanent residency by way of a sponsorship of the child as a family member with an exemption under s. 25(1) of IRPA, on the basis of Humanitarian & Compassionate (H&C) grounds; and

3. Application for a TRP pursuant to s. 24(1) of IRPA. Once the child is in Canada, an application for permanent residence on H&C grounds could be made from within Canada.

[32] Counsel for the Applicant explained that Andy and Ferdinandus decided on behalf of Asher to pursue option 3, a TRP. The "conventional route" is not available to Andy and Ferdinandus due to the barriers presented by Indonesian law. With respect to option 2, an assessment under s. 25(1) of IRPA is not guaranteed for an out-of-country applicant such as Asher. The Applicant submits that even if it were considered, it would take a significantly longer time to process than a TRP application.

[33] Under option 1, the conventional route, an adopted child may qualify as a member of the family class, if they meet the requirements of s. 117 of the *Immigration and Refugee Regulations* SOR/2002-227 [*Regulations*].

[34] Section 117 incorporates certain safeguards from the *Convention of 29 May 1993 on Protection of Children and Co-operation in Respect of Intercountry Adoption* [Hague

Convention on Adoption]. In addition, 3(3)(f) of IRPA mandates the Act be construed and applied in a manner that complies with international human rights instruments to which Canada is signatory.

[35] The Hague Convention on Adoption includes safeguards aimed at ensuring that intercountry adoptions take place in the best interests of the child and with respect for the child's fundamental rights. It seeks to protect children and their families against the risks of illegal, irregular, premature or ill-prepared adoptions abroad and prevent illicit practices, including the abduction, sale of, or traffic in, children (Hague Conference on Private International Law, Intercountry Adoption Section, online: *https://www.hcch.net/en/instruments/conventions/specialised-sections/intercountry-adoption*, see also, *Rai v. Canada (Citizenship and Immigration)*, 2014 FC 77 at para 25)

[36] Canada is a party to the Hague Convention on Adoption, while Indonesia is not. Nevertheless, pursuant to s. 117, safeguards from the Hague Convention apply even where the child resides in a country that is not party to the Convention. The relevant parts of s. 117 of the *Regulations* provide:

Member	**Regroupement familial**
117 (1) A foreign national is a member of the family class if, with respect to a sponsor, the foreign national is	**117 (1)** Appartiennent à la catégorie du regroupement familial du fait de la relation qu'ils ont avec le répondant les étrangers suivants :
…	…
(g) a person under 18 years of age whom the sponsor intends to adopt in Canada if	**g)** la personne âgée de moins de dix-huit ans que le répondant veut adopter au Canada, si les conditions suivantes sont réunies :
(i) the adoption is not being entered into primarily for the purpose of	

acquiring any status or privilege under the Act,

…

(iii) where the adoption is an international adoption and the country in which the person resides is not a party to the Hague Convention on Adoption or the Convention does not apply to the person's province of intended destination

(A) the person has been placed for adoption in the country in which they reside or is otherwise legally available in that country for adoption and there is no evidence that the intended adoption is for the purpose of child trafficking or undue gain within the meaning of the Hague Convention on Adoption, and

(B) the competent authority of the person's province of intended destination has stated in writing that it does not object to the adoption;

…

Adoption — under 18

117 (2) A foreign national who is the adopted child of a sponsor and whose adoption took place when the child was under the age of 18 shall not be considered a member of the family class by virtue of the adoption unless

(a) the adoption was in the best interests of the child within the meaning of the Hague Convention on Adoption; and

(b) the adoption was not entered into primarily for the purpose of acquiring any status or privilege under the Act.

(i) l'adoption ne vise pas principalement l'acquisition d'un statut ou d'un privilège aux termes de la Loi,

…

(iii) s'agissant d'une adoption internationale, si le pays où la personne réside n'est pas partie à la Convention sur l'adoption ou que celle-ci ne s'applique pas dans la province de destination :

(A) la personne a été placée en vue de son adoption dans ce pays ou peut par ailleurs y être légitimement adoptée et rien n'indique que l'adoption projetée a pour objet la traite de l'enfant ou la réalisation d'un gain indu au sens de cette convention,

(B) les autorités compétentes de la province de destination ont déclaré, par écrit, qu'elles ne s'opposaient pas à l'adoption;

…

Adoption : enfant de moins de dix-huit ans

117 (2) L'étranger qui est l'enfant adoptif du répondant et qui a été adopté alors qu'il était âgé de moins de dix-huit ans n'est pas considéré comme appartenant à la catégorie du regroupement familial du fait de cette relation à moins que :

a) l'adoption n'ait eu lieu dans l'intérêt supérieur de l'enfant au sens de la Convention sur l'adoption;

b) l'adoption ne visât pas principalement l'acquisition d'un statut ou d'un privilège sous le régime de la Loi.

Best interests of the child

(3) The adoption referred to in subsection (2) is considered to be in the best interests of a child if it took place under the following circumstances:

(a) a competent authority has conducted or approved a home study of the adoptive parents;

(b) before the adoption, the child's parents gave their free and informed consent to the child's adoption;

(c) the adoption created a genuine parent-child relationship;

(d) the adoption was in accordance with the laws of the place where the adoption took place;

(e) the adoption was in accordance with the laws of the sponsor's place of residence and, if the sponsor resided in Canada at the time the adoption took place, the competent authority of the child's province of intended destination has stated in writing that it does not object to the adoption;

…

(g) if the adoption is an international adoption and the country in which the adoption took place is not a party to the Hague Convention on Adoption or the Convention does not apply to the child's province of intended destination, there is no evidence that the adoption is for the purpose of child trafficking or undue gain within the meaning of that Convention.

Intérêt supérieur de l'enfant

(3) L'adoption visée au paragraphe (2) a eu lieu dans l'intérêt supérieur de l'enfant si les conditions suivantes sont réunies :

a) des autorités compétentes ont fait ou ont approuvé une étude du milieu familial des parents adoptifs;

b) les parents de l'enfant ont, avant l'adoption, donné un consentement véritable et éclairé à l'adoption de l'enfant;

c) l'adoption a créé un véritable lien affectif parent-enfant entre l'adopté et l'adoptant;

d) l'adoption était, au moment où elle a été faite, conforme au droit applicable là où elle a eu lieu;

e) l'adoption était conforme aux lois du lieu de résidence du répondant et, si celui-ci résidait au Canada au moment de l'adoption, les autorités compétentes de la province de destination ont déclaré par écrit qu'elles ne s'y opposaient pas;

…

g) s'agissant d'une adoption internationale, si le pays où l'adoption a eu lieu n'est pas partie à la Convention sur l'adoption ou que celle-ci ne s'applique pas dans la province de destination de l'enfant, rien n'indique que l'adoption projetée a pour objet la traite de l'enfant ou la réalisation d'un gain indu au sens de cette convention.

[37] As noted, Asher did not apply under s. 117 of the *Regulations*, but pursuant to s.24(1) of the IRPA. Section 24(1) authorizes an immigration Officer to issue a TRP where a foreign national does not meet the requirements under IRPA:

Temporary resident permit	**Permis de séjour temporaire**
24 (1) A foreign national who, in the opinion of an officer, is inadmissible or does not meet the requirements of this Act becomes a temporary resident if an officer is of the opinion that it is justified in the circumstances and issues a temporary resident permit, which may be cancelled at any time	**24 (1)** Devient résident temporaire l'étranger, dont l'agent estime qu'il est interdit de territoire ou ne se conforme pas à la présente loi, à qui il délivre, s'il estime que les circonstances le justifient, un permis de séjour temporaire — titre révocable en tout temps.

C. *Scope of Respondent's Submissions*

[38] Before discussing the grounds for review, I address the Applicant's argument that some of the Respondent's submissions are an impermissible attempt to supplement or bootstrap the reasons provided by the Officer. To an extent, I agree with the Applicant.

[39] There is a distinction between: (a) reviewing the reasons "holistically and contextually" with due sensitivity to the administrative and legal setting; and (b) bolstering the reasons with arguments that could have been, but were not, provided by the decision-maker to support the outcome. The former is encouraged by *Vavilov*, and the latter impermissible: *Vavilov* at paras 91-98; *Natco Pharma (Canada) Inc. v. Canada (Health)*, 2020 FC 788 at para 78 [*Natco*]. The distinction can be a fine one at times: *Natco* at para 78.

[40] For intended intercountry adoptions, domestic and international laws aimed at preventing child exploitation are part of the relevant legal and administrative landscape.

[41] With respect to international instruments, s 3(3)(f) of IRPA mandates the Act be construed and applied in a manner consistent with international human rights instruments to which Canada is a signatory. The Federal Court of Appeal has confirmed that s.3(3)(f) directs decision makers to interpret and apply IRPA and the *Regulations* consistently with international instruments that Canada has signed unless there is a clear legislative intent to the contrary: *de Guzman v. Canada (Minister of Citizenship and Immigration),* 2005 FCA 436 at paras 75-83.

[42] Accordingly, the Hauge Convention on Adoption, the United Nations Convention on the Rights of the Child, November 20, 1989, [1992] Can. T.S. No. 3 [Convention on the Rights of the Child] and subsections 117(1)(2) and (3) of the *Regulations* are relevant to the reasonableness review of a TRP application to facilitate an intercountry adoption. It is apparent from the reasons that the Officer had this context in mind when they stated that it was in the best interest of the child being "assessed through a proper permanent immigration process, where their complete situation can be properly assessed to ensure that they are not being trafficked."

[43] However, in many places, the Respondent's arguments stray far beyond explaining the relevant administrative and legal context, and into an assessment of the evidence and the merits of the TRP application. The Respondent puts forward numerous grounds it says justify refusing the TRP application that were not expressly mentioned or even broadly alluded to by the Officer (see Respondent Memorandum of Argument at paras 23, 24, last sentence of para 27, 32-44). These types of arguments amount to improper bolstering and supplementing of the Officer's

reasons contrary to *Vavilov*, and I have not considered them in assessing the reasonableness of the decision: *Vavilov* at para 96.

D. *Substantive Issues*

(1) Fettering of Discretion

[44] The Applicant argues that, rather than engaging in a genuine exercise of their discretionary authority under s. 24 of the IRPA, the Officer fettered their discretion on the basis that the TRP process was the "incorrect option" for the Applicant. The Applicant submits that there is no legal authority regarding what the correct or proper process is for someone in Asher's unique circumstances, and s. 24 of the IRPA does not limit TRP eligibility only to those who are ineligible for other immigration pathways.

[45] On this issue, the Applicant relies on this Court's decision in *Radakovic v Canada (Citizenship and Immigration)*, 2024 FC 1949 [*Radakovic*]. In that case an immigration Officer was found to have unreasonably fettered their discretion on an H&C application by requiring the applicant to establish their ineligibility to apply for or express interest in any other immigration programs. In doing so, the Officer set the bar too high and in a manner not required in law: *Radakovic* paras 15-16.

[46] Similarly, the Applicant argues, in this case the Officer improperly "cut down" the scope of the discretion given to them by the law: *Stemijon Investments Ltd v Canada (Attorney General)*, 2011 FCA 299 at para 22.

[47] Contrary to the Applicant's contention, the Officer's reasons do not suggest a misapprehension of the law such that they fettered the discretion granted to them. Rather, in my view, the Officer considered the relevant circumstance of the guardianship agreement's irregularities, and, in the exercise of their discretion under s. 24(1), found that the circumstances were not appropriate for the granting of a TRP.

[48] Unlike *Radakovic*, the Officer did not require evidence of ineligibility for other immigration pathways, consider themselves "unable" to grant a TRP unless another pathway was first pursued, nor state that they were precluded from granting a TRP in these circumstances altogether.

[49] Indeed, it is not uncommon for H&C applications to be refused in circumstances which do not warrant an exercise of discretion, and which appear to be an attempt to use H&C grounds as an "alternative immigration scheme." To note the existence, and perhaps the preferability, of certain pathways to immigration is not the same as a decision-maker finding it is constrained by a requirement or bar not found in law.

[50] The Applicant argues that the TRP application was available to him. However, the extent to which the TRP was the "better option for the Applicant's circumstances," is a matter that was within the Officer's discretion to decide. There is nothing unreasonable with how that discretion was exercised.

[51] I agree with the Respondent: The Officer did not fetter their discretion in concluding that it was in Asher's best interests to benefit from the safeguards in the immigration procedures applicable to intercountry adoptions.

(2) BIOC Analysis

[52] The Applicant submits that the Officer's reasons lacked an adequate BIOC analysis. I do not agree.

[53] The Applicant quotes the following statement from the GCMS notes: "The Best interest of the child in this application is that their situation be assessed through a proper immigration process, where their complete situation can be properly assessed to ensure they are not being trafficked, and that the adoption was not entered into primarily for the purpose of acquiring status or privilege under the Act." In the Applicant's view, the foregoing statement is "cursory" and based on a "theoretical concern about child trafficking," as the reasons fail to point to any evidence raising trafficking concerns.

[54] The Applicant further argues that, "[o]stensibly, the Officer's concern about trafficking arose from their decision to attribute little weight to the Applicant's guardianship agreement since it was not court-issued," and that this assessment of the guardianship agreement unreasonably fails to appreciate the explanation provided: that Andy and Ferdinandus as a same-sex couple cannot legally adopt Asher in Indonesia.

[55] The Respondent argues that contrary to the Applicant's characterization of the barriers faced by the couple to adopt, it is not solely a matter of same-sex couples being barred. As per

the Opinion Letter, no person can adopt a child from Indonesia while residing in Ontario because adoption laws in Indonesia require intended parents to be residents of Indonesia for two years.

[56] Irrespective of the reasons why an official adoption had not occurred under Indonesian law, the Officer's BIOC analysis is reasonable.

[57] The Court cannot approach the reasonableness review blind to the relevant legal and administrative context: *Vavilov* at para 91. The Hague Convention on Adoption and the *Regulations* recognize the risk of child-trafficking in intercountry adoptions. The submissions filed with the s. 24(1) application made it clear that the couple sought to adopt Asher in a manner that diverged from the conventional route to adopt a child outside of Canada. As noted above, certain safeguards are built into the conventional process for intercountry adoption that are not built into the TRP process. Given these circumstances, along with the irregularities in the guardianship agreement, it was open to the Officer to conclude that it was in the best interests of the child for the situation to be assessed to ensure he was not being trafficked.

[58] Trafficking is specifically referenced in s. 117(1)(g)(iii)(A) of the *Regulations* and the prohibition against adoptions for the primary purpose of acquiring a status or privilege under IRPA is set out in s.117(1)(g)(i). While these provisions are not expressly cited by the Officer, the reasons, in substance, refer to these criteria and provide a sufficient basis to understand the rationale to understand the decision. "Administrative decision makers cannot always be expected to deploy the same array of legal techniques that might be expected of a lawyer or judge": *Vavilov* at para 92. It was entirely reasonable for the Officer to consider the criteria outlined in s. 117 of the *Regulation*. It must be remembered that the granting of a TRP under s. 24(1) of IRPA

is “highly discretionary”: *El Rahy v Canada (Citizenship and Immigration)*, 2020 FC 372 at para 59.

[59] The Applicant further argues that the Officer erred by applying too low a standard, requiring only that his “basic needs are being met” when they said “the child appears to be well cared for in Indonesia”: see e.g., *Sanchez Pancho v Canada (Citizenship and Immigration)*, 2025 FC 402 at para 7. However, there is no indication that the Officer only evaluated basic needs under a hardship lens. The Applicant has effectively read-into the Officer’s reasons the idea of “basic needs” in order to make the instant argument. Rather, the Officer stated that the Applicant is being “well-cared for” in Indonesia.

[60] The Applicant’s own evidence is that Andy and Ferdinandus send significant sums of money to Indonesia each month for his care. No evidence on the record contradicts the Officer’s finding that the Applicant’s best interest is to continue to be cared for in Indonesia until an application can be made for him in Canada which allows for a proper assessment of his circumstances, accounting for the concerns arising from Asher’s young age and the absence of any legal guardians in Canada.

[61] On a final note, the Applicant argues that the BIOC analysis failed to consider the Applicant’s interest in being “reunited with his intended parents in Canada,” or the hardship he faces in being “permanently separated from his intended parents and sibling.” I would return to the Associate Judge’s observation in his Order: while it may be the desire of Andy and Ferdinandus to be united with the child they wish to adopt, there is nothing yet to say that it is in the Applicant’s best interest to be brought to Canada.

JUDGMENT in IMM-7245-24

THIS COURT'S JUDGMENT is that:

1. The judicial review is dismissed.

2. There is no question for certification.

"Meaghan M. Conroy"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	IMM-7245-24
STYLE OF CAUSE:	ASHER WALKER (THROUGH LITIGATION GUARDIAN GERALDINE SADOWAY) v THE MINISTER OF CITIZENSHIP AND IMMIGRATION
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JUDGMENT AND REASONS:	CONROY J.
DATED:	FEBRUARY 23, 2026

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