

CANADA / JUDGMENT

Ayaz v. Canada (Citizenship and Immigration)

2026 FC 598

COURT

Federal Court

DECIDED

5 May 2026

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Decision Content

Date: 20260505

Docket: IMM-5949-25

Citation: 2026 FC 598

Montréal, Québec, May 5, 2026

PRESENT: The Honourable Madam Justice Ferron

BETWEEN:

IRMAN AYAZ

Applicant

and

THE Minister of Citizenship and Immigration

Respondent

JUDGMENT AND REASONS

I. Overview [1] The Applicant, Irman Ayaz, brings an application for judicial review against a decision dated March 3, 2025 [Decision], by an officer of Immigration, Refugee and Citizenship Canada [IRCC], rejecting his permanent residence application for being incomplete, before it was put into processing [Decision]. The Decision is based on the fact that the police certificate from the United Kingdom submitted for his spouse, Ms. Shazia Tabassam, who is listed as an accompanying person, “was issued prior to their last residence in that country”.

[2] The Applicant first proposes that the decision maker erred in fact when they wrote that his spouse last “resided” in the United Kingdom (UK) on January 19th, 2025. He submits that in 2025, she only transited through the UK for less than four days. Given that, for the purposes of IRCC’s requirements regarding police certificates, only periods of residence “for 6 months in a row or longer” matter, her last relevant residence in the UK would instead date back to July 2021. “Further and/or in the alternative”, Mr. Ayaz claims that the date for his spouse’s last residence in the UK was incorrectly reported by his immigration consultant. Therefore, the Decision was rendered as a result of his “former representative’s professional incompetence and/or negligence”.

[3] In response, the Attorney General of Canada [AGC or Respondent] proposes that “the Applicant is essentially asking this Court to overlook his error and send the matter back for redetermination so he can amend his application with the correct information”. They argue that this is not the role of this Court.

[4] For the reasons that follow, the application will be dismissed. Despite all the compassion that this situation legitimately provokes, the Applicant’s immigration consultant’s mistake does not rise to the level of incompetence. The Decision is reasonable as the decision maker cannot be faulted for relying on the information they were given.

II. Factual background [5] The Applicant was born in Pakistan and is a citizen of the UK. Prior to relocating alone to Canada, on May 4, 2024, to work in Edmonton, Mr. Ayaz lived in England with his family. When Mr. Ayaz moved to Edmonton, his spouse and their three UK-born children moved to Pakistan.

[6] In December 2024, the Applicant received provincial sponsorship. In mid-January 2025, his spouse joined him in Canada. Coming from Pakistan, she transited through the UK.

[7] His provincial sponsorship led Mr. Ayaz to apply, on February 11, 2025, for permanent residence in the Express Entry – Provincial Nominee Class [the PR Application] using the assistance of an immigration consultant who acted as his representative. His spouse and three children were all listed as accompanying family members.

- [8] Mr. Ayaz' spouse's application form contains contradictions. These contradictions lie at the heart of the present judicial review. It is first written that she lived in the UK from April 4, 2014, through to January 19, 2025 (specifically in the "address history" section of the application form). However, in the "personal activities" section of that same form, it is instead indicated that, from September 2024 to January 2025, she was a homemaker in Pakistan. While it seems that the Officer relied on the first, the Applicant submits that it is the latter that is correct.
- [9] The PR Application included UK police certificates for both Mr. Ayaz and his spouse. Two were submitted in Mr. Ayaz's name: one dated February 11, 2025, and one dated June 3, 2024. However, for his spouse, there was only one dated December 19, 2024.
- [10] Given these discrepancies, as required by the Court's Consolidated Practice Guidelines for Citizenship, Immigration, and Refugee Protection Proceedings (last amended December 21, 2025) at paragraphs 49-50, and our Court's jurisprudence, on April 21, 2025, the Applicant served on his immigration consultant a "notice for allegations of professional incompetence and professional negligence", detailing all his allegations, with supporting documentation (see *Shirvan v Canada (Citizenship and Immigration)*, 2005 FC 1509 at paras 31-32 cited in *Cromhout v Canada (Citizenship and Immigration)*, 2009 FC 1174 at paras 30-33, *Brown v Canada (Citizenship and Immigration)*, 2012 FC 1305 [Brown] at para 57; *Coolen v Canada (Citizenship and Immigration)*, 2025 FC 786 [Coolen] at para 54).
- [11] The immigration consultant answered with a letter denying any professional incompetence or negligence dated April 30, 2025. In this letter, she essentially explains that (1) she relied on the information submitted by Mr. Ayaz and his spouse through Excel sheets for their addresses, travel and personal history, but that they had failed to disclose the five-day return to the UK to her; (2) "the applicant personally reviewed the complete application in-office prior to submission and was given the opportunity to make changes or corrections. Mr. Ayaz confirmed the accuracy and completeness of all entries"; (3) relying on the information submitted by clients is consistent with IRCC's own guidelines and the retainer agreement; and (4) in any event, IRCC's refusal is ill-founded for the five-day stay in the UK did not require a new police certificate. She proposes that the issue, if any, lies with the Applicant and highlights "the importance of full, timely, and accurate disclosure by clients".
- [12] According to the Applicant's submissions, the Decision led to the closure of his Express Entry profile, which means that his Albertan provincial nomination certificate is no longer valid. Therefore, because Mr. Ayaz does not know when he could have provincial sponsorship again, if ever, he does not know when or if he will be able to apply for permanent residency again.

III. Decision under review [13] On March 3, 2025, IRCC refused Mr. Ayaz' PR Application on the ground that it was incomplete. The Decision is succinct but explains the issue as follows:

Specifically, your application does not include the following elements:

Police Certificate:

The Police certificate from United Kingdom for Tabassam, Shazia was issued prior to their last residence in that country. The Police certificate was issued on December 19th 2024. Their last residence in this country was January 19th 2025.

[Emphasis in original].

[14] The Global Case Management System (GCMS) notes taken by the decision maker, which form part of the reasons for the Decision (*Soubeh v Canada* (Citizenship and Immigration), 2021 FC 1144 at para 24; *El Hajj v Canada* (Citizenship and Immigration), 2025 FC 2031 [El Hajj] at para 7 citing *Mohammed v Canada* (Citizenship and Immigration), 2025 FC 1933 [Mohammed] at para 9), essentially reiterate the content of the Decision letter.

IV. Analysis A. Preliminary Issue : Extrinsic Evidence [15] As the Respondent correctly points out, the Applicant introduces in his affidavit before this Court documents that were never before the decision maker. The Respondent states that they do not take issue with the admissibility of the exhibits that are filed to prove the consultant's negligent conduct, but object to the filing of the other exhibits. In sum, they appear to accept Exhibit K as falling in the first category but submit that Exhibits B, C, D, E, H, I and J are inadmissible, citing *Rafieyan v Canada* (Citizenship and Immigration), 2007 FC 727 at para 20.

[16] In response, the Applicant merely affirms that "the evidence the respondent is referring to is material and important to support the applicant's allegations against the former representative and to assist this Court in its determination of those allegations". For instance, Exhibit J is what the Applicant claims to be an excel sheet listing all of the addresses where his spouse lived over the past ten years which he purportedly gave to his immigration consultant for use in the PR Application.

[17] In short, in all judicial review proceedings, because of the demarcation of roles between administrative decision makers and reviewing courts, the evidentiary record is normally limited to what was before the decision maker (*Gittens v Canada* (Attorney General), 2019 FCA 256 at para 14 citing *Association of Universities and Colleges of Canada v Canadian Copyright Licensing Agency* (Access Copyright), 2012 FCA 22 [Access Copyright] aux paras 18-19; *Tsleil-Waututh Nation v Canada* (Attorney General), 2017 FCA 128 at paras 86-87). This principle suffers limited exceptions such as (i) general background information, (ii) procedural defects that cannot be seen by looking at the record alone, (iii) evidence capable of proving that a decision maker made a specific finding without any supporting evidence (*Access Copyright* at para 20).

[18] Given this principle, the evidence filed by the Applicant is inadmissible, save and except regarding their argument of negligent conduct by his immigration consultant (see for ex *Afolayan v Canada* (Citizenship and Immigration), 2022 FC 1625 at paras 20-22).

B. Standards of Review [19] According to the Respondent, the applicable standard of review is reasonableness. They approach this application for judicial review as relating to the merits of the Decision and therefore propose to apply *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [Vavilov]. For the idea that “the starting point of reasonableness review is judicial restraint and respect for the distinct role of decision makers”, the AGC specifically cites paragraphs 13, 24 and 30 of Vavilov (alongside *Canada Post Corporation v Canadian Union of Postal Workers*, 2019 SCC 67 [Canada Post]). They further remind the Court that it must focus “on the decision actually made, including the justification offered for it, and not on the conclusion the court itself would have reached in the administrative decision maker’s place”, once again citing Vavilov at paras 83, 86-87, 99, 145 (alongside *Dunsmuir v New Brunswick*, 2008 SCC 9 at paras 27, 47-49, 74; *Delta Air Lines Inc v Lukács*, 2018 SCC 2 at para 12). As for the rule that the Court “is not to conduct a de novo analysis, or ask what decision it would have made, or attempt to ascertain the “range” of possible conclusions open to the decision maker”, they cite Vavilov at paras 75, 83 (alongside *Canada Post* at paras 40, 55, 61).

[20] According to the Applicant, given that questions of incompetent representation are matters of procedural fairness and natural justice (citing *Tasdemir v Canada (Citizenship and Immigration)*, 2024 FC 1340 [Tasdemir] at para 37), correctness is the applicable standard of review for that first prong. Hence, the central inquiry for the Court will be “whether the procedure was fair having reading to all of the circumstances” (citing *Xiao v Canada (Citizenship and Immigration)*, 2021 FC 1360 at paras 25-26 citing notably *Canadian Pacific Railway Company v Canada (Attorney General)*, 2018 FCA 69 [Canadian Pacific Railway] at paras 37-56). With respect to the errors allegedly committed by the decision maker, the Applicant agrees that the standard of review is reasonableness as set forth in Vavilov.

[21] The Court agrees that the standard of reasonableness applies to the merits of the Decision (Vavilov; *Mason v Canada (Citizenship and Immigration)*, 2023 SCC 21 at para 7 [Mason]). It applies here because none of the situations warranting a rebuttal of the Vavilov presumption is present (Vavilov at paras 33, 53; *Canada Post* at para 27; *Society of Composers, Authors and Music Publishers of Canada v Entertainment Software Association*, 2022 SCC 30 at paras 26-28). 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 para 85; *Mason* at para 8).

[22] As for the question of incompetence of the immigration consultant, strictly speaking, no standard of review applies (*El Khatib v Canada (Citizenship and Immigration)*, 2025 FC 49 [El Khatib] at para 5 citing *Brown v Canada (Citizenship and Immigration)*, 2024 FC 105 at para 16 and *Discua v Canada (Citizenship and Immigration)*, 2023 FC 137 at para 31), but as the Federal Court of Appeal stated, the Court’s exercise of review is “best reflected in the correctness standard” (*Canadian Pacific Railway* at para 54; See also *Canadian Hardwood Plywood and Veneer Association v Canada (Attorney General)*, 2023 FCA 74 at para 57). The Court must therefore determine if the process was fair in view of all the circumstances and, as stated by the Federal Court of Appeal: “the ultimate question remains whether the

applicant knew the case to meet and had a full and fair chance to respond.” (Canadian Pacific Railway at paras 54, 56).

C. The immigration consultant did not act in a negligent or incompetent manner [23] The core of Mr. Ayaz’ submission focuses on the idea that the immigration consultant who filed the PR Application on his behalf “acted professionally incompetently and/or negligently by entering incorrect addresses in the address history section of the Applicant’s spouse’s Application/profile details”.

[24] The Applicant submits that the rejection of his PR Application happened through no fault of his own and amounts to a “miscarriage of justice” which caused Mr. Ayaz “serious prejudice” and shattered the dreams his family and himself harbored. He explains that because of this rejection, he doesn’t know when, or even if, he will be able to apply for permanent residency again.

[25] As Justice Duchesne recalled in Coolen at para 52:

The applicable test for establishing an infringement of procedural fairness rights due to the ineffective assistance of counsel has three components. The test applies equally and in the same manner to immigration consultants and agents (*Ram v Canada (Citizenship and Immigration)*, 2022 FC 795 at para 12; *Yang v Canada (Citizenship and Immigration)*, 2015 FC 1189 at para 16; *Brown v Canada (Citizenship and Immigration)*, 2012 FC 1305 at para 56). The three components are:

1. The former representative’s alleged acts or omissions must constitute incompetence as determined on a reasonableness standard. The analysis proceeds upon a strong presumption that counsel’s conduct fell within the wide range of reasonable professional assistance. The onus is on the applicant to establish the acts or omissions of counsel that are alleged not to have been the result of reasonable professional judgment. The wisdom of hindsight has no place in this assessment. The object of an ineffectiveness claim is not to grade counsel’s performance or professional conduct. The latter is left to the profession’s self-governing body. If it is appropriate to dispose of an ineffectiveness claim on the ground of no prejudice having occurred, that is the course to follow (*R v GDB*, 2000 SCC 22 at paras 27, 29 [GDB]);
2. There must have been a miscarriage of justice in the sense that, but for the alleged conduct, there was a reasonable probability that the result of the original matter would have been different (*Aluthge v Canada (Citizenship and Immigration)*, 2022 FC 1225 at para 22 [Aluthge]; *Singh v Canada (Citizenship and Immigration)*, 2024 FC 576 at para 34); and,
3. The representative must be given notice and a reasonable opportunity to respond (*Aluthge* at para 22; *GDB* at para 26).

(See also *El Khatib* at paras 10-11).

- [26] It is based on this long-standing framework that the Applicant divided his submissions in three prongs, under the following titles: 1) Former representative was provided notice; 2) Former representative's conduct fell below the requisite standard; and 3) Former representative's conduct resulted in a miscarriage of justice.
- [27] Both in his sworn affidavit and in his memorandum in chief, the Applicant submits that while "[t]he last day when my spouse last resided in the UK for 6 months in a row was on July 15, 2021", his immigration consultant made an error when she entered "Salisbury Avenue, Slough, England as her address between 2021-07-01 and 2025-01-19" in the address history section of the Application/profile details of his spouse. Furthermore, Mr. Ayaz introduced into evidence a copy of the Excel sheet that he allegedly gave his immigration consultant, to show that he had given her the correct dates regarding his wife's places of residence. The alleged professional misconduct relates to his consultant's failure to properly transfer the information from this Excel sheet in the Application.
- [28] In response, the AGC proposes that allegations of incompetence of counsel "are easily made but not substantiated". They propose that "it is trite law that an applicant is ultimately solely responsible for submitting a complete and accurate application" and highlights that Mr. Ayaz "signed his application attesting to the accuracy and truthfulness of the content" (citing *Abolupe v Canada* (Citizenship and Immigration), 2020 FC 90 at para 35; *Haque v Canada* (Citizenship and Immigration), 2011 FC 315; *Ji v Canada* (Citizenship and Immigration), 2019 FC 1219 at para 21).
- [29] There is no debate that notice and the fair opportunity to respond were given to the immigration consultant. Therefore, the only remaining questions are: (1) do her acts constitute incompetence on a reasonableness standard? and (2) was there a miscarriage of justice "in the sense that, but for the alleged conduct, there was a reasonable probability that the result of the original matter would have been different"?
- [30] The Applicant submits that his former consultant "inaccurately and incorrectly" entered the details in the PR Application as concerns Mr. Ayaz's spouse's former addresses because they had provided an Excel sheet that listed "House No 9, Street 150, G-13/4, Islamabad, Pakistan, 4400" as her address from September 30, 2024, to January 14, 2025. He argues that this amounts to incompetence, without citing any jurisprudence in support of this assertion.
- [31] The Respondent instead proposes that the immigration consultant's actions do not amount to incompetence because she merely relied on the information that the Applicant provided. They submit that "she took reasonable steps to ensure that the information contained in the application was correct. She met with the Applicant in person, went over the application and was assured it was correct. She also correctly note[d] that ultimately it is the Applicant who is responsible for the accuracy of the information contained within his application".

- [32] The AGC further highlights that the Excel table which lies at the heart of the Applicant's argument contains information that belongs in the travel section of the application given that it lists all the place that Mr. Ayaz' spouse visited over the past ten years, even those where she spent a single day. They note that one of the two copies of this spreadsheet found in the Applicant's Record is in fact titled "Shazia Travel History".
- [33] First, the standard of conduct expected of a lawyer and of an immigration consultant does not differ (El Khatib at para 22). Second, as justice Duchesne highlighted in Coolen, there is a strong presumption "that counsel's conduct fell within the range of reasonable professional assistance" (Coolen at para 52, see also Satkunanathan v Canada (Citizenship and Immigration), 2020 FC 470 at para 87; Anttal v Canada (Citizenship and Immigration), 2024 FC 643 [Anttal] at para 7; El Khatib at para 21). Third, the threshold for incompetent or negligent counsel has been described as "high" or even "very high" (Mbaraga v Canada (Citizenship and Immigration), 2015 FC 580 at para 25 citing Tjaverua v Canada (Minister of Citizenship and Immigration), 2014 FC 288 at para 15; Antall at para 6 citing Ram v Canada (Citizenship and Immigration), 2022 FC 795 at para 12, Brown at para 56). Some decisions of the Federal Court even speak of the need to prove "extraordinary incompetence" (Urbietta v Canada (Citizenship and Immigration), 2022 FC 815 at para 18 citing Julien v Canada (Citizenship and Immigration), 2010 FC 351 at para 36).
- [34] The Federal Court has also affirmed that applicants are responsible for the truth and completeness of the contents of their application, even when said application is submitted with outside assistance (Haque v Canada (Citizenship and Immigration), 2011 FC 315 and Ji v Canada (Citizenship and Immigration), 2019 FC 1219 at paragraph 21).
- [35] Whether the Excel sheet in which the Applicant or his wife correctly detailed all of the addresses where she had been for the past ten years was titled "Shazia Travel History" is immaterial. Even if it had been titled "Shazia's List of Addresses", the failure to correctly report one address would not, on its own, lead to a finding of incompetence. In her response to the allegations made against her, the Applicant's immigration consultant explains the steps that she took to ensure the accuracy of the information on file. By having the Applicant look through the entirety of the PR Application, in-person and at her office, so he could ascertain whether any error had been made, the immigration consultant displayed the conduct expected of a reasonable professional. She did not fall below that standard.
- [36] Given the above, the Court finds that the Applicant did not discharge his burden of proving that the Decision results from the negligence or incompetence of his immigration consultant. This is sufficient to determine this issue without the need for the Court to determine if a miscarriage of justice eventually occurred.

D. The Decision is reasonable [37] The Applicant also submits that the Decision should be set aside because the decision maker erred in that they "misapplied and/or failed to properly review and apply the guidelines which [they were] bound to follow while reviewing the Applicant's Application". The submission is that: (1) police certificates are required for the country where

every Applicant aged 18 years or older stayed in for 6 months in a row or longer over the past ten years; and (2) police certificates ought to have been issued after the last time the relevant applicant stayed in the country for six months or longer (see IRCC, “Immigrate through Express Entry: Documents -Police certificates” (last modified 21 August 2025), online: <canada.ca>); then (3) given that Mr. Ayaz’s spouse never lived in the UK for six months or more after July 2021, the December 2024 UK police certificate she submitted was sufficient; and (4) as a result, the decision maker should not have dismissed the Application for no updated police certificate was required. The Applicant cites no jurisprudence to support this argument, whether in chief or in reply.

- [38] In his reply, the Applicant adds another possible error made by the decision maker, namely that they either failed to review “and/or entirely overlooked” the “personal activities” section of Mr. Ayaz’ spouse’s application form, where she declared that she had been living in Pakistan, as a homemaker, from September 2024 to January 2025.
- [39] The AGC responds that the Decision is not only reasonable, it is “the only determination that could be made” because “[t]he residency information submitted by the Applicant stated that the Applicant’s spouse resided in England until January 2025”, while the UK police certificate she provided was issued in December 2024. Since the requirements for Express Entry clearly state that “the police clearance certificate must be issued after the last time you stayed there for 6 months in a row or longer”, the Officer had no other choice but to refuse to process the application. As Justice Kane stated in *Muradi v Canada (Citizenship and Immigration)*, 2024 FC 1661 at paragraph 37: “it is not the Officer’s error to rely on the information set out in the Application form”.
- [40] The Applicant’s arguments must fail. The decision maker cannot be faulted for having relied on the declarations that the Applicant and his family members themselves made -be it through an intermediate. The Applicant did not attempt to adduce any jurisprudence to support his position which essentially requires us to find that the decision maker ought to have attempted to “reconcile” discrepancies in the application form instead of taking the contents of the “address history” section of the form at face value. Given that the decision maker did not conduct an assessment of the merits of the PR Application, there is no basis on which they could be faulted for stopping as soon as they noticed that, based on the contents of the “address history” section of the form, a more recent police certificate was required. Their analysis could legitimately stop there.

V. Conclusion [41] Although the situation is unfortunate and the Court has much empathy for the Applicant, the Decision must stand as it is justified, transparent and intelligible. There is no issue of procedural fairness resulting from any negligence from the immigration consultant either.

JUDGMENT in IMM-5949-25

THIS COURT’S JUDGMENT is that:

The application for judicial review is denied, without costs.

No question of general importance is certified.

“Danielle Ferron”

Judge

FEDERAL COURT

SOLICITORS OF RECORD

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MaY 5, 2026

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