

CANADA / JUDGMENT

Boothe v. Canada (Citizenship and Immigration)

2026 FC 530

COURT

Federal Court

DECIDED

21 April 2026

Source: norma.lexum.com · Research copy typeset by Esheria. Not court-issued or certified.

Boothe v. Canada (Citizenship and Immigration)

Court (s) Database

Federal Court Decisions

Date

2026-04-21

Neutral citation

2026 FC 530

File numbers

IMM-2484-25

Decision Content

Date: 20260421

Docket: IMM-2484-25

Citation: 2026 FC 530

Toronto, Ontario, April 21, 2026

PRESENT: Mr. Justice Diner

BETWEEN:

NADIAN BOOTHE

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

[1] The Applicant, Ms. Nadian Boothe, seeks judicial review of a decision of the Immigration Appeal Division [IAD] dated January 14, 2025 [Decision], where the IAD, pursuant to subsection 4(1) of the Immigration and Refugee Protection Regulations, SOR/2002-227 [IRPR], dismissed the Applicant's appeal arising from a refusal of her sponsorship application [Application] on the basis that her marriage was not genuine and was entered into primarily for immigration purposes. For the reasons that follow, the Application will be dismissed.

I. Background [2] The Applicant is a Canadian citizen, who married a Nigerian citizen in the United States [U.S.] on October 25, 2019, and applied to sponsor him for permanent residence under the family class. The Applicant and the sponsored individual [Sponsoree] share a child, born on October 1, 2021.

[3] Prior to their marriage, the couple became acquainted in December 2018 through an online platform and developed their relationship through ongoing communication before meeting in person in June 2019.

[4] At the time the relationship began, the Sponsoree was residing in the U.S., where he had entered without status and subsequently obtained protection in the form of withholding of removal under Article III of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, Can. T.S. 1987 No. 36 [CAT]. The withholding of removal permitted the Sponsoree to remain in the U.S. but did not provide a pathway to permanent residence or allow him to sponsor family members.

[5] Following their marriage, the Applicant submitted a sponsorship application on behalf of the Sponsoree. On September 13, 2023, an Immigration, Refugees and Citizenship Canada visa officer [IRCC Officer] refused the application, concluding that the marriage was not genuine and had been entered into primarily for the purpose of acquiring permanent residence status under subsection 4(1) of the IRPR, and finding that the Sponsoree did not satisfy subsection 11(1) of the Immigration and Refugee Protection Act [IRPA], SC 2001, c 27, having failed to meet the statutory requirements.

[6] As a result of the IRCC Officer's decision, the Applicant appealed the sponsorship refusal to the IAD. In its Decision dated January 14, 2025, the IAD dismissed the appeal, concluding that the Applicant had not established, on a balance of probabilities, that the marriage was genuine, or that it was not entered into primarily for immigration purposes. The IAD found that the primary purpose of the marriage was for the Sponsoree to obtain status in Canada and noted in its analysis that the Sponsoree was in a challenging immigration situation in the U.S. at the time that he started communicating with the Applicant. Apart from his status

under CAT, the IAD noted that his U.S. work permit was expiring that year.

- [7] While the IAD found that the Applicant's involvement in the relationship to be genuinely sincere, it had reservations, on the other hand, about the Sponsoree's intentions, and the resulting genuineness of the marriage. Specifically, the IAD noted that the Sponsoree's uncertain immigration status, along with his apparent eagerness to quickly advance the relationship and marry the Applicant, raised significant concerns. It noted that the Sponsoree's primary motivation for pursuing marriage appeared to be driven by immigration benefits rather than a genuine emotional connection. The IAD noted that the timing and nature of his actions aligned with achieving immigration goals rather than building a sincere, long-term relationship.
- [8] The IAD acknowledged certain positive factors of a genuine relationship, including ongoing communication, financial support, and the existence of a child born to the couple in 2021. However, it found that these factors did not outweigh concerns arising from the Sponsoree's immigration history, the rapid progression of the relationship, gaps in documentary evidence, certain inconsistencies between the evidence of the Applicant and Sponsoree, as well as deficiencies in their knowledge of one another, their family, and their future plans. In dismissing the appeal, the IAD concluded its Decision at paragraph 66 as follows:

Ms. Boothe had the onus to prove, on a balance of probabilities, that her marriage with the sponsoree was not entered into for immigration purposes, and that it is genuine. There must be clear, cogent and convincing evidence to establish that the marriage is genuine, and that immigration was not the primary purpose of the marriage. Such evidence was lacking in this case. The panel concludes that the marriage was primarily entered into to facilitate the [Sponsoree]'s immigration to Canada, and that the marriage is not genuine.

II. Issues [9] The parties agree that sole issue is whether the IAD's decision was reasonable. Under the framework articulated in *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [Vavilov], a reviewing court must determine whether the decision is justified, transparent, and intelligible in light of the legal and factual constraints that bear on the decision.

- [10] The Applicant raises two principal arguments. First, the Applicant submits that the IAD misunderstood the nature of the Sponsoree's immigration status in the U.S. The Applicant argues that the IAD improperly treated the Sponsoree's protection against removal under the CAT as unstable or temporary status, and relied on this characterization to infer that the marriage was motivated by immigration considerations. According to the Applicant, there was no evidence before the tribunal that the Sponsoree's status was precarious or that he faced imminent removal.
- [11] Second, the Applicant argues that the IAD failed to give proper weight to the existence of the child of the Applicant and Sponsoree. The Applicant submits that the existence of a child of the relationship constitutes significant evidence of a genuine marriage.

[12] The Respondent, on the other hand, contends that the IAD's Decision was reasonable. The Respondent argues that the IAD accurately described the Sponsoree's immigration status and reasonably considered the limitations of that status in assessing immigration motivation. The Respondent further submits that the IAD expressly acknowledged the existence of the child, which it treated as a positive factor, but reasonably concluded did not outweigh the other concerns that arose from the evidentiary record.

III. Analysis [13] I will address each of the Applicant's arguments in turn, first providing a brief review of the applicable statutory provisions. Under section 12 of the IRPA, the selection criterion applicable to a foreign national who wishes to immigrate to Canada as a member of the family class is their spousal relationship with a Canadian citizen or permanent resident. As a result, the IAD was required to determine whether the Applicant had established, on a balance of probabilities, that her marriage satisfied both branches of the test set out in paragraphs 4(1)(a) and (b) of the IRPR, which state:

Bad faith

Mauvaise foi

4 (1) For the purposes of these Regulations, a foreign national shall not be considered a spouse, a common-law partner or a conjugal partner of a person if the marriage, common-law partnership or conjugal partnership

4 (1) Pour l'application du présent règlement, l'étranger n'est pas considéré comme étant l'époux, le conjoint de fait ou le partenaire conjugal d'une personne si le mariage ou la relation des conjoints de fait ou des partenaires conjugaux, selon le cas:

- (a) was entered into primarily for the purpose of acquiring any status or privilege under the Act; or
- a) visait principalement l'acquisition d'un statut ou d'un privilège sous le régime de la Loi;
- (b) is not genuine.
- b) n'est pas authentique.

A. Alleged Mischaracterization of the Sponsoree's U.S. Immigration Status [14] The Applicant submits that the IAD erred in law by misunderstanding the nature of the Sponsoree's immigration status in the U.S., and specifically, the protection afforded by withholding of removal under the CAT, and that the IAD's conclusion was thus unreasonable.

[15] First, the Applicant points to a letter from the Sponsoree's U.S. immigration attorney [Attorney's Letter] contained in the Certified Tribunal Record [CTR], which confirmed that the Sponsoree was granted withholding of removal under CAT. After taking this into consideration, the IAD, however, found the Sponsoree's immigration status to be evidence supporting that the primary purpose of the marriage was immigration. According to the Applicant, the Sponsoree's CAT withholding of removal status demonstrates that his

immigration status was stable rather than precarious. The Applicant also asserts that there was no evidence before the IAD to for it to have speculated that the Sponsoree's protection could be revoked.

- [16] Furthermore, the Applicant relies on *Wangden v Canada* (Minister of Citizenship and Immigration), 2008 FC 1230 (CanLII), [2009] 4 FCR 46 [Wangden] where Justice Mosely of this Court held that the status of withholding of removal in the United States is the equivalent of being recognized as a Convention refugee in Canada (at para 75). The Applicant adds that the Federal Court of Appeal endorsed Justice Mosely's reasons on appeal (*Wangden v Canada* (Citizenship and Immigration), 2009 FCA 344 at para 6). Thus, the Applicant argues that the IAD unreasonably found the Sponsoree's withholding of removal status would motivate him to enter a marriage to secure "refuge or economic opportunity" when he has a status equivalent to holding Convention refugee status, in addition to a work permit in the U.S.
- [17] I am not convinced by these arguments. First, I note that the IAD accurately described the key features of the Sponsoree's immigration status when the couple's relationship began, being that:
- (a) his refugee claim in the U.S. had been refused;
 - (b) he was granted protection against removal under the CAT;
 - (c) his status did not provide a pathway to permanent residence or citizenship in the U.S.;
 - (d) his status did not permit family reunification; and
 - (e) his status could be revisited if country conditions changed in Nigeria.
- [18] Furthermore, there was nothing inconsistent between the IAD's findings and the information set out in the Attorney's Letter. The Decision reasonably characterized the Applicant's status in the U.S. Contrary to the Applicant's arguments, the IAD did not conclude that the Sponsoree faced imminent removal, nor did it treat the protection afforded in the U.S. as illusory.
- [19] Rather, the IAD considered the objective limitations of the Sponsoree's U.S. status when assessing the broader context in which the marriage arose. I find that it was open to the IAD to consider whether the absence of long-term security and family reunification options in the U.S. could and did incent the Sponsoree to seek permanent status elsewhere (see, for instance, *Phan v Canada* (Citizenship and Immigration), 2019 FC 923 at para 30 [Phan]). Like in *Phan*, this was a contextual inference of the IAD's, grounded in the evidence before it.
- [20] In short, the IAD did not misunderstand the law governing protection under the CAT, nor does it amount to speculation untethered from the record. Furthermore, and with regard to the Applicant's reference to *Wangden*, I note that Justice Mosley's conclusion about the withholding of removal status in that case was made in the context of reviewing an officer's finding that the applicant was ineligible to seek protection in Canada (*Wangden* at para 77). In fact, Justice Mosely noted that the refugee claimant was seeking a more favourable status

in Canada where he would enjoy more rights which he could not have enjoyed from withholding status in the U.S.:

- [74] Mr. Wangden is attempting to do just that by leaving the United States and seeking protection in Canada. Through his own admissions, Mr. Wangden is implicitly asylum shopping as he is seeking a more favorable status in Canada to take advantage of the benefits that accrue from permanent residence, including the right to travel abroad and to sponsor others which he could not have enjoyed from withholding status in the U.S.

[Emphasis added.]

- [21] While the IAD did not mention Wangden in its analysis, I find that Justice Mosely's finding regarding the limited range of rights of the withholding status, in fact, goes to the reasonableness of the IAD's consideration of the Sponsoree's immigration status in the context of determining the genuineness of the marriage.

- [22] Furthermore, I note that the IAD considered other aspects of the Sponsoree's immigration status beyond the withholding of his removal under CAT, before concluding that his status was not permanent. Indeed, the IAD also referenced the imminent expiration of his work permit, which led to its finding on the Sponsoree's economic need. The IAD wrote at paragraphs 36-37 of its Decision:

First, the evidence shows that the sponsoree was in a challenging immigration situation at the time he started communicating with Ms. Boothe. As stipulated in this decision, the sponsoree was granted a withholding of removal under Article III of the Convention Against Torture in 2017. He was also granted a work permit that expires in 2025 by the American authorities.

Therefore, the sponsoree is undoubtedly in need of refuge and economic opportunities outside of the USA.

[Emphasis added.]

- [23] The IAD's conclusion that the Sponsoree's economic opportunities outside of the U.S. is clearly linked to his non-permanent residency status, along with the expiry of the work permit which provided his economic opportunities.

- [24] I also note that the IAD assessed the Sponsoree's immigration status for the purpose of determining his primary intention to marry the Applicant. The overall assessment of the Sponsoree's intention behind the marriage engaged credibility considerations arising from the parties' testimony and the inconsistencies identified in the CTR. For instance, the IAD noted that the couple had different opinions about the development of their relationship, and that the Applicant initially had reservations about the Sponsoree's intentions regarding the marriage, based on his initial conduct, including the fact that he failed to disclose his correct age to the Applicant. At paragraphs 40-43 of its decision, the IAD noted that:

... [the Sponsoree] testified his relationship with Ms. Boothe became serious in January 2019.

However, the evidence shows that in April 2019, Ms. Boothe still had doubts about the relationship, but [the Sponsoree] reassured her that meeting in person would help them decide their future together. He expressed his fear of losing everything due to her concerns, while she emphasized her happiness with her children and life.

In April 2019, five months after the couple's first contact, [the Sponsoree] revealed he was 28 years old but looked older. Ms. Boothe at that time was 36 years old. He also expressed his growing affection for her and asked her to trust him so they could be happy together...

[43] The panel has carefully reviewed the relationship development between the [Applicant and Sponsoree]. The panel finds Ms. Boothe's involvement in this relation to be genuinely sincere. However, the panel has reservations about [the Sponsoree]'s intentions.

[25] Assessments of credibility and weight lie at the core of the IAD's expertise and attract significant deference on judicial review (*Ghotra v Canada (Public Safety and Emergency Preparedness)*, 2026 FC 434 at para 34; *Vavilov* at para 29). The IAD considered the Sponsoree's immigration status as a part of these credibility assessments. Read as a whole, I find that the IAD's conclusions in this regard were intelligible and justified.

B. Treatment of the Child of the Relationship [26] The Applicant argues that the IAD failed to give sufficient weight to the fact that the parties have a child together, which she submits constitutes prima facie evidence of a genuine marriage. The Applicant points to the IAD's treatment of this factor in its Decision:

[47] The panel acknowledges the [Applicant] and [Sponsoree] have a child together. However, the panel does not find their son, who was born in 2021, to be persuasive evidence that the [couple] did not enter a marriage in 2019 primarily for immigration purposes. The birth of their son is a positive factor, but it does not outweigh the concerns above in relation to the primary purpose of the marriage.

[27] The Applicant submits that the IAD failed to grapple with the evidence before it, namely the fact that the child in question is now over four years old and that the Applicant has formed a family with the Sponsoree. Specifically, the Applicant asserts that the IAD only considered the birth of the child, rather than the significant role of the Sponsoree in the child's life.

[28] I disagree with the Applicant. The record does not support the assertion that the IAD ignored or minimized the evidence regarding the child. Rather, the IAD expressly acknowledged the existence of the child and treated him as a positive factor, but concluded that this factor, along with other positive factors cited, did not outweigh other concerns arising from the evidence. The IAD elaborated this further below in the Decision, which includes the rapid progression of the relationship, inconsistencies in the parties' testimony, limited mutual knowledge of each other's respective backgrounds and lives, and the circumstances surrounding their marriage.

- [29] The existence of a child is a relevant consideration for the bona fides evaluation of a marriage within the IRPA context. However the presence of a child, while relevant, is not determinative of whether a marriage is genuine (*Kusi v Canada (Citizenship and Immigration)*, 2021 FC 68 at para 28 [Kusi]; *Ly v Canada (Citizenship and Immigration)*, 2022 FC 1420 at para. 26 [Ly]).
- [30] The Applicant argues that the IAD's concerns did not meet the standard of "strong countervailing evidence" required to displace the significance of the birth of the child: *Gill v Canada (Citizenship and Immigration)*, 2010 FC 122 [Gill]. I do not agree. I find that the IAD cited evidence that met this standard. Unlike the Court's conclusions in *Gill*, here I do not find that the IAD cited "trivial inconclusive or irrelevant matters".
- [31] Indeed, the IAD pointed to numerous points in the couple's testimony before it during their two-day hearing, which demonstrate the lack of knowledge in each other's lives, weaknesses in their compatibility, and deficiencies around their plans for the future. The IAD, in arriving at its conclusion, noted that:

there was no evidence that the Sponsoree has been involved in the Applicant's two prior children's lives (they were two and three years of age respectively, when the couple met), or that "as a husband to their mother, he is involved in the children's lives or has taken a certain stand in terms of being a parental figure for the children" (Decision at para. 52);

the Sponsoree did not know details about the Applicant's past, such as her previous spouse's name nor how long she had been married (Decision at para. 55);

The Applicant, for her part, "was uncertain about her husband's current status [in the U.S.] and what it entailed" (Decision at para. 54);

The couple's knowledge of each other was also "deficient in regard to important daily routine", and in short, "inconsistent with what is expected from partners having frequent and meaningful contacts and being married for more than five years" (Decision at para. 56).

- [32] In addition, the IAD found that their planned future together was deficient, finding that the: lack of clear and decisive evidence in their plans is a concern. Indeed, it is reasonable to expect that a couple who has been married for more than five years would make such plans and have alternate courses of action they have agreed upon if they could not live in Canada together. (Decision at para. 63).

- [33] Again, both *Kusi* and *Ly* confirm, that while the presence of a child may constitute a positive factor in the analysis, that factor does not in and of itself compel a finding that the relationship is genuine. This decision is entirely consistent with the jurisprudence in that regard: the IAD was entitled to weigh the factor of the child alongside the totality of the evidence.

[34] Furthermore, a marriage entered into for the purpose of acquiring immigration status will still be flawed even if it subsequently becomes genuine (see *Canada (Citizenship and Immigration) v Moise*, 2017 FC 1004 at para 15 [Moise]). As Justice Fothergill stated at paragraph 17 of Ly:

In [Moise], Justice Yvan Roy confirmed that s 4(1) of the Regulations requires the applicant to demonstrate, on a balance of probabilities, that the marriage is genuine and not entered into primarily for the purpose of acquiring immigration status. The genuineness of the marriage is evaluated at the time of the visa officer's decision. The intent behind the marriage is evaluated as of the time of the wedding (at paras 15-16):

[...] Indeed, a marriage is disqualified if either of the conditions set out in paragraphs 4(1)(a) and (b) is not met (*Mahabir v. Canada (Citizenship and Immigration)*, 2015 FC 546 and *Singh v. Canada (Citizenship and Immigration)*, 2014 FC 1077). In other words, the [applicant] must meet both conditions. A marriage entered into for the purpose of acquiring a status or privilege will be flawed even if it subsequently becomes genuine. As well, a marriage that is validly entered into can become flawed for immigration purposes if it loses its genuineness.

On its face, the provision sets forth two different times when evaluations must be conducted. Regarding the genuineness of the marriage, the Regulations use the present tense, meaning that the genuineness of the marriage is evaluated at the time of the decision. On the other hand, the evaluation of the intent with which the marriage was entered into, i.e. primarily to acquire a status or a privilege, is in the past. The English reads “was entered” while the French reads “visait”; the evaluation is therefore conducted at the time of the marriage.

[35] Again, while weight must be attributed to the birth of a child in the assessment of the legitimacy of a marriage, this fact – or weight – is not determinative. And like in Ly, while the IAD took the child into account in its analysis, it was reasonable for it not to find the child to be determinative of the outcome.

[36] Ultimately in the present circumstances, the IAD concluded as follows at paragraphs 64-65 of its Decision, which serve as a *précis* of its reasons:

In conclusion, the panel is of the opinion that, despite the presence of several positive factors to demonstrate whether this relationship is genuine, they do not collectively outweigh the significant concerns mentioned regarding the primary purpose of marriage.

While there are indeed some favourable aspects to consider, the panel remains unconvinced that these elements are sufficient to address the core issues. The primary concern revolves around whether the marriage was entered into for genuine reasons or as immigration benefits. The positive factors, though noteworthy, do not adequately mitigate the doubts about the true intent behind the marriage.

[37] These are reasonable findings, and I agree with the Respondent that the Applicant's submissions amount to a request that the Court reassess the weight assigned to the evidence, which is not the function of judicial review (*Jamehbozorg v Canada (Citizenship and Immigration)*, 2026 FC 92 at para 10).

IV. Conclusion [38] Ultimately, the IAD engaged with the evidence before it, identified the correct legal test under subsection 4(1) of the IRPR, and explained why it was unsatisfied that the Applicant had met her burden. Its reasons demonstrate a rational chain of analysis, which was transparent, intelligible, and justified, and fall within the range of outcomes that were open to it on the record (*Vavilov* at para 15). While another decision-maker might have weighed the evidence differently, that is not a basis for intervention of this Court, the role of which is not to reweigh the evidence or to substitute its own assessment of the facts. The application for judicial review is accordingly dismissed. Neither party proposed that a question be certified for appeal, and none arises.

JUDGMENT in IMM-2484-25

THIS COURT'S JUDGMENT is that:

The application for judicial review is dismissed.

No questions for certification were argued, and I agree none arise.

There is no award as to costs.

"Alan S. Diner"

Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:

IMM-2484-25

STYLE OF CAUSE:

NADIAN BOOTHE v MCI

PLACE OF HEARING:

Toronto, Ontario

DATE OF HEARING:

March 02, 2026

JUDGMENT and REASONS:

DINER J.

DATED:

APRIL 21, 2026

APPEARANCES:

Joel Sandaluk

For The Applicant

James Todd

For The Respondent

SOLICITORS OF RECORD:

Joel Sandaluk

Barrister and Solicitor

Toronto, Ontario

For The Applicant

Attorney General of Canada

Toronto, Ontario

For The Respondent

Source & reproduction note

Judgment wording, source notices and original paragraph numbers are retained. Esheria supplies the layout and this PDF's page numbers; these are not the source pagination. This is a research copy, not an official or certified court document. Check quotations, citations and publication restrictions against the original source before relying on it.

ORIGINAL SOURCE <https://norma.lexum.com/fc-cf/decisions/en/item/530408/index.do>

CASE PAGE <https://chat.esheria.ai/case-law/canada/boothe-v-canada-citizenship-and-immigration-2026>

Prepared on 27 October 2026 · Esheria