

CANADA / JUDGMENT

Chen v. Canada (Citizenship and Immigration)

2026 FC 407

COURT

Federal Court

DECIDED

26 March 2026

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Chen v. Canada (Citizenship and Immigration) Court (s) Database Federal Court Decisions Date 2026-03-26 Neutral citation 2026 FC 407 File numbers IMM-3700-25 Decision Content Date: 20260326 Docket: IMM-3700-25 Citation: 2026 FC 407 Ottawa, Ontario, March 26, 2026 PRESENT: The Honourable Madam Justice Blackhawk BETWEEN: QINGDONG CHEN Applicant and THE MINISTER OF CITIZENSHIP AND IMMIGRATION Respondent ORDER AND REASONS I. Overview

[1] On motion in writing by the Applicant, filed on October 25, 2025, pursuant to Rules 309, 364 and 369 of the Federal Courts Rules, SOR/98-106 [the “Rules”], for an order: (a) granting leave to file supplementary reply evidence; (b) expediting the Courts determination of the Applicant’s underlying application for leave and judicial review; and (c) directing Immigration, Refugees and Citizenship Canada (“IRCC”) to render a decision on the Applicant’s application for Permanent residence (“PR”) within 30 days or a a set time frame the Court deems appropriate.

[2] The Respondent opposes the motion. The Parties are awaiting a decision on leave for the underlying application for leave and judicial review wherein the Applicant seeks an order of mandamus to compel the Respondent to issue a decision on his PR application.

[3] For the reasons that follow, this motion is dismissed. II. Background [4] The Applicant is a citizen of China. He filed an application for PR under the Spouse or Common Law Partner in Canada Class on September 29, 2022.

[5] The Applicant has undergone the following steps in the application process: medical exam; biometrics; and has responded to requests for further information.

[6] IRCC reviewed the Applicant’s application, and a security review was initiated.

[7] On February 17, 2025, the Applicant filed an application for leave and judicial review, seeking an order of mandamus to direct the Minister to make a decision on his PR application within 30 days or another set time period.

[8] On April 23, 2025, the Respondent filed its memorandum of argument and affidavit.

- [9] On April 25, 2025, the Applicant filed his reply memorandum of argument. III. Issues [10] The issues in this application are: a)Has the Applicant demonstrated special circumstances that warrant the filing of reply evidence? b)Has the Applicant demonstrated that the application for leave should be expedited? c)Should the court grant the relief requested in the underlying application for judicial review at this juncture? IV. Analysis A. Additional Evidence [11] The Applicant seeks to have an affidavit dated October 19, 2025 added to the record for the leave application, the Affidavit includes, as an exhibit, a letter dated October 6, 2025 from the Department of Justice on behalf of the Canadian Security Intelligence Service (“CSIS”) that provides an update on the processing of the security screening being conducted in respect of the Applicant’s PR application.
- [12] There are no provisions in the Federal Courts Citizenship, Immigration and Refugee Protection Rules, SOR/93-22 [“Immigration Rules”] that permit the filing of evidence on Reply. Accordingly, where an applicant seeks to file supplemental evidence, they must demonstrate that special circumstances exist pursuant to Rule 55 of the Rules; *Ahmed v Canada (Citizenship and Immigration)*, 2025 FC 929 [Ahmed] at para 13.
- [13] The factors that this Court considers in determining if special circumstances exist that would warrant granting an Order to permit the filing of supplemental evidence were summarised recently by Associate Justice Shannon in *Ahmed*. The Court will be guided by whether it is in the interests of justice to grant leave to file supplementary evidence. In that regard, the Court will be guided by a consideration of the following factors (para 15): Was the evidence sought to be adduced available when the party filed its original affidavits or could it have been available with the exercise of due diligence? Will the evidence assist the Court in the sense it is relevant to an issue to be determined and sufficiently probative that it could affect the result? Will the evidence cause substantial or serious prejudice to the other party?
- [14] The Applicant has not discharged his burden to establish that special or unusual circumstances exist to warrant an Order permitting him to file supplementary reply evidence.
- [15] While it is not contested by the Respondent that the information was not available at the time the Applicant filed his original affidavits or could have been available with reasonable diligence, I am persuaded by the Respondent’s arguments that the Applicant fails to meet the other two elements of the test.
- [16] The Applicant has failed to satisfy the Court that the proposed evidence will assist in its final determination of the matter. The Applicant argues that the evidence is necessary because it “materially updates the factual matrix on which the Respondents justification was premised”. Further the Applicant argues that the Respondent is not prejudiced by the addition of the new evidence.

- [17] The Respondent has persuaded me that the new evidence does not mean that his security review is complete—The CSIS security screen is one step in the process. Indeed, the Applicant appears to acknowledge this, in his reply memorandum he states “The Applicant does not contest that this alone concludes the entire tri-partite process”.
- [18] Therefore, the Applicant has failed to satisfy the second element of the test; that the evidence will affect the Court’s determination on the Respondent’s justification for the alleged delay in processing his application.
- [19] Finally, the admission of the new evidence will prejudice the Respondent. In my view, granting the requested order would give the Applicant an unfair advantage, as the Respondent would be deprived of the opportunity to provide a response to this new information at the leave stage. In response to this motion, the Respondent has filed evidence concerning the Immigration Security Screening Trilateral Program. The Information sets out the eight (8) steps involved in a comprehensive security screening of an application. This information would not be before the judge assessing the leave application.
- [20] I am persuaded by the Respondent’s argument that the filing of the supplemental reply evidence “runs afoul of the overall philosophy of the Immigration Rules”, which are designed to ensure that applications for leave in an immigration matter proceed expeditiously; *Taiyese v Canada (Citizenship and Immigration)*, 2024 FC 1730 at paras 19-20 and *Ahmed* at para 22.
- [21] Ultimately, the Applicant is attempting to split his case by submitting a new affidavit after the Minister has responded to the original application record. In my view, this would give the Applicant an inappropriate advantage. B. Expediting The Applicant’s Leave Application [22] Rule 8(1) of the Rules permits the Court to expedite timelines fixed by the Rules, or by an Order of the Court.
- [23] The Applicant submits that his application for PR has been outstanding for over three (3) years, accordingly, this has resulted in harms to him and his family. Therefore, the Court ought to exercise its discretion, given the ongoing prejudice the Applicant will face from a continued delay. Further, he argues that this will not unfairly disadvantage other litigants. Essentially, the Applicant is arguing that the determination of his underlying application for leave is adding to the delays in the processing of his application.
- [24] The Respondent argues that the relief the Applicant seeks is not available in the present circumstances. A plain reading of Rule 8(1) is clear, it applies to timelines fixed by the Rules or by an order of the Court, and neither scenario is applicable in the present circumstance. In this case, the parties are awaiting a decision from this Court on the Applicant’s underlying application for leave. There are no timelines for a decision to grant or deny leave set out in the Rules or as fixed by an order of this Court.

- [25] As noted by Justice Diner in *Ezimokhai v Canada* (Citizenship and Immigration), 2022 FC 1452 [Ezimokhai] at para 11, “the timeline required to render a decision on leave remains the prerogative of the Court, and within its exclusive jurisdiction to determine.”
- [26] I agree with the Respondent, that the same “fundamental impediment” is an obstacle to the remedy the Applicant seeks. Rule 8(1) may not be used to compel the Court to issue an order to grant or deny leave; *Ezimokhai* at para 12.
- [27] As noted by Associate Justice Horne in *Lu v Canada* (Minister of Citizenship and Immigration) IMM-3585-25, in an Order dated June 25, 2025, at paragraph 9, the reality is many litigants in immigration matters have compelling reasons to request that their matter be heard in priority to others. The relief requested here effectively would permit the Applicant’s matter to be prioritised over others in the queue.
- [28] Section 72(1) of the Immigration and Refugee Protection Act, SC 2001, c 27 [IRPA], where this Court derives its jurisdiction in immigration matters stands as a complete bar to the Applicant’s request. For all matters raised under IRPA, there is no right of judicial review, unless leave is first granted; *Farhadi v Canada* (Minister of Citizenship and Immigration) 2014 FC 926 at para 18; *Varela v Canada* (Minister of Citizenship and Immigration) 2009 FCA 145 at para 24.
- [29] The Applicant argued that his circumstances are exceptional. He suggests the new evidence illustrates the exceptionality of the situation, and he argues that he is not seeking to bypass the leave stage to obtain a “final mandamus order, nor is he jumping the queue”.
- [30] With respect, I do not agree. I am not persuaded by the Applicant that there are compelling and exceptional circumstances that would justify the granting of such an extraordinary remedy. C. Mandamus Relief [31] Finally, the Applicant requests an order to grant his application for mandamus, before this Court has made a disposition on the underlying application for leave.
- [32] I am persuaded by the Respondent’s submission, that effectively, the granting of such relief is akin to summary judgment, which is not available under the Immigration Rules; *Lu* at para 11. V. Conclusion [33] The Applicant’s motion is dismissed. He has not demonstrated that there are special circumstances that warrant the filing of reply evidence; that his application for leave should be expedited; and that the Court should grant an order of mandamus directing the Respondent to make a decision in his application for PR within a specified period of time.
- [34] I appreciate that the Applicant is frustrated with the duration of the security screening steps and the impacts on the processing of his application. However, the integrity of Canada’s immigration system and the importance of maintaining public confidence in that system are important, and the security screening supports these objectives. ORDER in IMM-3700-25 THIS COURT ORDERS that: The Applicant’s motion is dismissed. No order as to costs. "Julie Blackhawk" Judge FEDERAL COURT SOLICITORS OF RECORD DOCKET: IMM-3700-25 STYLE

OF CAUSE: QINGDONG CHEN v THE MINISTER OF CITIZENSHIP AND IMMIGRATION
MOTION IN WRITING CONSIDERED AT OTTAWA, ONTARIO PURSUANT TO RULE 369 OF
THE FEDERAL COURTS RULES ORDER AND REASONS: BLACKHAWK J. DATED: March 26,
2026 WRITTEN REPRESENTATIONS BY: Qingdong Chen For The Applicant (ON HIS OWN
BEHALF) Amanda Bitton For The Respondent SOLICITORS OF RECORD: Attorney General of
Canada Toronto, Ontario For The Respondent

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