

CANADA / JUDGMENT

Gupta v. Canada (Citizenship and Immigration)

2026 FC 604

COURT
Federal CourtDECIDED
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Gupta v. Canada (Citizenship and Immigration) Court (s) Database Federal Court Decisions Date 2026-05-06 Neutral citation 2026 FC 604 File numbers IMM-2598-24 Decision Content Date: 20260506 Docket: IMM-2598-24 Citation: 2026 FC 604 Ottawa, Ontario, May 6, 2026 PRESENT: The Honourable Mr. Justice Gleeson BETWEEN: MOHIT GUPTA Applicant and THE MINISTER OF CITIZENSHIP AND IMMIGRATION Respondent JUDGMENT AND REASONS I. Overview [1] The Applicant brings a motion in writing pursuant to Rules 369 and 397 of the Federal Courts Rules, SOR/98-106, [Rules] for reconsideration of the judgment issued on May 26, 2025 [Judgment], in which the Applicant's application for judicial review of a temporary resident visa refusal was dismissed.

[2] The Applicant takes the position that reconsideration is warranted because the Judgment failed to consider the main grounds of unreasonableness alleged, failed to assess the post-facto justification for the decision under review provided by the Respondent, and did not engage with the legal authorities or the evidence in the record presented by the Applicant.

[3] The Respondent argues the motion is nothing more than an attempt to restate the arguments the Applicant advanced on judicial review and request the Court to come to a favourable conclusion. This, the Respondent submits is an inappropriate application of Rule 397 of the Rules.

[4] Rule 397 is of narrow application. The Rule allows the Court to address inconsistencies between an order made and reasons given or correct an order where a matter has been overlooked or omitted. As explained in the reasons that follow, the Applicant's motion seeks relief that is beyond the narrow scope of Rule 397. The motion will therefore be dismissed. II. Applicable Principles [5] Rule 397 provides: Motion to reconsider Réexamen 397 (1) Within 10 days after the making of an order, or within such other time as the Court may allow, a party may serve and file a notice of motion to request that the Court, as constituted at the time the order was made, reconsider its terms on the ground that 397 (1) Dans les 10 jours après qu'une ordonnance a été rendue ou dans tout autre délai accordé par la Cour, une partie peut signifier et déposer un avis de requête demandant à la Cour qui a rendu

l'ordonnance, telle qu'elle était constituée à ce moment, d'en examiner de nouveau les termes, mais seulement pour l'une ou l'autre des raisons suivantes :

- (a) the order does not accord with any reasons given for it; or
- a) l'ordonnance ne concorde pas avec les motifs qui, le cas échéant, ont été donnés pour la justifier;
- (b) a matter that should have been dealt with has been overlooked or accidentally omitted.
- b) une question qui aurait dû être traitée a été oubliée ou omise involontairement.
- (2) Clerical mistakes, errors or omissions in an order may at any time be corrected by the Court.
- (2) Les fautes de transcription, les erreurs et les omissions contenues dans les ordonnances peuvent être corrigées à tout moment par la Cour.
- [6] At Rule 2 of the Rules, “order” is defined as including a judgment.
- [7] In *Canada v MacDonald*, 2021 FCA 6, the Federal Court of Appeal held that the authority Rule 397 provides to reconsider orders and judgments to address mistakes, omissions, or matters overlooked is “much narrower than it sounds” (at para 17). Rule 397 does not allow a Court to “rethink the matter and reverse itself” (at para 17). The reconsideration power is “more limited – to correct small oversights, such as an inconsistency between the order and the reasons..., the failure of the Court to deal with something that was put to it ..., and clerical mistakes, errors or omissions in the order” (*Garcia Diaz v Canada (Citizenship and Immigration)* 2021 FC 530 at para 4, citing *Yeager v Day*, 2013 FCA 258 at para 9; see also *Taker v Canada (Attorney General)*, 2012 FCA 83 at para 4; *Cowessess First Nation No 73 v Pelletier*, 2017 FC 859 at para 16).
- [8] The jurisprudence discloses that the following principles govern a motion for reconsideration under Rule 397: A motion for reconsideration is not an alternative method of appeal or an occasion to reargue or relitigate the matter (*Naboulsi v Canada (Citizenship and Immigration)* 2020 FC 357 para 7 [Naboulsi], citing *Benipal v Canada (Minister of Citizenship and Immigration)*, 2002 FCT 1302 at para 8). The failure of the Court to address a matter pleaded and argued by a party does not engage Rule 397 (*Naboulsi* at para 8, citing *Balasingam v Canada (Minister of Employment and Immigration)*, [1994] FCJ No 448). A “matter” that should have been dealt with, as contemplated by Rule 397(1)(b), relates to a remedy sought by the moving party, not an argument that was raised before the Court (*Naboulsi* at para 9, citing *Lee v Canada (Minister of Citizenship and Immigration)*, 2003 FC 867; *Haque v Canada (Minister of Citizenship and Immigration)*, 2000 CanLII 15819 (FC), [2000] FCJ No 1141). III. Analysis A. Preliminary matter – Jurisdiction to consider the motion
- [9] A motion for reconsideration under Rule 397(1) is to be brought before the judge whose order is sought to be reviewed, varied or rescinded – the “Court, as constituted at the time the order was made” – save exceptional circumstances (*Gabriel v Mohawk Council of*

Kanesatake, 2003 FCT 335 at para 7). Exceptional circumstances include the exigencies of court administration and the illness or incapacity of the authorizing judge (*Branco v Canada (Citizenship and Immigration)*, 2024 FC 907; *Canada (Citizenship and Immigration) v Asphall*, 2024 FC 911). The Judgment was rendered by Justice Elizabeth Heneghan who has since ceased to hold office. She is *functus officio* and is no longer in a position to give judgment in this matter. This motion has therefore been referred to another judge for disposition. B. Rule 397 is of no application [10] As I have noted above, Rule 397(1) contemplates an inconsistency between the order or judgment made and the reasons given, or the failure to address a matter in the order or judgment that was put to the court.

- [11] In this instance, the Applicant seeks reconsideration on the basis that the Judgment “does not follow the Court’s main legal reasoning highlighted” in *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [Vavilov], and argues the reasons given are inconsistent with the well-established principles that flow from Vavilov.
- [12] In arguing that reconsideration is justified under Rule 397, the Applicant submits that the Court, in concluding the decision under review was procedurally fair and reasonable, failed to engage with arguments made – “the court did not address the applicant’s main arguments.” In effect, the Applicant submits the Judgment does not accord with the Applicant’s submissions and overlooks arguments the Applicant made.
- [13] Rule 397 does not contemplate reconsideration on this basis. The Applicant has not disclosed what amounts to an inconsistency as between the reasons and the Judgment. Instead, the Applicant asserts the reasons reflect errors of fact and law that in turn undermine the legal soundness of the Judgment reached.
- [14] These are not the inconsistencies or oversights that Rule 397 provides for. In alleging Justice Heneghan has erred, the Applicant raises issues that are properly pursued on appeal, where an appeal right exists. In absence of any further right of appeal, as is the case here, an Applicant’s recourse to the courts has been exhausted.
- [15] As discussed above, Rule 397 is not an alternative method of appeal. To conclude otherwise would be to disregard the public interest to be served in the finality of judgments (*Dabiri Sharifabad v Canada (Citizenship and Immigration)*, 2024 FC 740 para 27, citing *Rostamian v Canada (Minister of Employment & Immigration)*, 1991 CanLII 14464 (FCA) at para 5). IV. Conclusion [16] For the above reasons, the motion is dismissed. JUDGMENT IN IMM-2598-24 THIS COURT’S JUDGMENT is that: The Applicant’s motion for reconsideration of the Judgment of Justice Heneghan issued on May 26, 2025, is dismissed. “Patrick Gleeson” Judge FEDERAL COURT SOLICITORS OF RECORD DOCKET: IMM-2598-24 STYLE OF CAUSE: MOHIT GUPTA v THE MINISTER OF CITIZENSHIP AND IMMIGRATION MOTION IN WRITING CONSIDERED AT OTTAWA, ONTARIO PURSUANT TO RULE 369 OF THE FEDERAL COURTS RULES JUDGMENT AND reasons: GLEESON J. DATED: May 6, 2026 WRITTEN REPRESENTATIONS BY: Harkiran Singh Brar For The Applicant Sarah Merredew For The Respondent SOLICITORS OF RECORD: Harry Brar Law Professional Corporation Barrister

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