
CANADA / JUDGMENT

Ibrahim v. Canada (Citizenship and Immigration)

2025 FC 2010

COURT

Federal Court

DECIDED

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Decision Content

Date: 20251219

Docket: T-3438-24

Citation: 2025 FC 2010

Toronto, Ontario, December 19, 2025

PRESENT: Madam Justice Go

BETWEEN:

Nermine Magdi Ibrahim

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

I. Overview [1] Nermine Magdi Ibrahim [Applicant] seeks a judicial review under section 22.1 of the Citizenship Act, RSC 1985, c C-29 [Act] of a decision by an authorized delegate [Delegate] of the Minister of Immigration, Refugees and Citizenship Canada [IRCC] dated November 6, 2024, to revoke her Canadian citizenship for reason of false representation, fraud, or knowingly concealing material circumstances under subsection 10(1) of the Act [Decision].

- [2] While the Applicant's citizenship was initially flagged for investigation in 2014, and the investigation was completed in that same year, it was not until 2023 when the IRCC advised the Applicant of the potential revocation proceedings and offered her an opportunity to make submissions.
- [3] The Decision is subject to the current citizenship revocation regime that came into force in January 2018, pursuant to An Act to amend the Citizenship Act and to make consequential amendments to another Act, SC 2017, c. 14 (Bill C-6). Under the current regime, individuals subject to revocation proceedings may choose to have the Minister, i.e., their delegate, to be the decision maker, or have their misrepresentation litigated by way of an action in this Court. The Applicant opted for the former procedure.
- [4] This judicial review application provides the Court with the opportunity to confirm who carries the burden of proof of establishing misrepresentation in citizenship revocation proceedings. It also allows the Court to review the content of the procedural fairness requirements for such proceedings, and the relevance of an applicant's choice of forum in determining such content.
- [5] In granting the Applicant's judicial review, I confirm that the onus of establishing misrepresentation rests with the Minister. I also find that the Applicant's choice of forum is not relevant in the Court's assessment of the procedural fairness requirements. In the matter before me, I find the Delegate erred by shifting the onus from the Minister to establish misrepresentation to the Applicant to prove her residency. I conclude that the Delegate breached the principles of procedural fairness by a) failing to hold an oral hearing to address their credibility concerns, and b) failing to provide the Applicant with adequate disclosure. Finally, I determine that the nine-year delay in bringing revocation proceedings against the Applicant is inordinate as it seriously impairs the fairness of the proceedings, thus constituting an abuse of process. I therefore grant the Applicant a stay of the proceedings.

II. Factual and Legislative Context A. Factual Background [6] The Applicant became a Canadian permanent resident in July 2003 and subsequently a Canadian citizen in October 2007. In her citizenship application, the Applicant declared 166 days of absences from Canada during her relevant residency period from July 9, 2003 to February 18, 2007.

- [7] In 2014, Canada Border Services Agency [CBSA] received a tip about companies operating citizenship fraud schemes with the Applicant's husband's name appearing as one of the clients who used these services to simulate his residence in Canada. The CBSA referred this information to the Minister of then Citizenship and Immigration [CIC], now IRCC, for further investigation.
- [8] During its investigation, the Case Management Branch [CMB] of CIC found the Applicant's LinkedIn profile which suggested that she was continuously employed as a Medical Delegate with Nestlé Infant Nutrition in Kuwait from June 2002 to June 2009. On July 23, 2014, an Analyst of the Immigration Section at the Canadian Embassy in Abu Dhabi, United Arab Emirates [UAE] [Immigration Analyst] verified her continuous employment with the employer.

B. Legislative Context [9] In 2014, when the Applicant's citizenship was first referred to the IRCC for investigation, an individual's citizenship could be revoked pursuant to section 10 of the Act if it was established that citizenship was acquired by false representation or fraud or by knowingly concealing material circumstances. Under the then regime, a final decision could only be reached by the Governor in Council based on a report by the Minister: *Hassouna v Canada (Citizenship and Immigration)*, 2017 FC 473 at para 13 [Hassouna].

- [10] The revocation of citizenship on grounds of fraud or misrepresentation under the Act was amended by the Strengthening Canadian Citizenship Act, S.C. 2014, c. 22 [SCCA] that came into effect on May 28, 2015. Under the SCCA amendments, an individual's citizenship could be revoked by the Minister under subsection 10(1) if the Minister is satisfied on a balance of probabilities that the person has obtained, retained, renounced or resumed their citizenship by false representation or fraud or by knowingly concealing material circumstances.
- [11] This Court in *Hassouna* found that certain citizenship revocation provisions of the SCCA breached paragraph 2(e) of the Canadian Bill of Rights, S.C. 1960, c. 44 as they deprived a person of the right to a fair hearing in accordance with the principles of fundamental justice and were therefore of no force or effect: para 126.
- [12] In response to *Hassouna*, the Government of Canada introduced new revocation provisions in January 2018. As noted above, these provisions govern the Applicant's citizenship revocation proceedings, and they are still in force today.
- [13] The current revocation provisions are laid out under the Act as follows:

Revocation by Minister — fraud, false representation, etc.

Révocation par le ministre — fraude, fausse déclaration, etc.

10 (1) Subject to subsection 10.1(1), the Minister may revoke a person's citizenship or renunciation of citizenship if the Minister is satisfied on a balance of probabilities that the person has obtained, retained, renounced or resumed his or her citizenship by false representation or fraud or by knowingly concealing material circumstances.

10 (1) Sous réserve du paragraphe 10.1(1), le ministre peut révoquer la citoyenneté d'une personne ou sa répudiation lorsqu'il est convaincu, selon la prépondérance des probabilités, que l'acquisition, la conservation ou la répudiation de la citoyenneté de la personne ou sa réintégration dans celle-ci est intervenue par fraude ou au moyen d'une fausse déclaration ou de la dissimulation intentionnelle de faits essentiels.

(2) [Repealed, 2017, c. 14, s. 3]

(2) [Abrogé, 2017, ch. 14, art. 3]

Notice

Avis

(3) Before a person's citizenship or renunciation of citizenship may be revoked, the Minister shall provide the person with a written notice that

(3) Avant que la citoyenneté d'une personne ou sa répudiation ne puisse être révoquée, le ministre lui envoie un avis écrit dans lequel :

(a) advises the person of his or her right to make written representations;

a) il l'informe qu'elle peut présenter des observations écrites;

(b) specifies the form and manner in which the representations must be made;

b) il précise les modalités de présentation des observations;

(c) sets out the specific grounds and reasons, including reference to materials, on which the Minister is relying to make his or her decision; and

c) il expose les motifs et les justifications, notamment les éléments de preuve, sur lesquels il fonde sa décision;

(d) advises the person that the case will be referred to the Court unless the person requests that the case be decided by the Minister.

d) il l'informe que, sauf si elle lui demande de trancher l'affaire, celle-ci sera renvoyée à la Cour.

[...]

[...]

Hearing

Audience

- (4) A hearing may be held if the Minister, on the basis of prescribed factors, is of the opinion that a hearing is required.
- 4) Une audience peut être tenue si le ministre l'estime nécessaire compte tenu des facteurs réglementaires.

[...]

[...]

Notice of decision

Communication de la décision

- (5) The Minister shall provide his or her decision to the person in writing.
- (5) Le ministre communique sa décision par écrit à la personne.

C. The Citizenship Revocation Proceedings as applied to the Applicant [14] On September 5, 2023, the IRCC sent the Applicant a Request for Information Letter [RFL]. The RFL notified the Applicant that it has come to IRCC's attention that the Applicant may have misrepresented herself during the citizenship process and that the Applicant may have failed to disclose some of her absences from Canada during the four years immediately before the date of her citizenship application. The Applicant was given 30 days to make written submissions regarding the length of time she spent in Canada before acquiring citizenship and her ties to Canada since becoming a citizen.

[15] On September 21, 2023, the Applicant responded to the RFL with a one-page letter. In it, she requested for more details about alleged absences and stated that she has integrated well into Canadian society as shown in her successfully becoming licensed as a pharmacist, being a partner of two pharmacies, and owning property. She also argued that the revocation would result in severe hardship and added that all her points can be substantiated with supporting documents upon request.

[16] On May 9, 2024, the IRCC issued the Applicant a Notification letter concerning your Canadian citizenship [Notification Letter] pursuant to subsection 10(3) of the Act, which sets out specific grounds and reasons that the IRCC relied upon to proceed with revocation proceedings. The Notification letter cited the Applicant's LinkedIn profile listing her employment with Nestlé in Kuwait, the Canadian Embassy's verification with Nestlé's Human Resource Department of the Applicant's continuous employment from July 2002 to June 2009, and the Applicant's failure to disclose this information as basis for alleging that the Applicant may have obtained citizenship by misrepresentation.

[17] On July 4, 2024, the Applicant responded to the Notification Letter with a three-page letter and submitted a form to request the Minister to decide her case.

- [18] In her written submission, the Applicant explained that her LinkedIn Profile is not of a factual nature and does not include any leaves taken. The Applicant also explained that she was pregnant with her daughter during the relevant period, and that Nestlé had a relatively flexible maternity leave policy that enabled her to stay in Canada for the duration of her pregnancy and throughout the breastfeeding period until her daughter was two years old. The Applicant noted it has been over 15 years since the relevant period has elapsed. The Applicant emphasized that it was not only a matter of intellectual recollection, but of documentary recollection, citing PIPEDA's "limited retention" principle that prohibits companies from holding information that does not fulfil the "identified purposes:" Personal Information Protection and Electronic Documents Act, S.C. 2000, c. 5.
- [19] The Applicant noted the steps she undertook to obtain information from various institutions including the pharmaceutical company she worked for, her bank and her phone company, but was unable to produce records longer than seven years prior due to these institutions' policy on record retention. Nevertheless, the Applicant submitted supporting documentation, including her daughter's Ontario birth certificate, her Ontario and Manitoba pharmacist licenses, document of prior property ownership, an Ontario Profile Report for the two pharmacies she is a partner in, copies of her driver's licenses containing a residential address in Ontario, as well as her and her daughter's hospital cards containing the same address. In addition, the Applicant provided copies of Nestlé's policies regarding maternity and parental support from 2012 to 2019.

D. Decision Under Review [20] In the Decision dated November 6, 2024, the IRCC advised the Applicant that her citizenship was revoked. In the attached Reasons for Decision [Reasons], the Delegate summarized the Applicant's submissions in response to the misrepresentation allegation and found the evidence she submitted failed to demonstrate any meaningful current establishment that may be threatened should her citizenship be revoked. The Delegate gave no weight to the Applicant's submissions surrounding hardship. The Delegate also rejected her argument that the delay in initiating the proceedings prejudices her ability to obtain documentation to refute the allegations.

- [21] In conclusion, the Delegate revoked the Applicant's citizenship, and the Applicant is now a permanent resident of Canada subject to the Immigration and Refugee Protection Act, SC 2001, c. 27 [IRPA].

III. Issues and Standard of Review [22] The Applicant raises several issues in this application for judicial review. Based on the parties' written and oral submissions, I have reframed and re-organized the issues in the following order:

A. Did the Delegate err by placing the onus on the Applicant to demonstrate that she did not misrepresent her residency when the onus of establishing misrepresentation rests with the Minister?

B. Did the Delegate breach the duty of procedural fairness?

C. Did the delay constitute an abuse of process that warrants a stay?

D. Is the Decision unreasonable?

[23] The parties agree that the issues relating to procedural fairness or natural justice are reviewable on a correctness standard. The primary concern is whether the procedure was fair, including whether the applicant knows the case to be met and whether the applicant had a full chance to respond: *Canadian Pacific Railway Company v Canada (Attorney General)*, 2018 FCA 69 at paras 54-56; *Canadian Association of Refugee Lawyers v Canada (Immigration, Refugees and Citizenship)*, 2020 FCA 196 at para 35.

[24] With respect to the merits of the Decision, the parties agree on the reasonableness standard of review. The Court should look to *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [Vavilov] in determining whether the Decision bears the requisite hallmarks of justification, transparency and intelligibility: Vavilov at para 99. The Applicant bears the onus of demonstrating that the decision was unreasonable: Vavilov at para 100.

IV. Analysis [25] As seen below, I will not address all the issues raised by the Applicant as I find the issues of procedural unfairness determinative of the matter at hand. Instead, I will provide some comments on certain issues that apply more generally to the citizenship revocation regime with the hope that these comments will provide some helpful guidance in these types of proceedings going forward.

A. Did the Officer err by placing the onus on the Applicant to demonstrate that she did not misrepresent her residency when the onus of establishing misrepresentation rests with the Minister? [26] As counsel for the Applicant rightly pointed out in his oral submission, there has not been a decision from this Court dealing with the burden of proof under the current citizenship revocation system. I will therefore begin my analysis with that issue.

[27] The Applicant submits that the case law confirms that the evidentiary burden in revocation cases rests with the Minister who asserts that there was a misrepresentation: *Canada (Minister of Citizenship and Immigration) v Rubuga* 2015 FC 1073 [Rubuga] at para 35. In this case, however, the Delegate reversed the onus by requiring the Applicant to prove that she was a resident in Canada when she has no such obligation. The Applicant also submits that by reversing the onus, the Delegate did not make the Decision based on any evidence of misrepresentation; rather, the Delegate made their findings based on the absence of evidence to infer that the Applicant was not residing in Canada during the relevant period.

[28] The Respondent does not dispute the onus lies with the Minister to establish misrepresentation. However, the Respondent submits the basis for the Decision is readily apparent: The Applicant produced minimal evidence to support her residence in Canada. The Delegate did not demand anything other than basic evidence to address the Applicant's alleged day-to-day activities and connections in Canada. The Delegate was not unreasonable in expecting at least some evidence about the Applicant's activities; the Respondent pointed to the Delegate's comment: "I find that it would be reasonable to expect that someone who

raised their children in Canada could provide documentation and evidence to demonstrate their residence, such as, involvement in their community, school and medical records, evidence of participation in local activities, sports teams, religious organizations or community events, as examples.” The Applicant’s failure to present this evidence supported an adverse inference, argues the Respondent, citing *Ma v Canada (Citizenship and Immigration)*, 2010 FC 509 [Ma] at para 1 in support.

- [29] I reject the Respondent’s submissions, and I agree with the Applicant’s arguments for the following reasons.
- [30] In *Rubuga*, the Court confirmed that the burden rests on the Minister to establish, on a balance of probabilities, that the individual involved obtained their Canadian citizenship by false representation and by knowingly concealing material circumstances set out in section 35 of the IRPA, such that the declaration being sought should be issued. Further, pursuant to subsection 10.1(3) of the Act, this declaration has the effect of revoking the defendant’s Canadian citizenship: *Rubuga* at para 35.
- [31] Similarly, in *Canada (Minister of Citizenship and Immigration) v Jozepović*, 2023 FC 1660, the Court found at para 106 that to revoke an individual’s Canadian citizenship, the Minister must establish, on the standard of balance of probabilities, that the individual acquired permanent residency by false representation or fraud or by knowingly concealing material circumstances, which by extension includes facts contemplated by paragraph 7(3.76) of the 1997 Criminal Code, RSC, 1985, c C-46 [Criminal Code].
- [32] Based on the case law, I confirm that whether the Minister is relying on the IRPA or the Criminal Code to establish misrepresentation, or whether the Minister is alleging a misrepresentation arising from the citizenship application itself, the Minister bears the burden of establishing the misrepresentation.
- [33] In the case before me, in finding that there was a misrepresentation, the Delegate noted at page 3 of the Reasons, under the heading “You in no way intended to misrepresent or mislead IRCC:”

Overall, when I consider your submissions surrounding your misrepresentation, I am satisfied on a balance of probabilities that you did enter Canada during your relevant residence period and gave birth to your daughter; however, I am not persuaded that you did not make false declarations on your citizenship application or that you did not reside and work outside of Canada during relevant residency period.

- [34] The Delegate also noted, at page 8 of the Reasons, under the heading “The passage of time has prejudiced your legal stance:”

... Furthermore, I find it unreasonable that you would be unable to obtain sufficient and objective evidence of your residence in Canada to substantiate these submissions considering your assertion that you have resided here since 2003. Aside from the lack of documentary evidence, you have also failed to simply provide a clear explanation regarding your activities in Canada in

an attempt to dispute the allegations, including relevant details of your employment history in Canada, any pattern of financial management or proof of your integration into your community beyond your declarations. It is important to note that you bear the onus of satisfying the decision-maker that special relief from revocation proceedings is justified by your submissions, including those related to your personal circumstances, and to provide evidence to corroborate your submissions. When I consider these submissions regarding the passage of time, I am not satisfied that you have provided sufficient evidence to demonstrate that you have been significantly prejudiced against. For these reasons, and taken overall, I give these submissions little weight.

- [35] I agree with the Applicant that the above quoted passages indicate that the Delegate erroneously placed the burden on the Applicant to satisfy the decision-maker about her residency in Canada, rather than on the Minister to establish misrepresentation. I also note that the Delegate conflated the burden on the Minister to establish misrepresentation with the onus on the Applicant to demonstrate that special relief from revocation proceedings is justified once the Minister has presented evidence that proves misrepresentation.
- [36] Under this misguided approach to the burden of proof, I find the Delegate erroneously required the Applicant to prove that she was in Canada during the relevant residence period, instead of examining whether the Minister has, on a balance of probabilities, established that the Applicant misrepresented her residency. The Delegate's error of reversing the onus was also evident in other aspects of their assessment of the evidence. For instance, while accepting the Applicant's driver licences and her Pharmacy Examining Board of Canada documents the Applicant submitted as evidence of her residence in Canada during the relevant period, the Officer was not satisfied that these documents alone corroborate the Applicant's assertion that she physically resided in Canada during her relevant residence period. I find this was another incident where the Delegate expected the Applicant to carry the burden of proving her residency.
- [37] I also find *Ma*, a case cited by the Respondent, not applicable to the case at hand. As the Applicant submits, and I agree, *Ma* dealt with a spousal sponsorship appeal where the applicant carried the burden of establishing that his marriage was genuine. It was in that context that the Court found the Immigration and Refugee Board could reasonably draw an adverse inference when the applicant chose not to call certain a witness to testify even though he was given the opportunity to do so: *Ma* at paras 2, 13, 15, 32-33.
- [38] In sum, the Delegate erred by reversing the onus of proof. This error further tainted the Delegate's analysis of the evidence the Applicant submitted.

B. Did the Delegate breach the duty of procedural fairness? [39] The Applicant submits that the Delegate breached the duty of procedural fairness in the following ways: First, the Delegate made credibility findings without an oral hearing. Second, the Delegate failed to disclose the CBSA verification of her employment history despite relying on it in the Decision. Third, the Delegate drew adverse inference regarding discrepancies of her addresses in the documentation without putting them to the Applicant for response.

[40] I will address the first two issues raised by the Applicant only. I find the last issue raised by the Applicant not to be determinative of the Decision.

i. The Officer erred by making credibility findings without an oral hearing [41] The Applicant submits that the Delegate revoked her citizenship status not because the evidence she presented was insufficient, but rather, they did not believe her claim that she lived in Canada during the relevant period. By doing so, the Delegate made credibility findings without holding an oral hearing contrary to subsection 10(4) of the Act.

[42] The Applicant further submits that the need for an oral hearing is tied to the issue of burden of proof – namely, to what extent could the Delegate rely on the absence of evidence to infer that the Applicant did not reside in Canada, despite her clearly stating that she did, without holding an oral hearing.

[43] As there has not been any recent case law examining the necessity of having an oral hearing in citizenship revocation cases, the Applicant asks the court to analogize from cases dealing with Pre-Removal Assessment Applications [PRRA] to the case at hand: *Johnfiah v Canada (Citizenship and Immigration)*, 2024 FC 1091 [Johnfiah] at paras 9-12. The Applicant also relies on *Hassouna* at para 95 to argue that the Delegate made credibility findings because they would not revoke her citizenship if they believed her evidence to be true, thus the Delegate erred by requiring corroboration and not holding a hearing. Further on the corroboration requirement, the Applicant relies on the principles regarding the requirement for corroboration set out in *Senadheerage v Canada (Citizenship and Immigration)*, 2020 FC 968 [2020] 4 FCR 617 at paras 23-35.

[44] I agree with the Applicant.

[45] As noted above, subsection 10(4) of the Act provides that a hearing may be held if the Minister, on the basis of prescribed factors, is of the opinion that a hearing is required. These factors are prescribed under s 7.2 of Citizenship Regulations, SOR/93-246 to include: (a) the existence of evidence that raises a serious issue of the person's credibility; and (b) the person's inability to provide written submissions.

[46] In this case, the Applicant was able to provide written submissions. As such, the only factor that may apply is whether there exists evidence that raises a serious issue of the Applicant's credibility.

- [47] The Respondent submits that the Decision was not made in an evidentiary vacuum, and that it was reasonable for the Delegate to draw an adverse inference, without actually using that phrase, because of the insufficient evidence that the Applicant submitted. As such, the Decision was not based on credibility findings, but findings of insufficient evidence.
- [48] Having reviewed the Decision, I agree with the Applicant that the Delegate made credibility findings. In her initial response dated September 21, 2023, to the RFL, the Applicant vehemently denied any wrongdoing in her citizenship application process and insisted that she reported all absences from Canada during that process as far as her records and memory serve. In her written submissions dated July 4, 2024, the Applicant further asserted that Nestlé's flexible maternity policy enabled her to stay in Canada for the duration of her pregnancy and the breastfeeding period, thus fulfilling her required time for residency. The Applicant also asserted that Nestlé provides unpaid sabbaticals, which she utilized to study for and undertake her pharmacy board exams in Canada between 2004 and 2007. The Applicant included copies of the Nestlé's policies dating back to 2012 with her submissions. The Delegate rejected the Applicant's assertion, stating that the Applicant did not provide corroboration dating back to the residency period in question. In making these findings, I agree with the Applicant that the Delegate made a credibility finding as they disbelieved the Applicant's assertion that she did not misrepresent and rejected the evidence she submitted on that basis.
- [49] I find support for my conclusion in *Johnfiah*, where Court explained at para 9, quoting from *Ahmed v Canada (Citizenship and Immigration)*, 2018 FC 1207 [Ahmed] at para 27, that the Immigration and Refugee Protection Regulations, SOR/2002-227 sets out the circumstances where a hearing is required to be held in PRRA matters, codifying common law procedural fairness guarantees. The Court confirmed that an oral hearing is generally required where "there is a credibility issue regarding evidence that is central to the decision and which, if accepted, would justify allowing the application," citing *Huang v Canada (Citizenship and Immigration)*, 2019 FC 1439 at para 41. The Court continued to find that applicants must be afforded the right to be able to respond to credibility concerns that are determinative of their claim: *Johnfiah* at para 8.
- [50] The Court in *Johnfiah* at para 10 continued to quote from *Ahmed*, where Justice Norris suggests the following approach: "if the factual propositions the evidence is tendered to establish, assuming them to be true, would likely justify granting the application and, despite this, the application was rejected, this suggests the decision maker had doubts about the veracity of the evidence:" *Ahmed* at para 31.
- [51] Applying Justice Norris' comment cited in *Ahmed*, if the Applicant's assertion about her residency in Canada were believed, it would likely have led to a decision not to revoke her citizenship. The fact that the Applicant's citizenship was revoked, despite her assertion to the contrary, suggests that the Delegate had doubts about the veracity of the Applicant's assertion.

- [52] Having determined that the Delegate made credibility findings, I must decide whether the Delegate breached procedural fairness principles by not holding an oral hearing. I find the answer is yes.
- [53] The Respondent submits that the wording in subsection 10(4) of the Act gave the Minister the discretion not to hold a hearing even if they are of the opinion that there is a serious issue of credibility. However, I note that the Court in Hassouna dealt with this argument and rejected it outright, stating that this position is inconsistent with the decision from the Supreme Court of Canada [SCC] in *Singh v. Minister of Employment and Immigration*, [1985] 1 S.C.R. 177, (1985), 17 D.L.R. (4th) 422, which stands for the principle that where there are serious issues of credibility, the opportunity to make written submissions would be insufficient: *Hassouna* at para 95.
- [54] The Respondent further contends that the Applicant's choice of procedure for determination by the Delegate over litigating her misrepresentation by way of an action in the Federal Court is relevant to assessing the procedural fairness requirements, citing *Baker v Canada (Minister of Citizenship and Immigration)*, 1999 CanLII 699 (SCC), [1999] 2 SCR 817 [*Baker*] at para 27.
- [55] I disagree. The Respondent's reliance on *Baker* is misplaced. When analysing what procedures the duty of fairness requires, the SCC in *Baker* did not refer to the individual applicant's choice of procedure; rather, the SCC referred to "the choices of procedure made by the agency itself, particularly when the statute leaves to the decision-maker the ability to choose its own procedures, or when the agency has an expertise in determining what procedures are appropriate in the circumstances:" *Baker* at para 27.
- [56] Further, as the Applicant submits, and I agree, just because the Applicant chose to have the Minister's delegate to decide her case does not mean the Applicant gave up her rights to procedural fairness. I also agree with the Applicant that there is nothing in the Act to suggest that an individual who chooses the Minister's delegate as the decision-maker would receive less rights to procedural fairness.
- [57] I would add that providing individuals who choose to have their case decided by the Minister less procedural fairness protection could result in a two-tier citizenship revocation system which gives more protection for those who have the wherewithal to bring an action before this Court, and less protection for those who do not.
- [58] The Respondent also argues that the Applicant contradicts herself by insisting on an oral hearing when she claims she would be unable to recall specific details based on the significant passage of time. The Respondent cites *Oberlander v Canada (Attorney General)*, 2018 FC 947 (CanLII), [2019] 1 FCR 652 [*Oberlander*] at paras 127-128 where the Court found a similar contradiction detrimental to the applicant's argument for an oral hearing in a citizenship revocation case.

- [59] I find Oberlander distinguishable both on the facts and the law. I also see no contradiction in the Applicant asserting her right to an oral hearing to address the Officer's credibility concerns, while also clarifying that she may not be able to recall all the details.
- [60] Finally, the Respondent submits that the Delegate did not raise a serious issue of her credibility since the Applicant's evidence is largely composed of documentary evidence rather than personal testimony recalling specific details. They rely on *R v Fliss*, 2002 SCC 16 (CanLII), [2002] 1 SCR 535 at para 63 to argue that an oral hearing cannot effectively test this "past recollection recorded." In any case, the Applicant was able to meaningfully participate in the process via written submissions pursuant to para 34 of Baker.
- [61] I reject this submission. The need for an oral hearing arose when the Delegate made credibility findings, irrespective of the type of evidence the Applicant may have relied on. The authorities cited by the Respondent also do not nullify the general common law principle that requires an oral hearing when credibility issues are at play.
- ii. The Officer breached procedural fairness by failing to disclose CBSA verification of her employment [62] In the Notification Letter, the Minister's Delegate indicated that the CMB contacted the Canadian Embassy in Abu Dhabi, UAE, and requested a verification of employment. Subsequently, an Immigration Analyst with the Canadian Embassy verified with the Human Resource department of Nestlé that the Applicant was continuously employed by Nestlé Infant Nutrition in Kuwait as a Medical Delegate from 2002 to 2009. The verification of employment was then affirmed by a CBSA Liaison officer [CBSA verification]. The Notification Letter went on to state that the Applicant's failure to disclose this information prevented the IRCC from accurately assessing her citizenship application.
- [63] The Minister's Delegate did not provide any further details about the verification, nor did it include a copy of the CBSA verification in the Notification Letter.
- [64] The Applicant points out that the Delegate did not disclose the CBSA verification of her employment history despite relying on it in the Decision. She submits that this insufficient disclosure amounts to a serious breach of procedural fairness. She cites *Hassouna* which confirms that individuals subject to citizenship revocation are entitled to full disclosure: paras 97-98.
- [65] I find the Applicant's submission persuasive.
- [66] While I acknowledge the Respondent's submission that the Certified Tribunal Record [CTR] provided notice about the investigative steps taken by the IRCC, as well as the specific process followed and the parties involved (i.e., the Nestlé Human Resources Department in Kuwait), I disagree that this was sufficient to meet the requirements of fairness in the context of this case.

- [67] Without disclosing the CBSA verification itself, I agree with the Applicant that she was unable to verify if the information contained in the document was accurate and she was not able to challenge the information contained therein.
- [68] Most notably, the CBSA verification not only contained the identity of the personnel who responded to the verification request, whom I will refer to as C.C., it also disclosed the details of the conversation between the Immigration Analyst and C.C. After providing the name of the Applicant, the Immigration Analyst asked C.C. if the Applicant was an employee, to which C.C. replied in the affirmative. The Immigration Analyst then asked if the Applicant was a Medical Delegate between 2002 and 2009, and C.C. stated yes. Finally, the Immigration Analyst asked if this was continuous employment from 2002 and 2009, and C.C. replied that it was. The Immigration Analyst then thanked C.C. and disconnected the call.
- [69] The Applicant filed a Further Affidavit dated September 23, 2025, with the Court in which she affirmed that only after being provided with the CBSA verification in the CTR, she was able to identify C.C. as the Nestlé personnel who confirmed her employment. The Applicant affirmed that on September 21, 2025, she was able to contact C.C. who confirmed that she did not remember the call with the CBSA officer. C.C. also confirmed that continuous employment could include leaves such as maternity or unpaid leave.
- [70] Whether or not continuous employment at Nestlé could include leaves was central to assessing whether there was misrepresentation in the Applicant's citizenship application. However, this question was never canvassed by the Immigration Analyst in their verification request. The Applicant was only able to verify this issue after receiving the CTR and after following up with C.C. on her own. Contrary to the Respondent's submission, I do not find that the Applicant would have been able to make follow up contact without knowing the identity of C.C. More importantly, without the CBSA verification, the Applicant would not have known that the Immigration Analyst did not verify whether continuous employment could also include leaves. Indeed, the Applicant's Further Affidavit confirms why such steps later taken by the Applicant would not have been possible without the disclosure of the CBSA verification.
- [71] I acknowledge that subsection 10(3) of the Act only requires IRCC to provide the Applicant with "the specific grounds and reasons, including reference to materials, on which the Minister is relying to make his or her decision." It does not require the IRCC to make full disclosure of all the materials.
- [72] I also acknowledge that the Court in *Tan v Canada (Citizenship and Immigration)*, 2024 FC 600 [Tan] confirmed the most current disclosure requirements under the Act alleviates the concerns expressed in *Hassouna* because the current legislative regime allows an individual to refer their matter to the Federal Court for adjudication which entitled the person to full disclosure of all relevant documents: para 87. However, I do not take the Court's comment in *Tan* to mean that a person choosing to have their matter determined by the Minister's

delegate are therefore not entitled to adequate disclosure. Rather, the Court in Tan found that the applicant has not demonstrated that the disclosure she received did not allow her to know the case to meet and that she has not provided any evidence to demonstrate that the disclosure obligation in the current regime is insufficient. On that basis the Court found it unclear what disclosure was lacking and what prejudice was allegedly suffered as a result.

- [73] More importantly, as the Court in Hassouna explained, applicants in citizenship revocations are entitled to proper disclosure: Hassouna at para 96. Insufficient disclosure “erodes the right to know the case to be met and the right to make a defence, in violation of the principles of fundamental justice.” Hassouna at para 98. While the Court made these comments in the context of the now-repealed SCCA, the general principles that underpin these comments are equally applicable to the current regime of citizenship revocation.
- [74] In the context of this case, given that the nature of the Applicant’s employment with Nestlé was central to the Delegate’s determination, the CBSA verification was never disclosed to the Applicant, and that the non-disclosure of the verification undermined the Applicant’s ability to make a defence, I find the Delegate breached the procedural requirements by failing to disclose the CBSA verification to the Applicant.

C. Did the delay constitute an abuse of process that warrants a stay? [75] The Applicant submits that the IRCC has contributed to unreasonable delay in bringing revocation proceedings against the Applicant, which amounts to an abuse of process and a stay should be entered.

- [76] Specifically, the Applicant submits that the delay was inordinate and not justified despite the change of revocation regime because there was significant delay even after the relevant legislations came into force in 2018. The Applicant notes that she is not responsible for the delay. The Applicant further submits that the delay seriously prejudiced her ability to defend against the misrepresentation allegations due to her inability to adduce evidence. Furthermore, the Applicant argues that this significant unjustified delay brings the citizenship system into disrepute: *Law Society of Saskatchewan v Abrametz*, 2022 SCC 29 [Abrametz]; *Vukaj v Canada (Citizenship and Immigration)*, 2025 FC 1037 at para 60.
- [77] The Respondent acknowledges the delay in this case but submits that the strict test for a stay is not met, citing *Odate v Canada (Citizenship and Immigration)*, 2024 FC 1744 at paras 15-16. The Respondent also argues that the delay was not unreasonable considering this case was part of a large-scale investigation involving 300 other individuals. The Respondent further submits that the Applicant benefitted from the delay, as it was in the case in *Torre v Canada (Citizenship and Immigration)*, 2015 FC 591 at para 38, and notes that a lengthy delay itself is not inordinate; rather, it must be examined in context: *Abrametz* at para 59.
- [78] The Respondent is correct in pointing out that a lengthy delay may be justified when considered in context: *Abrametz* at para 59. However, I note that the Delegate never provided any justification for the delay, nor is there any evidence before me to indicate the delay was in any way effected by a larger scale investigation, as the Respondent contends. Instead, in response to the Applicant’s submission on delay, the Delegate merely remarked

that “revocation proceedings are inherently lengthy process” and that “there is no limitation of time in the legislation which prevents IRCC from proceeding with revocation.” While the Delegate also alluded to the legislative amendments in recent years, they did not offer those amendments as justifications for the delay. Rather, the Delegate noted the amendments were made “to ensure a higher level of procedural fairness” for all individuals facing possible revocation proceedings.

- [79] Based on the record before me, I find that the Minister has not provided any justification for the delay.
- [80] Moreover, I find that a delay of more than nine years – beginning from 2014 when the Minister obtained the evidence to 2023 when the RFL was sent – was lengthy.
- [81] As the case law confirms, there are two ways in which delay may constitute an abuse of process. The one that the Applicant relies on concerns hearing fairness. As the SCC explained: “The fairness of a hearing can be compromised where delay impairs a party’s ability to answer the complaint against them, such as when memories have faded, essential witnesses are unavailable or evidence has been lost: [citations omitted]:” Abrametz at para 41.
- [82] In this case, the Applicant asserted in her submissions to the Delegate that the delay in bringing forward the case had affected her ability to present evidence. The Applicant provided evidence that the institutions that she contacted were only required to keep records for seven years when she was being asked in 2023 to provide evidence that dated back 20 years. Indeed, the Delegate acknowledged the passage of time could impact the Applicant’s ability to obtain some documents, yet they found that it did not absolve the Applicant from proving her residence in Canada. The Delegate also found it unreasonable that the Applicant was unable to obtain sufficient and objective evidence to substantiate the Applicant’s assertion that she has resided in Canada since 2003.
- [83] Apart from being unreasonable, I find the Reasons highlight the inherent unfairness in a proceeding that not only has a nine-year delay since its start time, but one that requires the Applicant to trace back 20 years to find evidence to substantiate her defence, when such evidence may no longer be available precisely due to the passage of time.
- [84] To find an abuse of process in the immigration and citizenship context, this Court has considered three main factors, stemming from *Blencoe v British Columbia (Human Rights Commission)*, 2000 SCC 44 [Blencoe]: (1) the time taken compared to the inherent time requirements of the matter; (2) the causes of delay; and (3) the impact of the delay: *Montoya v Canada (Attorney General)*, 2016 FC 827 [Montoya] at para 34. In addition to finding an inordinate delay, the Court must be satisfied that the Applicant suffered significant prejudice directly stemming from such delay: *Montoya* at para 32 and *Blencoe* at para 115.
- [85] I find the Applicant meets all of these factors.

- [86] First, the nature of the citizenship revocation proceeding is not particularly complex and there is nothing inherent in the process that would require additional time. Even considering the legislative amendments in 2018, the Minister has not provided any explanation for the six-year delay that followed the amendments. The Applicant's case itself is also not complex, given that the entire basis for the revocation was the Applicant's LinkedIn Profile and the CBSA verification which was obtained in 2014.
- [87] Second, the Applicant did not cause the delay, and the Minister has not provided any justification for the delay.
- [88] Third, the Applicant demonstrates that she suffered significant prejudice directly stemming from such delay as she is unable to obtain the necessary document to substantiate her residency in Canada during the relevant period, thus undermining her ability to present her case.
- [89] Having found that the delay resulted in an abuse of process, I must determine whether I should grant a stay.
- [90] In *Fabbiano v Canada (Citizenship and Immigration)*, 2014 FC 1219 [Fabbiano], the Court discussed a stay as a remedy after finding an abuse of process in a six-year delay of communicating an inadmissibility decision. As Justice O'Reilly explained:
- [9] A stay of proceedings for an abuse of process is an extraordinary remedy reserved for the clearest cases of prejudice. To grant that remedy, "the court must be satisfied that, 'the damage to the public interest in the fairness of the administrative process should the proceeding go ahead would exceed the harm to the public interest in the enforcement of the legislation if the proceedings were halted'" (Blencoe at para 120, citing *Brown and Evans*, *Judicial Review of Administrative Action in Canada* (Toronto: Canvasback, 1998) at 9-68).
- [10] Whether delay justifies a stay of proceedings depends on all of the circumstances, including the purpose and nature of the case, its complexity, the facts and issues involved, and whether the affected person contributed to or waived the delay (Blencoe, at para 122). The test is whether the delay caused "actual prejudice of such magnitude that the public's sense of decency and fairness is affected"...
- [91] Justice O'Reilly went on to set out the three steps in considering whether a stay should be imposed, namely: 1) There must be prejudice to the person's right to a fair trial or the integrity of the justice system; 2) There must be no adequate alternative remedy; and c) If there is uncertainty after steps 1 and 2, the Court must balance the interests favouring a stay against the public interest in having a decision on the merits (*R v Babos*, 2014 SCC 16 at para 32): Fabbiano at para 10.
- [92] As mentioned, the Applicant's entitlement to a fair hearing has been infringed due to the delay.

- [93] I also find the integrity of the justice system has been prejudiced as a result. The initial reason why the Applicant was flagged for citizenship investigation was due to CBSA's concern of residency misrepresentation regarding her husband, who has since passed away. There is no evidence that the Applicant herself was implicated in any citizenship fraud scheme. Nevertheless, the IRCC decided to proceed with the misrepresentation allegations based solely on the Applicant's LinkedIn Profile and the CBSA verification that was never shared with the Applicant. While the Applicant was given some opportunities to respond to the allegations, the IRCC failed to provide her with adequate disclosure, and denied her of an oral hearing where she could counter the Delegate's findings of credibility. The Reasons further demonstrate that the Delegate was neither concerned about the impact of the delay on the Applicant's ability to defend her case, nor the Applicant's well-established ties to Canada as reasons for granting her special relief. In short, the unfairness with which the Applicant was treated, coupled with the unfairness in the proceedings caused by the delay, calls into question the integrity of the justice system if the Court allows the proceedings to continue under these circumstances.
- [94] As the only alternative is to defer the matter back to a different delegate to continue with the process, which would add further delay, and would add to the difficulties that the Applicant may encounter in gathering further evidence, I also find that there is no adequate alternative remedy in the circumstances.
- [95] In conclusion, considering fairness to the Applicant and the integrity of the justice system, I find the interests favouring a stay of proceedings outweigh the public interest in proceeding with the Applicant's citizenship revocation process.

V. Conclusion [96] The application for judicial review is granted. The Decision to revoke the Applicant's citizenship is set aside.

[97] The citizenship revocations proceedings relating to the Applicant are permanently stayed.

[98] There is no question for certification.

JUDGMENT in T-3438-24

THIS COURT'S JUDGMENT is that:

The application for judicial review is granted.

The Decision to revoke the Applicant's citizenship is set aside.

The citizenship revocations proceedings relating to the Applicant are permanently stayed.

There is no question for certification.

"Avvy Yao-Yao Go"

Judge

FEDERAL COURT

SOLICITORS OF RECORD

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T-3438-24

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