

CANADA / JUDGMENT

Ibrahim v. Canada (Citizenship and Immigration)

2026 FC 500

COURT

Federal Court

DECIDED

16 April 2026

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

Ibrahim v. Canada (Citizenship and Immigration)

Court (s) Database

Federal Court Decisions

Date

2026-04-16

Neutral citation

2026 FC 500

File numbers

IMM-19104-24

Decision Content

Date: 20260416

Docket: IMM-19104-24

Citation: 2026 FC 500

Ottawa, Ontario, April 16, 2026

PRESENT: The Honourable Mr. Justice Duchesne

BETWEEN:

AHMED MUSTAFA IBRAHIM IBRAHIM

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

- [1] This is an application for judicial review through which the Applicant is seeking declaratory relief and an order that section 24 of the Canadian Charter of Rights and Freedoms [the Charter] requires a decision determining the Applicant's sponsorship application for permanent residence before he may be removed from Canada, failing which fundamental rights related to family rights would not be respected.
- [2] The Applicant also seeks a writ of mandamus to compel the Minister to render a decision on the Applicant's most recent spousal sponsorship application within 90 days of the Court's decision.
- [3] The Applicant's application for judicial review is dismissed for the reasons that follow.
- I. Background [4] The background to this proceeding was also set out in part in this Court's judgment in docket number IMM-17939-24 which dismisses the Applicant's application for judicial review of a negative pre-removal risk assessment [PRRA] decision. That judgment is being issued contemporaneously with this judgment.
- [5] The Applicant, Ahmed Mustafa Ibrahim Ibrahim, is a citizen of Egypt. He arrived in Canada on April 4, 2019, and sought to claim refugee protection. The Refugee Protection Division [RPD] of the Immigration and Refugee Board received the referral of his claim on April 5, 2019. The RPD issued a Confirmation of Referral and Notice to Appear that directed the Applicant to file a completed Basis of Claim form within 15 days and that, if he failed to do so, he would be required to attend a special hearing on April 30, 2019.
- [6] The Applicant did not file a completed Basis of Claim form within the 15 days allotted to him and did not attend the special hearing on April 30, 2019. The RPD declared his claim abandoned as of April 30, 2019. The Applicant did not seek judicial review of the RPD's decision in this regard.
- [7] On July 3, 2019, the Applicant asked the RPD to reopen his abandoned claim and provided medical records relating to medical treatment which he argued prevented him from completing his Basis of Claim form or attending the special hearing. The RPD dismissed the Applicant's application to reopen on October 2, 2019. The Applicant filed an application for leave and for judicial review of the RPD's decision, together with a motion to extend time on January 27, 2020. His application was dismissed on October 15, 2020.
- [8] The Applicant received a direction to report on December 23, 2019. He then requested an administrative deferral of removal on December 27, 2019. An Enforcement Officer dismissed that request on January 6, 2020. On January 8, 2020, the Applicant filed an application for leave and for judicial review of the refusal to defer his removal in docket number

IMM-116-20, and moved for a stay of his removal. The Court granted the Applicant's motion to stay his removal on January 15, 2020. The Respondent brought a motion on May 4, 2021, in docket number IMM-116-20, and obtained a judgment that granted the Applicant's judicial review and set aside the decision that refused to defer his removal from Canada.

- [9] In February 2022, the Applicant submitted a spousal sponsorship application for permanent residence. The application was refused on March 5, 2024.
- [10] The Minister received the Applicant's application for a PRRA on March 18, 2022. The Applicant alleged risk from the military regime in Egypt due to his older brother's ties to the Muslim Brotherhood. On June 28, 2024, a PRRA officer refused the Applicant PRRA because they found that insufficient evidence had been submitted to establish the risks alleged by the Applicant should he be removed to Egypt. The Applicant filed an application for leave and for judicial review in Court file IMM-17939-24 challenging the June 28, 2024, negative PRRA.
- [11] On August 10, 2024, the Applicant submitted a second application for permanent residence under the Spouse or Common-law Partner in Canada class. This second application for permanent residence is at issue in this proceeding.
- [12] The Applicant attended pre-removal interviews on November 6, 2024, and November 20, 2024, and received a direction to report for removal on December 20, 2024. His removal from Canada was stayed by the Order of Madam Justice Ngo dated December 17, 2024, in docket number IMM-17939-24 regarding the negative PRRA decision.
- [13] As mentioned above, the Applicant filed a second sponsored application for permanent residence on August 10, 2024. The most recent evidence in the record reflects that as of January 9, 2025, the Minister had:
- a) conducted pre-screening of that application;
 - b) referred the application to eligibility requirements assessment;
 - c) had criminality checks under review; and,
 - d) had yet to initiate background checks.

II. Issues [14] This application presents two issues for determination:

- 1) Whether Section 24 of the Charter requires a decision on the Applicant's spousal sponsorship application before his removal from Canada; and,
- 2) Whether the Applicant meets the test for a writ of mandamus to issue to compel a decision on his pending permanent residence application within a fixed time frame.

III. The Applicant's Submissions [15] The Applicant's main submissions, each encapsulating repetitions of other submissions contained in his memorandum and argument, are as follow.

- [16] The Applicant submits that the Court should grant declaratory relief and a writ of mandamus pursuant to section 24 of the Charter to compel a decision on his August 10, 2024, spousal sponsorship application before his removal because removal without such a decision would unjustifiably infringe family-life interests protected by domestic and international law.
- [17] The Applicant argues that the Immigration and Refugee Protection Act, SC 2001, c 27, [IRPA] must be interpreted and applied in a manner that is consistent with Charter values and international law. Such an interpretation favours access to a meaningful recourse on fundamental rights before removal. He further submits that a writ of mandamus and declaratory relief are appropriate and necessary because deporting him while a timely sponsorship is pending is inconsistent with the Charter and Canada's international obligations, and, that there is no public interest in family separation.
- [18] The Applicant submits that his marriage to a Canadian citizen and their long-standing cohabitation engage significant family-life interests that Canadian law and policy are intended to respect and promote. The Applicant submits that Canada's international commitments, including the International Covenant on Civil and Political Rights [the ICCPR] and instruments within the American system, recognize family-life protection and require effective remedies, and that these instruments should be read alongside section 3 of the IRPA and relevant Charter guarantees, including equality considerations.
- [19] The Applicant submits that the process leading toward his removal was unfair because he was not permitted to answer the case or to have family-life and risk evidence meaningfully weighed by an independent decision maker before enforcement.
- [20] The Applicant argues that removal would be unreasonable given the irreparable harm of family separation and the practical loss of access to Canadian legal remedies if he is removed. He further submits that legislative intent and Canadian values favour conformity with international law and family unity, such that the rule of law and the balance of convenience support the Applicant's position.
- [21] The Applicant argues that courts need to address the lack of effective recourse under section 24 of the Charter and Article 2 of the ICCPR. The Applicant argues that the Supreme Court of Canada's decision in *Baker v Canada (Minister of Citizenship and Immigration)*, 1999 CanLII 699 (SCC), [1999] 2 SCR 817 [Baker], removed the immigration ministry guarantee that sponsorship recourses would be decided before deportation, and that if a case has been filed in a timely fashion, the Canadian immigration system owes an answer to the person whose rights are being decided.
- [22] The Applicant asks the Court to declare that any sponsorship application filed at least six months before the deportation date must be decided before deportation and that serious sponsorship applications filed later ought to receive a summary review to prevent violations of fundamental rights, to declare that any temporary resident permit application filed at least six weeks before deportation must be decided before deportation and that removal

cannot occur until at least 15 days after that decision, and to order that a decision on the Applicant's sponsorship application issue no more than 90 days after the Court's judicial review decision.

IV. The Respondent's Submissions A. Regarding declaratory relief [23] The Respondent argues that the Applicant has not demonstrated an entitlement to declaratory relief because he identifies no concrete factual foundation or "real issue" linking the relief sought to his interests, as required by *Mancuso v Canada* (National Health and Welfare), 2015 FCA 227 [Mancuso].

[24] The Respondent submits that an outstanding spousal sponsorship does not itself stay removal pursuant to section 50 of the IRPA, and that an outstanding sponsorship application has repeatedly been held not to bar removal or to justify deferral absent special circumstances *Patterson v. Canada* (Citizenship and Immigration), 2008 FC 406, at paras 2, 23 [Patterson]; *Prashad v. Canada* (Citizenship and Immigration), 2012 FC 826, at para. 3 [Prashad]; *Barrios v. Canada* (Public Safety and Emergency Preparedness), 2024 CanLII 114241 (FC); *Stecewicz v. Canada* (Public Safety and Emergency Preparedness), 2024 CanLII 111478 (FC), at para. 19).

[25] The Respondent further argues that the Applicant does not identify any specific Charter right that removal would infringe and does not explain why a decision on his second sponsorship must precede removal in light of the other remedies he has already pursued and obtained. The Respondent notes binding jurisprudence confirming that the removal process does not violate section 7 of the Charter (*Medovarski v. Canada* (Minister of Citizenship and Immigration), [2003] 4 FC 227 [Medovarski]; *Esteban v. Canada* (Minister of Citizenship and Immigration), 2005 SCC 51, [2005] 2 SCR 539 [Esteban]; *Etienne v. Canada* (Public Safety and Emergency Preparedness), 2015 FC 415; *Peter v. Canada* (Public Safety and Emergency Preparedness), 2016 FCA 51, [2017] 1 FCR 318; *Atawnah v. Canada* (Public Safety and Emergency Preparedness), 2016 FCA 144, [2017] 1 FCR 153; *Revell v. Canada* (Citizenship and Immigration), 2019 FCA 262, [2020] 2 FCR 355 [Revell]; *Chen v. Canada* (Public Safety and Emergency Preparedness), 2019 FC 1595) [Chen].

[26] The Respondent submits that the Applicant's request for declaratory relief should therefore be dismissed.

B. Regarding a writ of mandamus [27] The Respondent submits that a writ of mandamus is an extraordinary, discretionary remedy governed by the conditions set out in *Apotex Inc. v Canada* (Attorney General) (CA), 1993 CanLII 3004 (FCA), [1994] 1 FC 742 [Apotex], *aff'd* 1994 CanLII 47 (SCC), [1994] 3 SCR 1100). She further argues that all of the conditions identified in *Apotex* must be met by the Applicant and that the Court may deny a request for a writ of mandamus on balance of convenience alone even if other criteria are satisfied.

- [28] The Respondent submits that *Conille v Canada* (Minister of Citizenship and Immigration) (TD), 1998 CanLII 9097 (FC) [Conille] requires the Applicant to establish all three elements of unreasonable delay as discussed in *Apotex*, namely, that the delay exceeds what the process requires, that the Applicant is not responsible, and that the decision maker lacks satisfactory justification.
- [29] The Respondent submits that the second sponsorship application was filed only recently, that mandamus requires a demand and refusal to perform a duty, and that the Applicant has shown neither. The Respondent notes that the first sponsorship application was refused in March 2024, that a new application was filed in August 2024, and that GCMS entries show active processing including pre-screening and referral to eligibility with criminality under review and background checks pending.
- [30] The Respondent adds that the Applicant has not inquired about the file since filing and that Immigration, Refugees and Citizenship Canada [IRCC] has already advanced the application to eligibility assessment, which negates any suggestion of a refusal to act but rather shows that the application is being processed.
- [31] The Respondent argues that there is no unreasonable delay because the application is in its early stage and IRCC must complete background and security screening before a decision can issue. The Respondent notes that this Court has confirmed that security screening and admissibility assessments are necessary and may justify extended processing timelines consistent with the IRPA's security objectives. The Respondent submits that, on these facts, the application processing time is not unreasonable given the application's recent filing and the prior refusal in the same category. The Respondent argues that the file is progressing toward a decision and that the Applicant has not satisfied the third element of *Conille*, with the result that mandamus should be denied.
- [32] Finally, the Respondent submits that the balance of convenience weighs against the issue of writ of mandamus because the Minister must preserve the integrity of the immigration system by completing eligibility and inadmissibility inquiries before granting permanent residence. The Respondent argues that the Applicant shows no significant prejudice from the ongoing processing, particularly given the recency of the prior sponsorship refusal and the recency of the new filing. The Respondent notes continued processing and the absence of any failure to perform a legal duty, which is a prerequisite to mandamus.

V. Analysis [33] The Applicant has not met the requirements for any of his requested relief to be granted.

A. There is no basis for a declaration [34] Declaratory relief is discretionary and requires a concrete dispute about the parties' relative interests that the pleadings and evidence properly anchor in specific facts. The Federal Court of Appeal has held that declaratory relief requires a real issue about the party's relative interests, and that the Court will not be satisfied that the "real issue" requirement is met unless the pleadings allege facts which indicate what the "real issue" is, and its nexus to the applicant and their claim (*Mancuso* at para 35). The Applicant has not met

that threshold.

- [35] The record does not reveal a present conflict that a declaration would resolve. The requested declaration also conflicts with settled law on the relationship between removal and sponsorship processing. An undecided spousal sponsorship application does not bar a person's removal from Canada and, absent special considerations, it will not justify deferral (Patterson; Prashad; Forde v Canada (Public Safety and Emergency Preparedness), 2018 FC 1029 at paras 35-41).
- [36] The Court will not convert the Applicant's asserted general policy preference for family unity into a categorical legal bar on removal that Parliament did not enact and that the jurisprudence does not support.
- [37] The Applicant's Charter arguments do not alter this conclusion. The Applicant does not identify which of his Charter rights require protection via declarative relief and the applicable jurisprudence indicates that the removal process does not deprive applicants of their Charter rights (Medovarski; Esteban; Revell; Moretto (Citizenship and Immigration), 2019 FCA 261 at para 52 [Moretto]; Chen).
- [38] The Applicant invokes international human rights instruments and, while Canada's international commitments inform Charter interpretation (Revell at paras 131-132), those instruments operate as interpretive aids only where the international obligation and a Charter right at issue are conceptually similar. Moreover, the Charter does not explicitly contain a right to family life (Moretto, at paras 74-75).
- [39] There is no basis established by the Applicant on the record before the Court for the proposition that a decision on the Applicant's most recent spousal sponsorship Application is required before the Applicant may be removed from Canada.
- [40] The Court also declines the Applicant's proposed imposition of fixed timelines for permanent resident application processing. The Applicant's proposed declarations would undermine the statutory scheme by imposing fixed deadlines not linked to the circumstances of particular applications. The Court will not impose fixed processing deadlines binding all sponsorship or temporary resident permit applications.

B. The test for a writ of mandamus is not met [41] The test for an a writ of mandamus is well settled. The Applicant bears the onus of satisfying the following conditions (Benison v. Canada (Royal Canadian Mounted Police External Review Committee), 2026 FCA 53, at para 16; Apotex; Dragan v Canada (Minister of Citizenship and Immigration) (TD), 2003 FCT 211 at para 38-39, aff'd 2003 FCA 233; Lukacs v Canada (Transportation Agency), 2016 FCA 202 at para 29 [Lukacs]):

- 1)the Respondent has a public legal duty to act;
- 2)the duty to act is owed to the Applicant;
- 3)there is a clear right to the performance of that duty, in particular:

the Applicant has satisfied all conditions precedent giving rise to the duty; and,
there was:

a prior demand for performance of the duty;

a reasonable time to comply with the demand unless refused outright; and,

a subsequent refusal which can be either expressed or implied, e.g. unreasonable delay;

4) no other adequate remedy is available to the Applicant;

5) the order sought will be of practical value or effect;

6) the Court in the exercise of discretion finds no equitable bar to the relief sought;

7) on a balance of convenience an order of mandamus should be issued.

[42] The record does not show that the Applicant has met item 3 b) discussed above. The Applicant submitted no evidence of a demand for a decision followed by IRCC's refusal to act. IRCC is processing the Applicant's most recent sponsorship application, has completed pre-screening, and has referred the matter to eligibility review, with background checks pending as of January 2025.

[43] The Applicant also has not established that IRCC has unreasonably delayed the processing of his second application. An application processing delay is unreasonable if: 1) the delay in question has been longer than the nature of the process required, *prima facie*, considering the nature of IRCC's processes; 2) the applicant and their counsel are not responsible for the delay; and 3) the authority responsible for the delay has not provided satisfactory justification (Conille at para 23; *Jaballah v Canada (Citizenship and Immigration)*, 2019 FC 1051 at para 86). The Applicant has not established that he meets these requirements.

[44] The Respondent's evidence shows that the Applicant's August 2024 spousal sponsorship application is being processed. IRCC has multiple steps to complete in an application's processing such as eligibility, criminality, and security screening, before rendering a decision. Paragraphs 3(1)(h) and (i) of the IRPA explicitly state that maintaining the security of Canadian society and promoting international justice and security are among the objectives of the IRPA. When a matter of security is involved with an application, the Court must not issue an order of mandamus which would have the effect of aborting or abbreviating a security investigation (*Seyoboka v Canada (Minister of Citizenship and Immigration)*, 2005 FC 1290 at para 9). The Applicant's record does not show that IRCC's processing time of his second application for permanent residence is inconsistent with the nature of the process and the statutory objectives set out in the IRPA.

[45] Considering the other *Apotex* factors in light of the record and the arguments made lead me to conclude that the Applicant has not met the test for the issue of a writ of mandamus. Other remedies have been available to the Applicant and have been used. The Applicant submitted a PRRA and obtained a stay of removal. The balance of convenience favours

allowing IRCC to complete eligibility and inadmissibility assessments before making any grant of permanent residence because IRCC is already processing the Applicant's August 2024 sponsorship application. Any order that compels a decision on the Applicant's second sponsorship application by a fixed date risks truncating the background and security checks that are required.

[46] I do not accept the Applicant's argument that he has not been heard on the substance of his case. IRCC processed and refused his earlier spousal sponsorship application. IRCC is presently processing the Applicant's further spousal sponsorship application. His PRRA was processed and refused, and leave was granted for judicial review of that PRRA decision. That judicial review application was dismissed in this Court's Judgment in docket no.: IMM-17939-24, released simultaneously with this judgment. The record shows that the Applicant has being given multiple opportunities to be heard and that he has been heard multiple times.

VI. Conclusion [47] The Applicant has not met the threshold for declaratory relief to be granted. He has also not met the conditions for the issue of a writ of mandamus. The Applicant's application for judicial review will therefore be dismissed.

[48] Neither party has suggested that a certified question arises from the facts of this proceeding and none arises.

[49] As per the Respondent's request, the style of cause in this proceeding shall be amended in this judgment and from the date of this Order to reflect that the proper Respondent is the Minister of Citizenship and Immigration in accordance with subsection 4(1) of the IRPA and Rule 5(2)(a) of the Federal Courts Citizenship, Immigration and Refugee Protection Rules, SOR/93-22 [the FCCIRPR].

JUDGMENT in IMM-19104-24

THIS COURT'S JUDGMENT is that:

The Applicant's application for judicial review is dismissed.

There is no question of general importance arising from this proceeding to be certified pursuant to section 79 of the IRPA.

The style of cause in this proceeding is amended to reflect that the proper Respondent is the Minister of Citizenship and Immigration in accordance with subsection 4(1) of the IRPA and Rule 5(2)(a) of the FCCIRPR, and that all other alleged respondents are removed as parties.

There are no costs awarded to any party in this proceeding.

"Benoit M. Duchesne"

Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:

IMM-19104-24

STYLE OF CAUSE:

AHMED MUSTAFA IBRAHIM IBRAHIM v. MCI

PLACE OF HEARING:

Montreal, quebec

DATE OF HEARING:

october 22, 2025

judgment AND REASONS:

duchesne, j.

DATED:

april 16, 2026

APPEARANCES:

Stewart Istvanffy

For The Applicant

Lisa Maziade

For The Respondent

SOLICITORS OF RECORD:

Étude Légale Stewart Istvanffy

Montreal, Quebec

For The Applicant

Attorney General of Canada

Montreal, Quebec

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/530382/index.do>

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

Prepared on 25 October 2026 · Esheria