

CANADA / JUDGMENT

Kumar v. Canada (Citizenship and Immigration)

2026 FC 333

COURT

Federal Court

DECIDED

12 March 2026

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Kumar v. Canada (Citizenship and Immigration) Court (s) Database Federal Court Decisions Date 2026-03-12 Neutral citation 2026 FC 333 File numbers IMM-22654-24 Decision Content Date: 20260312 Docket: IMM-22654-24 Citation: 2026 FC 333 Toronto, Ontario, March 12, 2026 PRESENT: The Honourable Mr. Justice A. Grant BETWEEN: SUBASH KUMAR RASHIMI Applicants and MINISTER OF CITIZENSHIP AND IMMIGRATION Respondent JUDGMENT AND REASONS I. OVERVIEW [1] The Applicants, Subash and Rashmi Kumar, seek judicial review of a decision of an Immigration, Refugees and Citizenship Canada [IRCC] officer to refuse their application for a Temporary Resident Visa [TRV].

- [2] For the reasons that follow, I believe that this application should be granted. II. BACKGROUND A. Facts [3] The Kumars are Indian citizens. Their two children are currently studying in Canada, and they would like to visit them while they are here.
- [4] This matter marks the third time that the Applicants have sought judicial review of IRCC decisions to refuse their TRV application. They submitted their first TRV application on February 14, 2024, which was refused on February 23, 2024. They sought judicial review of this decision, and the Minister agreed to settle the matter and returned the application for reconsideration. Their application was again refused on May 3, 2024. Once again, on judicial review, the Minister preferred to settle the matter, rather than defend the refusal. On further reconsideration, the application was refused a third time on November 14, 2024. This refusal is the decision currently under review.
- [5] In the latest refusal letter, IRCC provided generic reasons for rejecting the application, noting that the Applicants had not established that they would leave Canada at the end of their visit. The letter further provided that the stated purpose of their visit was inconsistent with a temporary stay and that they have significant family ties in Canada. The officer's Global Case Management System [GCMS] notes provide minimal further detail, indicating only that the Applicants' children live in Canada, and that their "incentives to remain in Canada may outweigh their ties to their home country." III. ISSUES and STANDARD OF REVIEW [6] The Applicants have raised various issues on judicial review related to both the

fairness of the process that led to the rejection of their application, and the reasonableness of the decision.

- [7] The Applicants have also requested costs on the basis that their TRV application has now been denied three times for substantially similar reasons, including twice after they consented to abandon their judicial reviews based on the Minister's offer of redetermination. As a result, they have incurred significant legal costs and experienced emotional distress because they cannot visit their children. They also seek a directed verdict from this Court that they have met all the requirements for a visitor visa.
- [8] The standard of review applicable to the substance of a visa officer's decision is reasonableness: *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at para 23 [Vavilov]. For issues related to the fairness of the underlying proceedings, the standard is "akin to correctness": *Canadian Pacific Railway Company v Canada (Transportation Agency)*, 2021 FCA 69. IV. ANALYSIS A. Reasonableness [9] This Court has found that when visa officers render TRV decisions, which must be done rapidly and in high volume, they have only a minimal duty to give reasons: *Amini v Canada (Citizenship and Immigration)*, 2024 FC 653 at para 4. However, a minimal duty should not be mistaken for no duty – a reasonable decision must explain the result and be justified in light of the law and the key facts: *Shirazi v Canada (Citizenship and Immigration)*, 2024 FC 822 at para 14; *Nesarzadeh v Canada (Citizenship and Immigration)*, 2023 FC 568 at para 5.
- [10] For the reasons that follow, I believe that the officer's decision was unreasonable, even in this context, where minimal reasons are required.
- [11] The totality of the officer's reasons in this matter, as provided in the GCMS notes, is as follows: The purpose of the applicant's visit to Canada is not consistent with a temporary stay given the details provided in the application. Applicant is visiting children in Canada with spouse. Integrated search noted. The client has strong family ties in Canada. Both Children reside in Canada on study permits with no other children in home country. Given family ties or economic motives to remain in Canada, the applicant's incentives to remain in Canada may outweigh their ties to their home country. For the reasons above, I have refused application.
- [12] When considering whether a prospective visitor intends to stay in Canada temporarily, officers must consider both 'push' factors, meaning facts that would incline the applicant to stay in Canada permanently, and 'pull' factors, meaning facts that would tend to draw the applicant back to their country of origin: *Hassanpour v Canada (Citizenship and Immigration)*, 2022 FC 1738 at para 19, citing *Chhetri v Canada (Citizenship and Immigration)*, 2011 FC 872 at para 14.

- [13] Moreover, this Court has repeatedly found that visa officers must weigh family ties, which were obviously decisive for the officer in this case, against other evidence relevant to the applicant's motivation to return: *Gholami v Canada (Citizenship and Immigration)*, 2024 FC 201 at para 28; *Shohratifar v Canada (Citizenship and Immigration)*, 2023 FC 218 at para 14.
- [14] While the Applicants' two children are both in Canada, the officer failed to address any of the 'pull factors,' which, in this case, were considerable. For example, the Applicants explained in their application that Mrs. Kumar's elderly parents are in India and rely on her support, which she has a "cultural obligation" to provide. Moreover, the Applicants submitted considerable evidence of strong economic ties to India, including Mr. Kumar's business and Mrs. Kumar's employment. On their most recent application, they also provided evidence that they have travelled internationally on many occasions, including to Thailand, Malaysia, and the United Kingdom, and each time returned home to India.
- [15] It is not for a court on judicial review to reweigh the evidence before an administrative decision-maker. However, in this case, there is no indication that the officer did, in fact, weigh the considerable body of evidence provided by the Applicants related to their ties to India and their intention to return. This renders the decision unreasonable.
- [16] Moreover, the Applicants are correct to point out that family reunification is one of the purposes of the Immigration and Refugee Protection Act [IRPA], per section 3(1)(d). While the principle of family reunification does not, on its own, dictate the result of an application, the officer's reasoning leads to the absurd conclusion that the very purpose of the Applicants' trip, as contemplated by section 3(1)(d) of the IRPA, was the sole reason for denying their application. B. Procedural Fairness [17] The Applicants' submissions on procedural fairness are based on their suspicion that the IRCC decision was based on biased and improper grounds that were not articulated in its reasons. More specifically, the Applicants note that the officer's reasons contain the remark "Integrated search noted," which, they argue, suggests that the officer's real reason for refusing their application was their previous TRV refusals, and Mrs. Kumar's rejected work permit application from 2019.
- [18] The test for a reasonable apprehension of bias is well-established: the key question is whether a reasonable and informed person, viewing the matter realistically and practically, would conclude that the decision-maker, whether consciously or not, would not decide the matter fairly: *Committee for Justice and Liberty v National Energy Board*, [1978] 1 SCR 369 at 386, 1976 CanLII 2 (SCC) at 394, as cited in *Baker v Canada (Minister of Citizenship and Immigration)*, 1999 CanLII 699 (SCC) at para 46.
- [19] Translated into the present context, the question becomes whether a reasonable and informed person would believe that the officer in this case decided the Applicants' TRV application unfairly, based on: i) the poverty of reasons provided; ii) the previous rejections of their applications; and iii) the reference in the GCMS notes to the "integrated search" that was conducted on their file.

- [20] I can certainly understand the Applicants' concerns about the fairness of the TRV process. In similar circumstances, this court has found that a reconsidered decision may be "...so weak that it suggests an improper motive, most likely, that the Officer was unduly influenced by the history of previous TRV refusals": *Singh v Canada (Citizenship and Immigration)*, 2021 FC 925 at para 10.
- [21] Based on the record before me, however, I am not prepared to make a definitive finding that the decision under review displays a reasonable apprehension of bias, or that the officer was unduly influenced by previous rejections. Findings of bias must be based on clear and convincing evidence, which is not sufficiently present in the record before me. That said, I will reiterate that I understand the Applicants' concerns in this regard, and their subjective view that the process leading to the third rejection of their application was unfair. One can easily imagine, based on the decision under review, that the Applicants were left with a sense that there was nothing they could have done to prevail upon the officer to grant their applications.
- [22] While the evidence here falls just short of establishing a reasonable apprehension of bias, the situation may look different if this matter were to end up back in this Court again, on the basis of a decision that equally fails to engage with the evidence. C. Costs and Request for Directed Verdict [23] The Applicants are seeking costs because they have had to challenge their TRV refusal three times before this Court and because, on this third occasion, the refusal was based on essentially the same unreasonable grounds as those previous decisions.
- [24] The Applicants further maintain that they have been trapped in a déjà vu-inducing carousel between IRCC and the Court, which has been both costly and emotionally difficult to endure: *Singh v Canada (Citizenship and Immigration)*, 2019 FC 1633 at paras 21-22.
- [25] The Applicants are seeking \$10,000 to cover the costs of their litigation, \$3,000 to compensate for hardship and distress, and \$2,000 in "exemplary damages," in light of the Respondent's conduct.
- [26] According to Rule 22 of the Federal Courts Citizenship, Immigration and Refugee Protection Rules, SOR/93-22: No costs shall be awarded to or payable by any party in respect of an application for leave, an application for judicial review or an appeal under these Rules unless the Court, for special reasons, so orders.
- [27] While the costs sought by the Applicants are well beyond what I am willing to contemplate, I am satisfied that special reasons arise in this case justifying an award of costs. This is not only because this is the third time that the Applicants have successfully litigated the same application. It is also because the reasons in support of this third decision were so clearly unreasonable that, in my view, this matter should also have been quickly and efficiently settled to avoid the extra costs associated with seeing this matter through to its conclusion. As such, I believe that the Respondent's conduct in this matter warrants an award of costs that I will set at the all-inclusive amount of \$1,000, payable forthwith.

- [28] While this finding on costs is based solely on the information contained in the record before me, I should mention that the Applicants also refer to a publicly available letter from the Canadian Immigration Lawyers Association [CILA] to IRCC. In that letter (accessed at <https://cila.co/wp-content/uploads/2025/12/CILA-Letter-to-IRCC-on-TRVs-December-2025.pdf>), CILA outlines a trend of similar concerns, namely that visa applications reconsidered after successful litigation in this Court are being rejected for essentially identical (and identically deficient) reasons: It is becoming increasingly common for decisions that have been set aside either on consent by DOJ or the FCC to be refused by IRCC a second time on the same grounds on re-determination. This risks eroding the authority of judicial decisions and the integrity of the decision-making process, giving rise to collateral consequences of wasted resources and an erosion of confidence in the judiciary and the rule of law.
- [29] The Applicants also seek an order that the “Applicants qualify to meet the requirements for the Temporary Resident Visa Applications.” Directed verdicts such as this are occasionally appropriate in the judicial review context: *Vavilov* at para 142. This is only the case, however, where it becomes evident over the course of the review that a particular outcome is inevitable. While it is certainly apparent to me that the Applicants supported their visa application with a considerable body of evidence, I cannot say that the outcome of this application process is inevitable. As such, I decline the Applicants’ request for a directed outcome in this matter. Considering the length of time that has been lost due to the Respondent’s unreasonable decision, however, I will direct that this matter be reconsidered on an expedited basis. V. CONCLUSION [30] This application for judicial review will be granted. The parties did not propose a question for certification and I agree that none arises. JUDGMENT in IMM-22654-24 THIS COURT’S JUDGMENT is that: The Application for judicial review is granted. The matter is returned to a different officer for reconsideration on an expedited basis. The Applicants shall have 30 days from the date of this decision to provide any further documentation they choose in support of their Temporary Resident Visa application, following which, a new decision on this application shall be rendered within 30 days. The Respondent shall pay to the Applicants \$1,000 payable forthwith. There is no question for certification. "Angus G. Grant" Judge FEDERAL COURT SOLICITORS OF RECORD DOCKET: IMM-22654-24 STYLE OF CAUSE: SUBASH KUMAR AND RASHIMI v. THE MINISTER OF CITIZENSHIP AND IMMIGRATION PLACE OF HEARING: VANCOUVER, BRITISH COLUMBIA DATE OF HEARING: feBRuary 19, 2026 JUDGMENT AND REASONS: GRANT J. DATED: March 12, 2026 APPEARANCES: Navratan Fateh For The Applicants Nima Omid For The Respondent SOLICITORS OF RECORD: Fateh Law Corporation Barrister and Solicitor Port Coquitlam, British Columbia For The Applicants Attorney General of Canada Vancouver, British Columbia For The Respondent

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Prepared on 26 October 2026 · Esheria