

CANADA / JUDGMENT

Ndigui v. Canada (Citizenship and Immigration)

2026 FC 281

COURT

Federal Court

DECIDED

2 March 2026

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

Ndigui v. Canada (Citizenship and Immigration)

Court (s) Database

Federal Court Decisions

Date

2026-03-02

Neutral citation

2026 FC 281

File numbers

IMM-3742-25

Decision Content

Date: 20260302

Docket: IMM-3742-25

Citation: 2026 FC 281

Ottawa, Ontario, March 2, 2026

PRESENT: The Honourable Madam Justice Ngo

BETWEEN:

MARCEL BRAD AARON NDIGUI

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

I. Overview [1] The Applicant, Marcel Brad Aaron Ndigui [Applicant], seeks judicial review of a decision by Immigration, Refugee and Citizenship Canada [IRCC] dated December 30, 2024, refusing his application for a student permit and finding him inadmissible for misrepresentation under subsection 40(1)(a) of the Immigration and Refugee Protection Act, SC 2001, c 27 [IRPA] [Decision].

[2] The Applicant alleges that the Decision is unreasonable in that it does not meet the level of transparency, intelligibility and justification required for significant conclusions such as misrepresentation. Furthermore, he alleges that the Decision was reached in a procedurally unfair manner as the procedural fairness letter [PFL] that he received did not specify on what basis the visa officer felt his letter of acceptance [LOA] from his Designated Learning Institution [DLI] was fraudulent.

[3] For the reasons set out below, the application for judicial review is dismissed. I recognize that the consequences of a misrepresentation finding are significant. However, the Decision is reasonable. The PFL clearly identified the visa officer's concerns that the LOA may be fraudulent and provided the Applicant notice of these concerns as well as time to respond. The record before the officer supported these concerns. The Applicant acknowledged that he made a mistake in failing to properly submit his response to the PFL and therefore, no submissions were before the visa officer at the time the Decision was made. As such, I cannot fault the visa officer for rendering the Decision based on the record before them. In the absence of any response by the Applicant, it was open for the visa officer to conclude that their concerns were not alleviated, that a fraudulent LOA could have induced an error in the administration of the IRPA, and that this was sufficient to reject the application and to make an inadmissibility finding based on misrepresentation. The resulting five-year period of inadmissibility flows from the operation of the IRPA and was not a further decision by the officer.

II. Background and Decision Under Review [4] The Applicant is a citizen of Cameroon, who applied for a study permit under section 211 of the Immigration and Refugee Protection Regulations, SOR/2002-227, on August 18, 2024, to complete a bachelor's degree at the Université de l'Ontario français [UOF], a DLI. With his application, he submitted, among other documents, a LOA from the UOF, dated April 9, 2024.

[5] On December 16, 2024, the Applicant received a PFL from the IRCC expressing that they were concerned that the Applicant submitted documents which have been confirmed as fraudulent. The PFL identifies the LOA as the document particularly at issue. The Applicant was asked to respond to the officer's concerns within 10 days following the date of the letter. The PFL also explained that if a conclusion that the Applicant made a misrepresentation in

his application was reached, he might be found inadmissible to Canada for five years under paragraph 40(1)(a) of the IRPA.

- [6] In a letter dated December 30, 2024, the IRCC rejected the application for a study permit. After finding that the Applicant had submitted a fraudulent document, the Decision stated that the Applicant was inadmissible for misrepresentation pursuant to paragraph 40(1)(a) of the IRPA. The Global Case Management System [GCMS] Notes, which form part of the reasons of the Decision, state:

Application reviewed: The PA submitted a LOA from a DLI to support their application. After verification with the institution, it was confirmed that the LOA was not issued by them. A PFL was sent to the applicant underlining our concerns that a fraudulent LOA was submitted. To date, a response to the PFL has not been received. The LOA is relevant in the assessment of the eligibility of the applicant for the requested study permit. As per R216(1)(e), an officer shall issue a study permit to a foreign national if, following an examination, it is established that the foreign national has been accepted to undertake a program of study at a designated learning institution. The LOA is the central document supporting this requirement of the regulations. Based on the information on file, the PA misrepresented material facts relating to a relevant matter, namely their acceptance into a designated learning institution, that induce or could induce an error in the administration of the Act. I am therefore refusing this application under paragraph 40(1)(a) of the IRPA.

- [7] This Decision is the subject of judicial review.

III. Issues and Standard of Review [8] The issue before the Court is whether the officer's Decision was unreasonable and whether there was a breach of procedural fairness.

- [9] The merits of the Decision are to be reviewed on a reasonableness standard of review (Canada (Minister of Citizenship and Immigration) v Vavilov, 2019 SCC 65 at paras 10, 25 [Vavilov]), as agreed by the parties as well as the Court. On judicial review, the Court must consider whether a decision bears the hallmarks of reasonableness – justification, transparency and intelligibility (Vavilov at para 99).
- [10] A reasonable decision will always depend on the constraints imposed by the legal and factual context of the particular decision under review (Vavilov at para 90). A decision may be unreasonable if the decision-maker misapprehended the evidence before them (Vavilov at paras 125–126). The party challenging the decision bears the onus of demonstrating that the decision is unreasonable (Vavilov at para 100).
- [11] Procedural fairness allegations are reviewed on a basis that resembles more so the standard of correctness. The Court must analyze whether the procedure was fair having regard to all the circumstances (Canadian Pacific Railway Company v Canada (Attorney General), 2018 FCA 69 at paras 54–56; Lipskaia v Canada (Attorney General), 2019 FCA 267 at para 14). The ultimate question remains whether the Applicant knew the case he had to meet and had a full and fair chance to respond to it (Baker v Canada (Minister of Citizenship and

Immigration), 1999 CanLII 699 (SCC), [1999] 2 SCR 817 at para 28; *Fortier v Canada* (Attorney General), 2022 FC 374 at para 14; *Therrien (Re)*, 2001 SCC 35 at para 82).

IV. Preliminary Issues [12] As a preliminary issue, the Applicant seeks to submit evidence which was not before the decision-maker. Specifically, the Applicant's Record includes a letter from the UOF, dated December 19, 2024, and a written response to the PFL that he had prepared, dated December 23, 2024. The Applicant stated that he meant to submit these documents in response to the PFL. Although he uploaded the documents, he omitted to press the "submit" button on the IRCC portal to complete the submission process. As a result, these documents were not before the IRCC Officer at the time of the Decision.

- [13] The Applicant explains that he only realized his mistake after reviewing his file with his lawyer. While he concedes that these letters were not before the visa officer, he contends that these documents show that there was no basis to issue a PFL and that there was a breach of procedural fairness because the PFL did not demonstrate with clarity the officer's concerns why the LOA was fraudulent.
- [14] The Respondent objects to the inclusion of these documents in the record before the Court, as on judicial review, the Court must limit itself to the record that was before the decision-maker (citing *Bernard v Canada* (Revenue Agency), 2015 FCA 263 at paras 13–28). The Respondent submits that none of the exceptions to this rule apply to the Applicant's case (citing *Association of Universities and Colleges of Canada v Canadian Copyright Licensing Agency* (Access Copyright), 2012 FCA 22 at para 20 [Access Copyright]). The Respondent also disagrees with the Applicant's proposition that the new evidence supports a procedural fairness argument.
- [15] I agree with the Respondent's submissions. The general rule is that only the record that was before the decision-maker ought to be considered on judicial review, unless certain exceptions are met (Access Copyright at para 20). The new evidence was clearly not before the officer, and I will not consider these documents in my assessment of the reasonableness of the Decision.
- [16] While one of the exceptions in Access Copyright is to bring attention to alleged procedural defects, I do not find that the new evidence provides any insight into the allegations of procedural fairness.
- [17] Rather, while the Applicant seeks to adduce new evidence under the procedural fairness exception, he relies on these documents to challenge the merits of the Decision. This was evident from the Applicant's submissions at the hearing, where he argued it was "clear" from the new documents that there was no basis to find that the LOA could be fraudulent, among other things. I will therefore not consider the new evidence to assess the Applicant's allegations of procedural fairness.

V. Analysis [18] The Applicant contends that there was a breach of procedural fairness because the PFL did not provide sufficient details to describe the concerns about the LOA (regardless of whether he failed to submit a response to the PFL).

- [19] The Respondent submits that the PFL clearly explained the Officer's concerns and is under no requirement to be more specific (citing *Mhlanga v Canada (Citizenship and Immigration)*, 2021 FC 957 at para 32; *Kong v Canada (Citizenship and Immigration)*, 2017 FC 1183 at paras 26–27, 31).
- [20] I cannot agree that the facts of this case give rise to a breach of procedural fairness. The PFL clearly identified the visa officer's concerns that the LOA may be fraudulent and provided the Applicant notice of these concerns and time to respond. He did not ask for an extension of time, nor did he request clarifications of the PFL or express at the time that he did not understand the PFL. Procedural fairness issues must be raised at the first opportunity (*Hennessey v Canada*, 2016 FCA 180 at para 21). I cannot find that the Applicant did not know the case he had to meet, or that he did not have a reasonable opportunity to respond.
- [21] While I appreciate the circumstances surrounding the Applicant's failure to correctly submit a response to the PFL addressing the concerns raised, in the response's absence, I also cannot fault the officer for proceeding to a review of the study permit application and making a determination (*Oyekola v Canada (Citizenship and Immigration)*, 2024 FC 1970 at para 17, citing *Malhi v Canada*, 2023 FC 392 at para 18; *Bayramov v Canada (Citizenship and Immigration)*, 2019 FC 256 at para 18).
- [22] Regrettably, the Applicant's circumstances arise from his own actions (or inactions), rather than the officer's. As such, I find that the officer did not breach procedural fairness in relation to the PFL.
- [23] The Applicant submits that the Decision is unreasonable because the officer did not provide any information about how they reached the Decision, and there were no valid reasons provided to justify the Decision, especially with the significant consequence arising from a finding of misrepresentation. Additionally, the Applicant argued that the officer made a finding of misrepresentation whereas they should have concluded that the Applicant had provided insufficient evidence to support the application. He further states that the five-year ban was unlawful and unfair.
- [24] The Applicant relies on *Vargas Villanueva v Canada (Citizenship and Immigration)*, 2023 FC 66 [Vargas Villanueva] to support the argument that the Decision was unreasonable because the visa officer in his case did not follow the Court's guidance in relying on "clear and compelling evidence" to support a finding of misrepresentation as is required by the case law (*Vargas Villanueva* at paras 17–22).

- [25] However, the facts in Vargas Villanueva are distinguishable. In that case, the reasons on review did not refer to any “clear and compelling evidence” that the bank document submitted was fraudulent and the record did not disclose any. There, the Court found that the record did not provide any indication for the basis of the officer’s conclusory statement that the bank “letter was not issued by their institution” (Vargas Villanueva at para 20).
- [26] In the Applicant’s case, however, the record before the Court confirms that there is a standard process for a DLI to review and confirm the authenticity of a LOA in the context of assessing study permits. The IRCC’s “Program Delivery Instructions regarding Letters of Acceptance” [IRCC LOA Instructions], which are publicly available online, explain the IRCC’s process to verify a LOA.
- [27] This verification process includes the DLI receiving a daily email notifying them of a verification activity in the IRCC verification portal which they must respond to within an allotted time frame. The DLI then confirms the status for an applicant, from one of three options: “Verified – Match”, “Verified – No Match” or “Cancelled.” Once the DLI completes this step, the information is sent to GCMS, and the application is ready for processing by an IRCC officer.
- [28] In the Applicant’s case, the GCMS Notes show that the DLI responded to the IRCC LOA inquiry with “Verified – No Match”. The IRCC LOA Instructions provide a definition for this validation status: “Verified – No Match” means “The DLI verified and confirmed that the LOA submitted by the applicant to IRCC in their application was not issued by the DLI” (emphasis in original).
- [29] The “Verified – No Match” status is found in the GCMS Notes that form part of the Decision under review. As such, the record supports the officer’s reasons upon which the LOA was determined to be fraudulent. The Decision is transparent, intelligible and justified on that basis.
- [30] Finally, the Applicant challenges the five-year exclusionary period. However, the exclusion is simply what flows from the operation of the statute after a conclusion of misrepresentation has been made (*Mohseni v Canada (Citizenship and Immigration)*, 2018 FC 795 at para 18).

VI. Conclusion [31] The application for judicial review is dismissed. The Decision meets the hallmarks of reasonableness, being coherent and rational in its analysis of the evidence and arguments provided.

- [32] The parties do not propose any question for certification, and I agree that in these circumstances, none arise.

JUDGMENT in IMM-3742-25

THIS COURT’S JUDGMENT is that:

- 1.The application for judicial review is dismissed.
- 2.There is no question for certification.
- 3.The style of cause is amended to reflect the “Minister of Citizenship and Immigration” as the correct Respondent.
- 4.The Application for Leave and Judicial Review is amended to correct a typographical error relating to the reference of the application number from S306854258 to S306854256.

"Phuong T.V. Ngo"

Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:

IMM-3742-25

STYLE OF CAUSE:

MARCEL BRAD AARON NDIGUI v THE MINISTER CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING:

VIDEOCONFERENCE

DATE OF HEARING:

FEBRUARY 24, 2026

JUDGMENT AND REASONS:

NGO J.

DATED:

MARCH 2, 2026

APPEARANCES:

Mr. Ayoob Hameed

For The Applicant

Ms. Leila Jawando

For The RESPONDENT

SOLICITORS OF RECORD:

Hurliis Law Professional Corporation

Barristers and Solicitors

Mississauga (Ontario)

For The Applicant

Attorney General of Canada

Toronto (Ontario)

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/530057/index.do>

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

Prepared on 29 October 2026 · Esheria