

CANADA / JUDGMENT

Salem v. Canada (Citizenship and Immigration)

2025 FC 1952

COURT

Federal Court

DECIDED

11 December 2025

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Salem v. Canada (Citizenship and Immigration) Court (s) Database Federal Court Decisions Date 2025-12-11 Neutral citation 2025 FC 1952 File numbers IMM-23824-24 Decision Content Date: 20251211 Docket: IMM-23824-24 Citation: 2025 FC 1952 Vancouver, British Columbia, December 11, 2025 BETWEEN: AHMAD ABDUSSALAM R SALEM Applicant and THE MINISTER OF CITIZENSHIP AND IMMIGRATION Respondent REASONS FOR COSTS AND ORDER

- [1] On November 26, 2025, I issued an Order, on consent, granting the application for judicial review of a Pre-Removal Risk Assessment decision dated November 12, 2024 [Third PRRA Decision].
- [2] The parties agreed that the Third PRRA Decision was unreasonable because it failed to consider the Applicant's risk of persecution pursuant to s. 96 of the Immigration and Refugee Protection Act [IRPA]. The 2024 PRRA Decision was set aside and remitted to a different decision-maker to redetermine. The judicial review hearing was cancelled.
- [3] The sole issue remaining is costs. The Applicant argues there are special reasons justifying a costs award in his favour. The Respondent disagrees.
- [4] As described in more detail below, this is the Applicant's third application for leave and judicial review [ALJR] challenging a PRRA decision. Like the first two ALJRs, the present ALJR was settled in advance of the hearing. In support of all three ALJRs, the Applicant argued, amongst other things, that the Officers below erred in failing to consider s. 96 of IRPA.
- [5] The Applicant argues that the Respondent's repeated error on this issue and certain shortcomings with respect to the Certified Tribunal Record constitute special reasons to justify a cost award.
- [6] A summary of the relevant procedural history is set out below: First PRRA Decision: On January 18, 2023, the first refusal of Mr. Salem's PRRA application was issued. First ALJR: On January 20, 2023, Mr. Salem filed IMM-936-23, challenging the First PRRA Decision. The First ALJR was settled before leave was determined. The parties agreed to have the First

PRRA Decision reconsidered. Second PRRA Decision: On May 9, 2023, the second decision refusing Mr. Salem's PRRA application was issued. Second ALJR: On June 9, 2023, Mr. Salem filed IMM-7289-23, challenging the Second PRRA Decision. The parties made arguments on a motion for a stay of removal. This Court granted a stay of removal on July 6, 2023. The Second ALJR was settled and discontinued after leave was granted, about a month before the scheduled hearing date. The parties agreed to have the matter reconsidered. Third PRRA Decision: on November 12, 2024, the Third PRAA Decision was rendered refusing Mr. Salem's PRRA application. Third ALJR: The Applicant filed IMM-23824-24, dated December 13, 2024, challenging the Third PRRA Decision. The Respondent did not file a Memorandum of Argument opposing leave in the Third ALJR. Leave was granted in September 2025. The Applicant filed a Further Memorandum of Argument on November 9, 2025. About 10 days before the scheduled hearing date, the Respondent filed its Further Memorandum of Argument and advised the Court as follows: The Respondent concedes that the refusal is not reasonable based on the officer's incorrect application of section 113 of the Immigration and Refugee Protection Act. This incorrect application limited the Applicant's risk assessment to a section 97 assessment. However, he was also entitled to a section 96 assessment. The Respondent concedes that the application should be sent back for re-determination by a different decision maker. On November 26, 2025, the court issued an Order, on consent, granting the Third ALJR.

- [7] Mr. Salem argues: Repeating the same error three times in a case with such significant implications for the applicant raises the concern that the respondent is intentionally refusing to apply the law to his case. In any event, the course of this case has caused him significant expense in the form of legal expenses and Court fees for three (3) applications for judicial review. He now faces a fourth PRRA decision. The fact that all of the decisions are flawed in the same way (failure to consider Section 96 of the IRPA) constitutes special reasons for an award of costs.
- [8] Rule 22 of the Federal Courts Immigration and Refugee Protection Rules, SOR/93-22 precludes an award of costs in immigration and refugee matters in the absence of "special reasons." The threshold to establish "special reasons" is high: *Radiyeh v Canada* (Citizenship and Immigration), 2022 FC 1234, at para 34; *Aleaf v Canada* (Citizenship and Immigration), 2015 FC 445, at para 45.
- [9] The Minister relies on the circumstances listed in paragraph 7 of *Ndungu v Canada* (Citizenship and Immigration), 2011 FCA 208 and argues that costs should not be awarded simply because the officers below made erroneous decisions: *Sapru v Canada* (Citizenship and Immigration), 2011 FCA 35 at para 65.
- [10] One circumstance where "special reasons" have been found to exist is where there is conduct that unnecessarily or unreasonably prolongs the proceedings: *Canada* (Public Safety and Emergency Preparedness) v *Oko-Oboh*, 2022 FC 740 at para 10; *Adewusi v Canada* (Citizenship and Immigration), 2012 FC 75 at para 25, citing *John Doe v Canada* (Minister of Citizenship and Immigration), 2006 FC 535 at para 5; *Johnson v Canada* (Minister of

Citizenship and Immigration), 2005 FC 1262, at para 26; and *Qin v Canada* (Minister of Citizenship and Immigration), 2002 FCT 1154 at para 34.

- [11] I agree that an error by a decision-maker below is not a “special reason” sufficient to justify costs. However, where there are three decision-makers below that have made the same error necessitating three separate ALJRs plus a motion to stay a removal, costs may be justified. This, in combination with the timing of the settlement (which occurred after Mr. Salem filed his Motion Record and his Further Memorandum of Argument) constitutes “special reasons” to order costs.
- [12] The parties did not make submissions on the quantum of costs. The default amount is determined with reference to the midpoint of Column III, Tariff B of the Federal Rules of Court. Accordingly, I exercise my discretion to make an award in the amount of \$3,000.00 in favour of the Applicant. ORDER in IMM-23824-24 THIS COURT ORDERS that the Respondent pay the Applicant a lump sum in the amount of \$3,000.00 (all inclusive) for costs. "Meaghan M. Conroy" Judge FEDERAL COURT SOLICITORS OF RECORD DOCKET: IMM-23824-24 STYLE OF CAUSE: AHMAD ABDUSSALAM R SALEM v THE MINISTER OF CITIZENSHIP AND IMMIGRATION SUBMISSIONS ON COSTS CONSIDERED AT OTTAWA, ONTARIO, PURSUANT TO THIS COURT’S ORDER DATED NOVEMBER 26, 2025. REASONS FOR COSTS AND ORDER: CONROY J. DATED: December 11, 2025 WRITTEN SUBMISSIONS BY: Christopher G. Veeman For The Applicant Judith Boer For The Respondent SOLICITORS OF RECORD: Veeman Law Saskatoon, Saskatchewan For The Applicant Attorney General of Canada Saskatoon, Saskatchewan For The Respondent

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