

CANADA / JUDGMENT

Thalisetti v. Canada (Citizenship and Immigration)

2026 FC 332

COURT

Federal Court

DECIDED

11 March 2026

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2026 PRESENT: The Honourable Madam Justice Ayles BETWEEN: HARIPRASAD THALISSETTI
Applicant and THE MINISTER OF CITIZENSHIP AND IMMIGRATION Respondent JUDGMENT
AND REASONS

- [1] The Applicant seeks judicial review of a decision made by an Immigration Officer [Officer] at Immigration, Refugees and Citizenship Canada [IRCC] dated August 22, 2024, refusing the Applicant's application for permanent residence as a member of the family class pursuant to subsection 72(1) of the Immigration and Refugee Protection Act, SC 2001, c 27 [IRPA]. The Officer found that: (a) the Applicant was ineligible for sponsorship and excluded from the family class because his Sponsor (his wife) had not declared him at the time of her application for permanent residence; and (b) there were insufficient humanitarian and compassionate [H&C] considerations to justify granting him permanent residence pursuant to subsection 25(1) of the IRPA.
- [2] While the Applicant has advanced a number of grounds of review, I am satisfied that the Officer's reasons for decision lack the required degree of justification, intelligibility and transparency, such that the decision must be set aside [see *Mason v Canada (Citizenship and Immigration)*, 2023 SCC 21 at paras 8, 59; *Canada (Minister of Citizenship and Immigration v Vavilov*, 2019 SCC 65 at para 85].
- [3] By way of statutory context, section 12(1) of the IRPA allows a Canadian citizen or permanent resident to sponsor a foreign national as a member of the family class based on their relationship as the spouse, common-law partner, child, parent or other prescribed family member of a Canadian citizen or permanent resident. However, paragraph 117(9)(d) of the Immigration and Refugee Protection Regulations, SOR/2002-227 [IRPR] states that a foreign national is not considered a member of the family class by virtue of their relationship to a sponsor if the sponsor previously made an application for permanent

residence and became a permanent resident and, at the time of that application, the foreign national was a non-accompanying family member of the sponsor and was not examined.

- [4] In this case, the Applicant's wife [Sponsor] did not declare the Applicant as her common-law partner when she landed in Canada as a permanent resident in March 2020, declaring her marital status as single. The Applicant asserts that his Sponsor was under no obligation to declare her relationship with the Applicant as they did not meet the definition of common-law partners at that time.
- [5] A "common-law partner" is defined in section 1 of the IRPR to mean "in relation to a person, an individual who is cohabiting with the person in a conjugal relationship, having so cohabited for a period of at least one year." The term "conjugal relationship" is not defined in the IRPA nor in the IRPR. However, the jurisprudence confirms that the common law test for determining whether a conjugal relationship exists was established by the Supreme Court of Canada in *M v H*, [1999] 2 SCR 3. In that case, the Supreme Court of Canada set out a list of generally accepted characteristics of a conjugal relationship, which include shared shelter, sexual and personal behaviour, services, social activities, economic support and children, as well as the societal perception of the couple. However, it also recognized that these elements may be present in varying degrees and that not all are necessary for the relationship to be found to be conjugal [see *M v H*, supra at para 59].
- [6] In this case, the key evidence before the Officer at the time they rendered their decision, as set out in the Applicant's application and his response to the Officer's procedural fairness letter issued in May 2024, was as follows: The Applicant and Sponsor have known each other since high school. The Applicant, his Sponsor and their two roommates [Roommates] resided together in the United States from July 2018 to July 2019. During that time, the Applicant and Sponsor stated that they were roommates and were not in a conjugal relationship. The four roommates shared expenses, such as rent, groceries and utilities. The Applicant and Sponsor did not hold themselves out as a couple and maintained separate bedrooms. Statutory declarations were provided by the Applicant, Sponsor and Roommates, confirming these details and providing proof of shared expenses. In 2018 and 2019, the Applicant and Sponsor filed separate individual U.S. tax returns and not as a married or common-law couple. Documentation was provided from the U.S. Internal Revenue Service that confirmed that common-law couples are required to file as married. Copies of the relevant portions of their 2018 and 2019 U.S. tax returns were provided to the Officer. While the Applicant and Sponsor cohabitated in 2018 and 2019, they did not share major assets. For instance, the Applicant owned a car and did not grant his Sponsor permission to drive it. The Applicant and Sponsor stated they began a romantic relationship in October 2019 and became engaged in February 2020. They claim that they did not have a sexual relationship until their engagement. They state that they lived together in a conjugal relationship from February 14, 2020, to March 8, 2020, from October 19, 2020, to November 10, 2020, and from December 11, 2020, onward. The statutory declaration of the Roommates confirmed that the romantic relationship between the Applicant and Sponsor only began in October 2019. The

Applicant and Sponsor were married in December 2020. The Applicant and Sponsor did not co-mingle their finances at any point prior to their wedding. The Applicant and Sponsor had previously filed a sponsorship application. In that initial application, the Applicant states that their immigration consultant made an error and indicated that they resided together from July 2018 through March 2020. They received a procedural fairness letter from the IRCC based on a concern that the Applicant was excluded as a member of the family class. Their immigration consultant advised them to withdraw the initial application, which they did. When they submitted their subsequent sponsorship application (which is the one at issue), they disclosed the initial application and explained the error.

- [7] The Officer's Global Case Management System [GCMS] notes, which form part of the reasons for decision, provides the following explanation for the Officer's determination: As per the documents submitted response to the PFL to support of this FC app. It is noted that PC and SPR were in a relationship prior to SPR received her PR status and failed to disclose and have PC examined at the time of her PR application. Evidence on file is enough to confirm that PC and SPR are in an ongoing relationship since 2018 - photos, chat messages, rental agreement. As such, it is noted that PC is excluded under R117(9)(d).
- [8] I find that these limited reasons fail to provide a coherent and rational chain of analysis for the Officer's conclusion that the Applicant and Sponsor were in a conjugal relationship since 2018. First, there is no explanation as to why the photos, chat messages and rental agreement are evidence of an ongoing conjugal relationship as of 2018. Further, it is not apparent as to how this evidence could support such a finding as: (a) the photos are mostly of their engagement and wedding in 2020, with earlier photos showing them amongst groups of people; (b) there are no chat messages; (c) there are comments on what appear to be Instagram posts made by the Sponsor, but they are undated; and (d) the rental agreement for the U.S. property jointly shared by the four roommates shows it was signed only by the Sponsor.
- [9] Moreover, and importantly, the Officer failed to address any of the evidence provided by the Applicant and Sponsor that does not support the Officer's finding regarding the nature of their relationship in 2018/2019 — namely, that they did not co-mingle their finances, they were not in a sexual relationship, they had separate bedrooms, they declared themselves as single on their respective U.S. tax returns, they held themselves out socially as single and they shared their living expenses with their Roommates. The Officer was obligated to consider this evidence and explain why he nonetheless found them to be in an ongoing conjugal relationship as of 2018, which the Officer did not do.
- [10] Further, I find that the Officer's determination that there were insufficient H&C considerations to justify granting the Applicant permanent residence pursuant to subsection 25(1) of the IRPA is unreasonable, as the Officer provides no justification whatsoever for this finding in either the decision or the GCMS notes. A bald conclusion does not meet the justification required by Vavilov.

- [11] These shortcomings in the Officer's reasons are a sufficient basis upon which to set aside the Officer's decision. Accordingly, the application shall be granted and the matter remitted for redetermination by a different officer.
- [12] No question for certification was raised and I agree that none arises. JUDGMENT in IMM-17326-24 THIS COURT'S JUDGMENT is that: The application for judicial review is granted. The decision of the Officer dated August 22, 2024, is hereby set aside and the matter shall be remitted for redetermination by a different officer. The parties proposed no question for certification and none arises. "Mandy Aylen" Judge FEDERAL COURT SOLICITORS OF RECORD DOCKET: IMM-17326-24 STYLE OF CAUSE: HARIPRASAD THALISSETTI v THE MINISTER OF CITIZENSHIP AND IMMIGRATION PLACE OF HEARING: Vancouver, British Columbia DATE OF HEARING: March 11, 2026 JUDGMENT AND REASONS: AYLEN J. DATED: March 11, 2026 APPEARANCES: Sundeep Grewal For The Applicant Richard Li For The Respondent SOLICITORS OF RECORD: Lawgical Law Corporation Barristers and Solicitors Surrey, British Columbia For The Applicant Attorney General of Canada Vancouver, British Columbia For The Respondent

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