

Federal Court



Cour fédérale

**Date: 20240228**

**Docket: IMM-9264-22**

**Citation: 2024 FC 326**

**Toronto, Ontario, February 28, 2024**

**PRESENT: The Honourable Madam Justice Heneghan**

**BETWEEN:**

**ANOUAR MOHAMED**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP  
AND IMMIGRATION**

**Respondent**

**REASONS AND JUDGMENT**

[1] Mr. Anouar Mohamed (the “Applicant”) seeks judicial review of the decision of an Officer (the “Officer”), refusing his application for restoration of his temporary resident status and for a work permit.

[2] The Applicant arrived in Canada on December 19, 2019, with authorization to remain until October 4, 2021. He did not leave.

[3] According to the material in the Certified Tribunal Record (the “CTR”), the Applicant sent a letter to the Officer through his representative on June 8, 2022. The letter was in response to advice received from an agent of Immigration, Refugees and Citizenship Canada (“IRCC”) on June 7, 2022, instructing him that he should resubmit his materials because IRCC had no record of his application.

[4] In the letter, he explained that he had sent his complete application for restoration and a work permit on December 7, 2021. He attached his application materials to the letter.

[5] IRCC received the “resubmitted” application on June 13, 2022.

[6] The Officer decided that the Applicant had not submitted his application for restoration within the time limited by subsection 182(1) of the *Immigration and Refugee Protection Regulations*, SOR/2002-227 (the “Regulations”).

[7] In the course of the hearing, Counsel for the Minister of Citizenship and Immigration (the “Respondent”) objected to the inclusion of certain material in the Applicant’s record, on the grounds that it was not before the Officer.

[8] Subsequent to the hearing that proceeded on November 15, 2023, the Applicant, personally and not through his counsel, attempted to raise further arguments. A Case Conference was convened on Friday, November 17, 2023, in the presence of counsel for the parties and in the presence of the Applicant.

[9] The decision in this application for judicial review will be made on the basis of the material that was before the Officer.

[10] In his written submissions, the Applicant argues that the Officer failed to consider the evidence submitted to show that his application was originally submitted on December 7, 2021. This date was within the 90-day time limit prescribed by subsection 182(1) of the Regulations.

[11] In response, the Respondent submits that the Applicant's evidence does not establish that he mailed his application on December 7, 2021. He argues that the Officer reasonably considered that the application was not received until June 13, 2022.

[12] Following the decision in *Canada (Minister of Citizenship and Immigration) v. Vavilov*, [2019] 4 S.C.R. 653 (S.C.C.), the decision is reviewable on the standard of reasonableness.

[13] In considering reasonableness, the Court is to ask if the decision under review "bears the hallmarks of reasonableness – justification, transparency and intelligibility – and whether it is justified in relation to the relevant factual and legal constraints that bear on the decision"; see *Vavilov, supra* at paragraph 99.

[14] I agree with the submissions of the Applicant, that the Officer ignored the evidence that he submitted, specifically, the letter and the email correspondence with an IRCC agent dated June 7, 2022.

[15] In my opinion, the Officer did not clearly address this evidence. It is not for the Court to address the weight or sufficiency of evidence.

[16] In the result, the application for judicial review will be allowed, the decision will be set aside and the matter will be remitted to a different officer for redetermination. There is no question for certification.

**JUDGMENT IN IMM-9264-22**

**THIS COURT'S JUDGMENT is that** the application for judicial review is allowed, the decision is set aside and the matter is remitted to a different officer for redetermination. There is no question for certification.

"E. Heneghan"

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Judge

**FEDERAL COURT**  
**SOLICITORS OF RECORD**

**DOCKET:** IMM-9264-22

**STYLE OF CAUSE:** ANOUAR MOHAMED

**PLACE OF HEARING:** EDMONTON, ALBERTA

**DATES OF HEARING:** NOVEMBER 15 and 17, 2023

**REASONS AND JUDGMENT:** HENEGHAN J.

**DATED:** FEBRUARY 28, 2024

**APPEARANCES:**

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FOR THE APPLICANT

Camille N. Audain

FOR THE RESPONDENT

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