

Federal Court



Cour fédérale

Date: 20250429

Docket: IMM-11070-23

Citation: 2025 FC 779

Montréal, Quebec, April 29, 2025

PRESENT: Mr. Justice Gascon

BETWEEN:

NATASHA LUTTRELL

Applicant

and

**THE MINISTER CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

I. Overview

[1] The applicant, Natasha Luttrell, is seeking judicial review of a decision dated August 31, 2023 [Decision] whereby an immigration officer [Officer] maintained the earlier refusal of her application for a temporary residence permit [TRP] pursuant to subsection 24(1) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [IRPA].

[2] Ms. Luttrell submits that the Officer committed three reviewable errors in their analysis of her TRP application: (i) the Officer applied the “exceptional circumstances” standard; (ii) the Officer erred in their assessment of her immigration history and its related consequences; and (iii) the Officer erred in their assessment of the “best interest of the child” factor.

[3] In December 2024, upon her return from a trip to the United States, Ms. Luttrell was granted a TRP valid for one year. The respondent, the Minister of Citizenship and Immigration [Minister], therefore argues that this application for judicial review is moot and that the Court should not exercise its discretion to consider it.

[4] For the reasons that follow, Ms. Luttrell’s application for judicial review will be dismissed for mootness. I agree with the Minister that, considering the valid TRP currently held by Ms. Luttrell, her application meets the first part of the test for mootness. In addition, I am not persuaded that this is not a situation where the Court should exercise its discretion to consider the matter on the merits.

II. Background

A. *The factual context*

[5] Ms. Luttrell is a 40-year-old American citizen from the state of Indiana. She arrived in Canada in August 2002 to study microbiology at McGill University in Montreal. However, she only studied part-time due to various health issues and was unable to renew her student visa upon its expiration in 2007. She also became deaf in 2012. Since 2007, Ms. Luttrell has remained in

Canada without status, working in Montreal as a therapist specialized with non-verbal autistic children. She is currently inadmissible to Canada pursuant to section 41 of the IRPA, although no removal order has been issued against her.

[6] On January 4, 2021, Ms. Luttrell's application for permanent residence on humanitarian and compassionate grounds was refused. Her application for leave and judicial review of that decision was dismissed by the Court on June 8, 2021.

[7] On February 9, 2022, Ms. Luttrell applied for a TRP in the hope of remaining in Canada despite her inadmissibility. She submitted that there are sufficient grounds to warrant the issuance of a TRP, mainly due to her lack of a criminal record, her family circumstances and ties with Canada, her establishment in Canada, her work with disabled children and advocacy for the deaf community, and her relationships in Canada.

B. *The Officer's Decision*

[8] On July 31, 2023, an immigration officer denied Ms. Luttrell's request for a TRP. The officer concluded that the issuance of a TRP was not justified because there was no evidence that Ms. Luttrell, a US citizen, would not be able to reconcile her inadmissibility without the use of a TRP. The officer was of the opinion that, by virtue of being a US citizen, Ms. Luttrell could instead apply for a regular permanent residence application from outside Canada or even leave Canada and return with a valid temporary status.

[9] On August 31, 2023, upon reconsideration, the Officer maintained the initial refusal of Ms. Luttrell's TRP application. The Officer noted that TRPs are only granted when there are "exceptional circumstances." The Officer found that Ms. Luttrell can likely avail herself of other means to regularize her status. The Officer also determined, among other things, that Ms. Luttrell's studies were done remotely, that she was able to continue her work with children remotely, and that there was no barrier preventing her from leaving Canada considering her valid US passport.

C. *The new developments*

[10] In November 2024, Ms. Luttrell travelled to the United States for six weeks due to a family emergency. Upon return to Canada, an immigration officer issued her a TRP valid from December 16, 2024 to December 15, 2025.

[11] On January 23, 2025, Ms. Luttrell applied for an open work permit. This application is still being processed.

III. Analysis

[12] The Minister submits that, since Ms. Luttrell has now received a TRP, this application for judicial review is moot and the Court should not exercise its discretion to consider it.

[13] In response, Ms. Luttrell argues that her application for judicial review is not moot because she will already need a new TRP by the time her application would be re-examined by

another immigration officer, provided that the matter is remitted for redetermination. In any event, she submits that the Court should exercise its discretion to hear the matter. She explains that there remains an adversarial context because there would be collateral consequences if the Decision is allowed to stand, as a future immigration officer could again commit the same alleged errors if the Court does not provide guidance by rendering a decision on her application (*Ramoutar v Canada (Minister of Employment and Immigration)*, 1993 CanLII 2972 (FC), [1993] 3 FC 370 at p 378). She also appears to argue that the interests of judicial economy favour hearing her application for judicial review because the issues raised in this matter will continue to arise in the context of a subsequent TRP application, and the Court is in the presence of important issues that might be evasive of review (*Gallone v Canada (Attorney General)*, 2015 FC 608 at para 9, citing *Borowski v Canada (Attorney General)*, 1989 CanLII 123 (SCC), [1989] 1 SCR 342 at p 360 [*Borowski*]).

[14] I am not convinced by Ms. Luttrell's submissions.

A. *The application is moot*

[15] A proceeding is moot when a decision of the Court would not have the effect of resolving some controversy which affects or may affect the rights of the parties involved. The controlling authority on mootness is the Supreme Court's decision in *Borowski*, where the court set out the following two-step test for determining whether a court should decline to hear a case due to mootness. First, the court must determine whether the case is now moot due to the lack of a "live controversy" affecting the rights of the parties. Second, if the case is moot, the court must decide whether it should nonetheless exercise its discretion to consider the case in the interests of

justice. Relevant considerations under the latter inquiry include the presence of an adversarial context, interests of judicial economy, and the need for the court to be sensitive to its role as the adjudicative branch under Canada's political framework (*Borowski* at pp 353, 358–363).

[16] I agree with the Minister that there is no more live controversy and that Ms. Luttrell's application for judicial review is therefore moot. Ms. Luttrell has been granted a TRP valid until December 15, 2025. Granting the present application would consequently be of no practical effect whatsoever and would serve no useful purpose. As Ms. Luttrell already holds a valid TRP, there would be no point for the Court to remit the refused TRP application back to a different officer for redetermination. A TRP is temporary in nature and does not, in and of itself, grant a permanent status in Canada as would a successful application for permanent residence.

[17] If Ms. Luttrell wishes to extend her temporary status in Canada when her current TRP expires, the correct path may well be another TRP application. That said, Ms. Luttrell's potential need for a subsequent TRP at the end of her current one in December 2025 does not suffice to maintain a live controversy. Moreover, whether Ms. Luttrell will require another TRP in December 2025 remains highly speculative at this juncture.

B. *There is no reason to exercise the Court's discretion*

[18] Turning to the second step of the *Borowski* analysis, I am not persuaded that there are reasons in this case to exercise my discretion and to consider Ms. Luttrell's application for judicial review on the merits.

[19] First, I have not been convinced that an adversarial context still exists between the parties. The central question of a TRP application — whether Ms. Luttrell should be allowed to remain in Canada — has already been determined because she was recently granted a TRP by the Canadian immigration authorities, under subsection 24(1) of the IRPA. As a result, at the hearing, the Minister offered relatively brief arguments on the merits, which puts into doubt whether they continue to argue their position with the vigour that is required by *Doucet-Boudreau v Nova Scotia (Minister of Education)*, 2003 SCC 62 at paragraph 19.

[20] As for the existence of the collateral consequences flagged by Ms. Luttrell, I do not find that there are any such consequences. As explained by the Minister, TRP decisions are highly fact driven and discretionary, meaning that officers are not bound to follow previous TRP decisions. This is demonstrated by the recent issuance of a valid TRP to Ms. Luttrell. Any guidance by the Court in rendering a decision on the current application for judicial review would not necessarily be of any use to other officers, as the factual matrix underlying a new TRP application might be different. In other words, Ms. Luttrell does not need a decision on her application for judicial review for an eventual TRP application. This factor weighs against hearing Ms. Luttrell's application.

[21] Turning to the second factor, the interests of judicial economy favour dismissing this application for judicial review because, as explained above under the first factor, the outcome of the application would have no practical or tangible consequences for Ms. Luttrell. There would thus be little benefit to the parties in the Court ruling on this case. This case also does not raise important issues of public significance that are evasive of review. To this end, I highlight this Court's recent decisions in *Howlader v Canada (Citizenship and Immigration)*, 2025 FC 274 and

Ogbonna v Canada (Citizenship and Immigration), 2024 FC 1467, which already meaningfully discuss the issue of the applicable evaluative standard for TRPs. This is not a situation where there is a “social cost of continued uncertainty in the law” (*Borowski* at p 361) or a legal vacuum to fill.

[22] However, I observe that, to the extent that the Court should be mindful of wasting scarce judicial resources by hearing matters which are otherwise moot, those resources have already been expended by the parties in the preparation of the written materials and for the hearing of this matter. Judicial economy is therefore more of a neutral factor (*Mirzaee v Canada (Citizenship and Immigration)*, 2020 FC 972 at para 36 [*Mirzaee*]; *Stanoievici v LTS Solutions*, 2019 FC 1554 at para 50; *Snieder v Canada (Attorney General)*, 2016 FC 468 at para 16).

[23] The third factor identified in *Borowski* is the obligation for the Court to be aware of its law-making function. This factor is typically engaged when there is a question of general importance to be decided (*Boland v Canada (Attorney General)*, 2024 FC 11 at para 32; *Burlacu v Canada (Public Safety and Emergency Preparedness)*, 2022 FC 1290 at para 25; *Coalspur Mines (Operations) Ltd v Canada (Environment and Climate Change)*, 2021 FC 759 at para 17; *Mirzaee* at para 37; *David Suzuki Foundation v Canada (Attorney General)*, 2019 FC 411 at para 126; *Collin v Canada (Attorney General)*, 2006 FC 544 at para 14). Here, Ms. Luttrell has not made any submissions on this factor. In any case, the present matter does not relate to any such question of general importance that is currently undecided. In consequence, this final factor weighs against hearing Ms. Luttrell’s application.

[24] In light of the foregoing, I am satisfied that the *Borowski* analysis and the interests of justice favour exercising my discretion against a consideration of the merits of Ms. Luttrell's application for judicial review.

IV. Conclusion

[25] For the reasons set forth above, this application for judicial review will be dismissed for mootness. There can be no doubt that the issuance of a new, valid TRP in December 2024 renders Ms. Luttrell's application challenging the prior refusal of a TRP moot. Furthermore, in the circumstances of this case, I do not find it warranted to exercise my discretion to consider the matter on the merits.

[26] The parties have not proposed any question of general importance to be certified.

JUDGMENT in IMM-11070-23

THIS COURT’S JUDGMENT is that:

1. This application for judicial review is dismissed, without costs.
2. There is no question of general importance to be certified.

“Denis Gascon”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

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STYLE OF CAUSE: NATASHA LUTTRELL v THE MINISTER OF
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