

Federal Court



Cour fédérale

Date: 20251008

Docket: IMM-23896-24

Citation: 2025 FC 1664

Ottawa, Ontario, October 8, 2025

PRESENT: The Hon Mr. Justice Henry S. Brown

BETWEEN:

ZHILEI JIAO

Applicant

and

**THE MINISTER OF CITIZENSHIP
AND IMMIGRATION**

Respondent

JUDGMENT AND REASONS

I. Nature of the matter

[1] This is an application for judicial review and the issuance of a writ of *mandamus* related to the alleged failure by Immigration, Refugees, and Citizenship Canada [IRCC] to process the Applicant's application for a visitor visa in a timely manner pursuant to s. 72(1) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [IRPA].

[2] The Applicant is a Chinese national and airline pilot who has completed further technical and other studies at Fanshawe College. He filed his visa application on March 15, 2024, was asked for his curriculum vitae [CV] (he supplied it), then demanded IRCC process his application, and then filed this application for judicial review and *mandamus* on December 18, 2024.

[3] His filing was nine months after he applied for the visa, which as will be seen was far too soon. At that time, the posted average processing time for a visitor visa was 26 days although there are also references to 18 days and with respect the difference is not material.

[4] In my respectful view, this application was and is significantly premature. When the Applicant commenced his application for judicial review, he knew his matter was being considered and the Minister of Citizenship and Immigration [Minister] was quite properly waiting for response(s) from Canada's "partners" (foreign and or domestic) for additional information.

[5] As it turns out, a week or so before the hearing of this application, IRCC convoked an interview of the Applicant on September 23, 2025, regarding his possible inadmissibility under s. 34(1)(a) of *IRPA* relating to espionage or other activities contrary to Canada's interests.

[6] The Applicant failed to give instructions to his counsel regarding the hearing. Counsel then applied to be (and was) removed from the record by the Court. He did not show up at the

hearing. Counsel for the Respondent, as an officer of this Court, properly reported at the hearing that there had been contact with him and that he has returned to China.

[7] The Applicant has not withdrawn his application nor discontinued it, a discourtesy to the Court and the Respondent in my view, nor did he seek an adjournment. He simply left Canada and this proceeding behind him.

[8] There is no merit in his application for *mandamus* which I am deciding on the written filings of his previous counsel and of the Respondent. I declined to hear further submissions from counsel and appreciate her asking if those would be helpful; the written material in this case is most adequate.

[9] The application will be dismissed.

II. Facts

[10] In December 2024, the Applicant completed a two-year diploma program to become a Motive Power Technician at Fanshawe College in London, Ontario. The Applicant holds a Bachelor of Law and Economics from a university in China and has 15 years of experience as an airline pilot.

[11] The Applicant might continue working in Canada because he is (or was) eligible for a Post-Graduate Work Permit. However, considering his experience and desire to return to the airline industry, the Applicant would require a visitor visa to leave and re-enter Canada.

[12] The stated average processing time for a visitor visa for an individual from China was, per the website screenshot, 26 days although he refers throughout to 18 days.

[13] The Applicant previously held a Canadian visitor visa but currently holds a valid U.S. visa. The Applicant's U.S. visa is set to expire on April 11, 2027. To be eligible for his previous Canadian visitor visa and study permit, the Applicant underwent background checks and security screenings. No criminal history or security concerns were raised back then.

[14] On April 29, 2024, IRCC asked the Applicant to provide his CV before May 9, 2024. The Applicant submitted his CV prior to this deadline.

[15] According to a note made on the Global Case Management System [GCMS] dated May 15, 2024, and obtained by the Applicant through an Access to Information and Privacy [ATIP] request, IRCC was "[satisfied] to issue pending info from partners."

[16] The Applicant thus actually knew his application was being discussed with IRCC's partners (foreign and or domestic) at the time he filed for *mandamus*, and indeed refers to these consultations in his Application for Leave.

[17] The Applicant interviewed as an airline pilot with Flair Airlines on November 21, 2024. There is no evidence he had a job offer.

[18] On December 6, 2024, Applicant's counsel wrote to IRCC requesting a timeline within which the Applicant's visitor visa application would be processed. On December 13, 2024, IRCC responded:

Dear ZHILEI JIAO:

This is in reference to your online application for a temporary resident visa.

Thank you for your inquiry.

Please note that your application is currently under review and no further action is required by you at this time. Please check your MyCIC account regularly for further updates.

We appreciate your patience. In order to efficiently process requests, we will not reply to duplicate emails and will contact you once processing has been finalized.

For general questions and to check the status of your application, please use the following online available to you on IRCC website:

- Check your application status
- Check processing times
- Find application forms and guides
- Find answers to common questions in the Help Centre

[19] The Applicant filed this application for judicial review and *mandamus* on December 18, 2024.

[20] The Applicant's wife lives in China. Prior to recent events, the Applicant had not left Canada since 2022 when he was granted his study permit. He planned to visit his wife in December 2024, but cancelled his ticket as no decision had been made on his visa application.

The Applicant claims the cancellation led to both him and his wife incurring “significant emotional strain” and additional costs.

[21] As of January 8, 2025, IRCC had not issued a decision on the Applicant’s visitor visa application. That remains the case, as mentioned above.

[22] To update, on September 9, 2025, IRCC sent a letter to the Applicant informing him of a scheduled interview he was required to attend on September 23, 2025. IRCC suspects the Applicant may be inadmissible under s. 34(1)(a) of *IRPA* which refers to espionage or activities contrary to Canada’s interests. Counsel for the Respondent was informed by IRCC of this interview on September 16, 2025. Counsel for the Applicant was permitted to be removed as counsel because the Applicant had ceased providing instructions.

[23] It turns out the Applicant left Canada and went back to China at an unknown time.

III. Issues

[24] The only issue is whether the Applicant has made out a case for *mandamus*.

IV. Relevant legislation

[25] Section 18.1(3)(a) of the *Federal Courts Act*, RSC 1985, c F-7 confirms the power of the Federal Court to grant *mandamus*:

Powers of Federal Court

(3) On an application for

Pouvoirs de la Cour fédérale

(3) Sur présentation d’une

judicial review, the Federal Court may

demande de contrôle judiciaire, la Cour fédérale peut :

a) order a federal board, commission or other tribunal to do any act or thing it has unlawfully failed or refused to do or has unreasonably delayed in doing; or

a) ordonner à l'office fédéral en cause d'accomplir tout acte qu'il a illégalement omis ou refusé d'accomplir ou dont il a retardé l'exécution de manière déraisonnable;

[26] Section 34(1) of *IRPA* outlines the security grounds for inadmissibility:

Security

Sécurité

34 (1) A permanent resident or a foreign national is inadmissible on security grounds for

34 (1) Emportent interdiction de territoire pour raison de sécurité les faits suivants :

(a) engaging in an act of espionage that is against Canada or that is contrary to Canada's interests;

a) être l'auteur de tout acte d'espionnage dirigé contre le Canada ou contraire aux intérêts du Canada;

(b) engaging in or instigating the subversion by force of any government;

b) être l'instigateur ou l'auteur d'actes visant au renversement d'un gouvernement par la force;

(b.1) engaging in an act of subversion against a democratic government, institution or process as they are understood in Canada;

b.1) se livrer à la subversion contre toute institution démocratique, au sens où cette expression s'entend au Canada;

(c) engaging in terrorism;

c) se livrer au terrorisme;

(d) being a danger to the security of Canada;

d) constituer un danger pour la sécurité du Canada;

(e) engaging in acts of violence that would or might endanger the lives or safety of persons in Canada;

e) être l'auteur de tout acte de violence susceptible de mettre en danger la vie ou la

or	sécurité d'autrui au Canada;
(f) being a member of an organization that there are reasonable grounds to believe engages, has engaged or will engage in acts referred to in paragraph (a), (b), (b.1) or (c).	f) être membre d'une organisation dont il y a des motifs raisonnables de croire qu'elle est, a été ou sera l'auteur d'un acte visé aux alinéas a), b), b.1) ou c).f

V. Submissions of the parties

[27] The Applicant seeks *mandamus* to compel IRCC to render a decision on the Applicant's pending visitor visa application. In this connection, I agree with and will adopt Justice Little's determinations in *Wasylynuk v Canada (Royal Mounted Police)*, 2020 FC 962 at paragraph 76:

[76] *Mandamus* is an order that compels the performance of a public legal duty. The duty is typically set out in a statute or regulation. An order of *mandamus* is the Court's response to a public decision-maker that fails to carry out a duty, on successful application by an applicant to whom the duty is owed and who is currently entitled to the performance of it. The test for *mandamus* thus requires careful consideration of the statutory, regulatory or other public obligation at issue, to determine whether the decision-maker has an obligation to act in a particular manner as proposed by an applicant and whether the factual circumstances have triggered performance of the obligation in favour of the applicant.

[28] The Applicant submits and I agree the test for *mandamus* is set out by the Federal Court of Appeal in *Apotex v Canada (Attorney General)*, [1994] 1 FC 742 (FCA) [*Apotex*, 1994]:

1. There must be a legal duty to act;
2. The duty must be owed to the applicant;
3. There must be a clear right to performance of that duty:
 - a. The applicant has satisfied all conditions precedent giving rise to the duty; and

- b. There was
 - i. A prior demand for performance of the duty;
 - ii. A reasonable time to comply with the demand unless refused outright; and
 - iii. A subsequent refusal which can be either expressed or implied, e.g. by unreasonable delay.
- 4. Where the duty sought to be enforced is discretionary, certain additional principles apply;
- 5. No adequate remedy is available to the applicant;
- 6. The order sought will have some practical value or effect;
- 7. The Court finds no equitable bar to the relief sought; and
- 8. On a balance of convenience, an order of *mandamus* should be issued.

[29] Notably, this Court must be satisfied on all eight factors to issue *mandamus*: *Cheloei v Canada (Citizenship and Immigration)*, 2025 FC 820 at paragraph 13 [*Cheloei*]. I will analyse each as relevant.

A. *Legal duty to act and duty owed to the Applicant*

[30] Broadly, the Applicant submits the Minister has a legal duty to process the Applicant's visa application. The Applicant submits this duty arises from four sources: the *IRPA*, the *Regulations*, Federal Court jurisprudence, and the Applicant's legitimate expectations.

[31] Section 7(1) of the *Regulations* require foreign nationals to obtain a visitor visa before they enter Canada on a temporary basis. The Applicant states this section of the *Regulations* is evidence of the Minister's duty to process applications of foreign nationals.

[32] The Supreme Court of Canada described the doctrine of legitimate expectations in *Baker v Canada (Minister of Citizenship and Immigration)*, [1999] 2 SCR 817 at paragraph 26 [*Baker*]:

[The doctrine of legitimate expectations], is based on the principle that the "circumstances" affecting procedural fairness take into account the promises or regular practices of administrative decision-makers, and that it will generally be unfair for them to act in contravention of representations as to procedure, or to backtrack on substantive promises without according significant procedural rights.

[33] The doctrine of legitimate expectations supports a party's expectation certain procedures will be followed: *Baker* at paragraph 26. The party's expectations may arise from the conduct of the public authority, including established practices, conduct, guidelines, or representations considered to be "clear, unambiguous and unqualified": *Mount Sinai Hospital Center v Quebec (Minister of Health and Social Services)*, 2001 SCC 41 at paragraph 29; *Apotex Inc. v Canada (Attorney General) (C.A.)*, [2000] 4 FC 264 at paragraph 122 [*Apotex, 2000*]. The test to consider is "would a reasonable person think that the promise was serious, and should a reasonable person be entitled so to think?": *Apotex, 2000* at paragraph 128.

[34] According to the Applicant, the Respondent's conduct gave rise to a legitimate expectation to the timely processing of the Applicant's visitor visa application. The Applicant alleges the stated "average" processing time on the IRCC website was 18 days. Considering the Applicant's application is not complex, he has previously held a visitor visa, and because he has

complied with all IRCC requests, the Applicant alleges (mistakenly) he was “led to believe by the Minister that a timely decision can be anticipated regarding his application for a temporary visa given the 18-day processing time.”

[35] He also claims his legitimate expectation supposedly arises from the GCMS notes which confirm the Applicant had met eligibility requirements. The Applicant states there is no reason indicated in these notes why his visitor visa application should not be finalized.

[36] With respect, the Applicant’s submissions have no merit.

[37] The law on legitimate expectation requires a “clear, unambiguous and unqualified” representation: *Agraira v Canada (Public Safety and Emergency Preparedness)*, 2013 SCC 36 at paragraphs 95, 98. This is confirmed by Justice Mary Gleason (as she then was) in *Jia v Canada (Citizenship and Immigration)*, 2014 FC 596 at paragraph 92 [*Jia*], who held that average processing times on websites are not representations or guarantees as to the real processing time:

[91] The applicants argue that there has been unreasonable delay in the processing of their files because they claim that CIC made representations to them that their applications would be processed much more quickly than they have been, which the Court should find binding. While no evidence from any of the applicants in the five lead cases has been filed to substantiate this claim, I am prepared to accept that many of the applicants initially believed and trusted that their applications would have been considered much more quickly. ... I therefore recognize that many of the applicants are disappointed by the length of time it has taken to process their applications and may well have experienced hardship due to the time their applications have been pending. However, these very real concerns do not translate into an entitlement to an order in the nature of *mandamus*.

[92] In addition to having no entitlement to have their applications processed in the way they wish by reason of the

relevant statutory criteria, discussed above, the statements made to them in form letters, manuals or websites simply do not give rise to any representation that would bind the respondent in respect of how long IIP applications would be in process or as to the priority within which they would be considered, for several reasons.

[38] In my view, nothing mentioned by the Applicant, separately or cumulatively, creates any reasonable expectation of any specific processing time. Nowhere, separately or cumulatively, does the Applicant establish any form of “clear, unambiguous and unqualified” representation as required by the jurisprudence.

[39] The stated “average” is just that – a number produced by dividing the total time for all such visas by the number of visas. Some may be done very quickly while others may be done after many months or years, and in some cases, many years.

[40] To succeed, the Applicant must establish his was an average visa. With respect, without doing that, he could not and does not succeed. In fact, the evidence is that his was not an average visa in that it was a stream requiring input from IRCCC’s foreign and or domestic partners, a fact known to him.

[41] Moreover, while the GCMS notes confirm the Applicant passed biometrics requirement, they clearly state he has not yet been found admissible to Canada, a critical *sine qua non* (without which nothing) precondition to visa entitlement.

[42] To recall, there are two great divisions or hurdles to overcome before obtaining a Canadian immigration request – eligibility and admissibility. Usually, the first part to pass is

eligibility which may mean satisfying statutory, regulatory, policy other requirements. But eligibility is never enough; even if one is eligible, one must also be found not inadmissible before any right to enter may arise. The fact is this Applicant has not yet passed his admissibility hurdle and may never – we do not know what his plans are or relevant facts.

[43] The GCMS notes properly state the Applicant's security admissibility is "in progress" and IRCC's response to his ATIP filing said IRCC was waiting for "info from partners." According to these notes, and in contradiction to the Applicant's position, the GCMS notes detail why the Applicant's application cannot yet be finalized. And we now know he is under investigation for inadmissibility on the basis of espionage or acting contrary to Canada's interests per s. 34(1)(a).

[44] Notably, the Applicant filed nothing to persuade this Court he is admissible, which in any event is a matter for IRCC to determine and not a matter on which this Court may make *a priori* pronouncements without satisfactory evidence.

[45] I appreciate the Applicant once held a visitor's visa, but whatever assessments were conducted years ago cannot bind IRCC and or its partners now. Nor, of course, does his holding certificates from the U.S. Government assist him. What the Applicant needs but does not have is security clearance from Canadian partner authorities. Each country, of course, has its own standards, and there is nothing on the record to suggest holding any form of clearance from the U.S. entitles the Applicant to the same or any clearance from IRCC.

[46] With respect, I also decline the invitation to speculate on what finding IRCC will eventually make, let alone decide his admissibility or any particular time frame at this early stage of investigations.

[47] However, I agree the Minister has a legal duty to act and this duty is owed to the Applicant to process his application and determine the matter, but with the express provision that IRCC need only do so when it has sufficient time and information. In my view, those are matters that must be left to IRCC and its partners at this time.

B. *Clear right to performance of the duty*

[48] According to the Applicant, he has satisfied all conditions precedent to the granting of his visitor visa, including submitting a completed application, responding to IRCC's requests, and all other responsibilities required by *IRPA* and the *Regulations*.

[49] This line of argument is, and with respect without merit. He is inadmissible until IRCC decides otherwise. As noted, mere eligibility is not enough to give him any clear right to a visitor visa; he must also be admissible, and at present he is not.

[50] This is fatal to this application.

(1) Prior demand for performance

[51] There is a prior demand for performance – as noted, counsel wrote IRCC on December 6, 2024 requesting a timeline for processing. The Applicant alleges the Respondent did not respond to this demand; however, there is evidence before this Court IRCC did indeed send him a response dated December 13, 2024. This argument is of no matter given the Applicant has not established his admissibility. He has no clear right to the visa.

(2) Reasonable time to comply

[52] Neither the Applicant nor the Respondent make submissions on this issue. However, implicit in the Applicant's application for *mandamus* is that the Respondent had ample time to comply with the demand given his visitor visa application was commenced on March 15, 2024. There is no merit in this submission given the Applicant has not passed the admissibility requirements and therefore has no clear right to the remedy. He has no clear right to the visa.

(3) Unreasonable delay

[53] The assessment of unreasonable delay is informed by the factors from *Conille v Canada (Minister of Citizenship and Immigration)* (1998), [1999] 2 FC 33 at 43 [*Conille*]: (1) the delay has been longer than the nature of the process required, *prima facie*; (2) the Applicant and counsel are not responsible for the delay; and (3) the authority responsible for the delay has not provided a satisfactory justification.

[54] Delay is assessed on a case-by-case basis and there is no uniform length of time for what is considered reasonable: *Cheloei* at paragraph 15.

[55] As noted already, there is no need for an assessment under this heading given his failure to establish a clear right to a visitor visa.

(a) *Delay has been longer than the nature of the process required*

[56] The Applicant submits the delay has been longer than the posted average processing time. At the time of this application for *mandamus*, a decision on the Applicant's visitor visa application was outstanding. The Applicant relies on *Vaziri v Canada (Minister of Citizenship and Immigration)*, 2006 FC 1159 at paragraph 55 [Vaziri] in support of his position the stated average processing times should inform the assessment of the delay caused by the nature of the process. However, his reliance on this decision is misplaced because Justice Snider made it clear it is the immigration scheme, including how the immigration applications are "processed differently" and "in accordance with policies" that must be considered: *Vaziri* at paragraph 55.

[57] I have already discussed what the word "average" means and found the Applicant has not established his is an average claim or anywhere close. The Applicant filed no evidence that his is an average visa request, and I decline to speculate.

[58] The Applicant also cites *Subaharan v Canada (Citizenship and Immigration)*, 2008 FC 1228 at paragraphs 15-17 [Subaharan] where Justice Dawson, as she then was, concluded there was unreasonable delay as the processing time for the application was "far in excess of normal

processing times”: *Subaharan* at paragraph 15. The Applicant’s reliance on this case is also misplaced, because the delay in *Subaharan* was over two and a half years and the posted average processing time was six to nine months. In addition, much of the information IRCC was looking for was already in its possession. The Applicant’s situation is not comparable since IRCC there already had all the information it needed.

[59] The Applicant further argues *Saravanabavanathan v Canada (Citizenship and Immigration)*, 2024 FC 564 [*Saravanabavanathan*] in his Reply per Justice Grant:

[31] With this in mind, I note that the average processing time for sponsored overseas applications for permanent residence, as provided in the record, is 16 months. It has now been over 60 months since the Applicants in this case submitted their application—more than three times the average processing time—and there remains no sign that a decision on this application is imminent.

[60] This case is entirely distinguishable given there was a five-year delay in *Saravanabavanathan* while the Applicant in the present matter waited only nine months. This is far too early given the matter is being assessed by IRCC’s partners, an obvious reference to his inadmissibility. Again, mere eligibility is never enough. Consultation with partners may take months, many months, years, or many years.

[61] I should note here some applicants think filing for *mandamus* may speed up the process. From experience, a decade or more ago when such applications were very rare, the grant of *mandamus* might have stimulated a decision. But now, the Court faces a flood of *mandamus* applications – 4,963 from January 1 to August 31, 2025 alone. Where domestic and or foreign partner consultations are involved, a matter within the sole discretion of IRCC, the Applicant has

a high burden to establish on a balance of probabilities they will be found admissible, i.e. IRCC has waited too long for its partners to come back to them. Reference to earlier Canadian visas is irrelevant as matters may have changed. Approvals by other governments are of dubious relevance. The say-so of applicants, their business associates, or their friends is likewise for the IRCC to assess, not this Court to deal with on *mandamus* which requires a clear right to the remedy.

[62] Notably also, the Respondent when faced with *mandamus* judicial review, may engage s. 87 of *IRPA* and ask this Court to prevent disclosure of confidential information to the Applicant and their counsel. A s. 87 motion will likely result in different and specialized counsel being appointed to represent the Minister, may result in the appointment of special advocates if appropriate, and may engage a multiplicity of hearings including public and *in camera* (private) proceedings without the presence of applicants or their counsel. All of this may take very considerable time because every word, sentence, paragraph, and page of the record put in issue by the Respondent must be scrutinized by the Court against the requirements of s. 87 of *IRPA*.

[63] *Mandamus*, in other words, is not to be a quick fix. A file may simply move from one decision-maker to another and to another.

(b) *The Applicant and counsel are not responsible for this delay*

[64] The Applicant submits he is not responsible for the so-called delay. He says he has complied with IRCC's requests and has made repeated inquiries as to the status of this

application. The Applicant submits he has provided the Respondent with all the information it requires to render a decision.

[65] In the first place I am not satisfied there is any delay. If there is actual delay in this case, I am satisfied neither the Applicant nor his counsel are responsible for it except for the fact the Applicant has not established his admissibility. But this is of no help to the Applicant given his continuing inadmissibility and lack of any clear right to a visa.

(c) *The authority responsible for this delay has not provided a satisfactory justification*

[66] The Applicant submits the delay is unreasonable because the processing of his application has exceeded the stated “average” processing time. I have already considered and dismissed this argument.

[67] However, here the Applicant relies on *Abdolkhaleghi v Canada (Minister of Citizenship and Immigration)*, 2005 FC 729 at paragraph 26 where Justice Tremblay-Lamer discussed the issue of long delay due to security concerns without a satisfactory justification.:

[26] The issue, it seems to me, requires returning to the basic principle established by Strayer J., as he then was, in *Bhatnager*, *supra*: if there is a long delay without adequate explanation, then *mandamus* can follow. To simply state, in response to the applicants' requests for information as to why their applications are taking so long to process, that a security investigation by CSIS is ongoing is not an adequate explanation. What will constitute an adequate explanation will of course depend on the relative complexity of the security considerations in each case. A blanket statement to the effect that a security check investigation is pending, which is all that was given here, prevents an analysis of

the adequacy of the explanation altogether. And security concerns instead appear to be lacking as a result.

[Emphasis in original]

[68] With respect, an adequate explanation has been provided in the case at bar and the Applicant is simply trying to jump the queue. IRCC is consulting its partners. The Applicant has no right to know more than that; IRCC's discussions with domestic and or foreign partners is a matter for IRCC to determine without considerably more than what the Applicant establishes here.

[69] I note that in both *Mohamed v Canada (Minister of Citizenship and Immigration)*, [2000] FCJ No 1677 at paragraph 16 and *Liang v Canada (Citizenship and Immigration)*, 2012 FC 758 at paragraph 44, the Court found "average" processing times were relevant to the issue of unreasonable delay:

[44] Thus, the most principled way to approach the analysis of unreasonable delay, in light of section 87.3 and the Ministerial Instructions, is to situate the question of the length and the nature of the process in the full context of the immigration scheme. The Ministerial Instructions that apply to the application at issue are highly relevant in determining how long the process will require for that application. Also relevant are any statements by the Minister or his delegates regarding the projected processing time for that application. If, in light of this evidence, the application is still reasonably within the time frame set out by the Minister, then *mandamus* will not issue. If, however, the application has been delayed past the projected timeline, then the Minister must present some justification for the delay.

[70] I agree, but with respect, in the context of the situation in 2025 as outlined above with some 25% of the Court's business dealing with mandamus applications and almost 5,000 to the

end of August 2025, it is enough for the Respondent to report the matter is in progress, as done here. I agree with the Respondent the delay (a misnomer) is justified because the necessary security screenings were still in process.

[71] Citing both ss. 3(1)(h)-(i) of *IRPA* and *Cheloei*, the Respondent maintains and I agree that the security of Canadian society and ensuring international justice and security, two of *IRPA*'s stated objectives, are sufficient reasons to justify the delay caused by outstanding security screenings. Despite passing criminal background checks (usually part of admissibility screening), the Applicant's inadmissibility related security screenings are and remain outstanding as denoted by the "in progress" notation in the GCMS notes.

[72] Again, the Applicant relies on the alleged 18-day (or 26-day) "average" processing time for visitor visas. However, per Justice Mary Gleason's comments in *Jia* at paragraph 92, cited above, statements made to applicants on websites "do not give rise to any representation that would bind the respondent in respect of how long IIP applications would be in process or as to the priority within which they would be considered, for several reasons."

[73] Justice Gleason's comments are as correct a statement of the law today as they were more than a decade ago.

[74] This is very recently confirmed by Justice Blackhawk in *Cheloei* where this Court confirmed that a "security screening and background checks involve multiple government departments and must be comprehensive to fulfill the Minister's obligations under the *IRPA*."

IRCC works with security partners who have subject-matter expertise and tools to conduct necessary statutorily required security checks”: *Cheloei* at paragraph 22. While the processing time in *Cheloei*, at roughly 18 months, was considered lengthy, it was not unreasonable: *Cheloei* at paragraph 23.

[75] I find the reasoning of Justice Blackhawk in *Cheloei* persuasive and entirely adopt it.

[76] The Applicant replies the Respondent relies on outdated case law as recent cases support a security or background clearance not being sufficient justification for delay: *Chen v Canada (Citizenship and Immigration)*, 2023 FC 885; *Almuhtadi v Canada (Minister of Citizenship and Immigration)*, 2021 FC 712; *Samideh v Canada (Minister of Citizenship and Immigration)*, 2023 FC 854.

[77] However, as immediately apparent, the Applicant fails to consider Justice Blackhawk’s decision in *Cheloei*.

[78] I also agree there is no evidence the time taken by the Respondent was due to bad faith, negligence, or a refusal of the Respondent to perform their duty. The Respondent has not purposely delayed or declined to perform their duty, which is a requirement for a granting of *mandamus*. Indeed this is not disputed.

[79] The Respondent submits the first and third requirements of *Conille* have not been met, and the Applicant has not shown unreasonable delay or satisfied this Court a granting of *mandamus* is appropriate. I agree and would refuse *mandamus* for these reasons.

C. *Duty is discretionary*

[80] Neither the Applicant nor the Respondent makes submissions on this issue. For the Applicant to be successful before this Court, he must satisfy all eight factors from *Apotex, 1994*. However, I note it is not necessary to consider this issue because the Applicant has not demonstrated unreasonable delay or a clear right to the remedy.

D. *No other adequate remedy is available*

[81] According to the Applicant, there is no other appropriate remedy to address the delay in processing his application. There are no other visitor visa applications he could pursue. Processing this visitor visa application is his only recourse to proceed with his employment in his desired field and to visit his wife. While the Respondent makes no submissions, it is not necessary to consider this issue because the Applicant has not demonstrated there has been unreasonable delay and there is no clear right to the remedy of *mandamus*.

E. *Order will have practical effect*

[82] The Applicant submits the order will have a practical effect. The Applicant claims he and his wife have “put some aspects of their lives on hold” as they have been separated. While the Respondent does not make submissions on this issue, it is not necessary as the Applicant has not

demonstrated unreasonable delay or that he has a clear right to the remedy where in fact he has none.

F. *No equitable bar to relief sought*

[83] The Respondent makes no submissions on this issue, while the Applicant submits there is no equitable bar to granting *mandamus*. The Applicant says he has complied with the IRCC's requests, has been diligent, and comes to this Court with clean hands. But again, it is not necessary to consider this issue given the Applicant has not demonstrated unreasonable delay or any clear right to the remedy.

G. *Balance of convenience favours granting mandamus*

[84] Briefly, the Applicant submits the balance of convenience favours granting *mandamus*. To grant *mandamus*, this Court must be satisfied the Applicant has incurred significant prejudice because of the delay: *Cheloei* at paragraph 16; *Vaziri* at paragraph 52; *Blencoe v British Columbia (Human Rights Commission)*, 2000 SCC 44 at paragraph 101.

[85] The Applicant submits the following rises to the level of "significant prejudice": the emotional strain on his relationship, the Applicant and his wife having to "put some aspects of their lives on hold," the financial strain resulting from the cancelled ticket, and the loss of a job opportunity in his desired industry.

[86] I disagree. First, there is no evidence the Applicant was offered the job, only that he was attended an interview, nor is there evidence of the scarcity of such positions that would render this a significant loss. Notably, he has inexplicably left Canada.

[87] The Respondent submits the balance of convenience does not favour granting *mandamus*. I agree, particularly given the statutory objectives of *IRPA* outlined above, notably the Minister's duty to protect the integrity of Canada's immigration system. As confirmed by Justice Blackhawk in reference to an applicant's desire to enter Canada, "[there] is a process involved, and that process requires officers to ensure that all prospective visitors are persons who do not place the security of Canadians at risk, an important objective of our immigration system": *Cheloei* at paragraph 33. The Minister must carefully and diligently investigate an applicant's eligibility and admissibility to enter Canada.

[88] I also agree any waiting the Applicant has experienced has not led to the loss of any substantive rights nor has the Applicant demonstrated he has been prejudiced: *Vaziri* at paragraph 50.

[89] With respect, the balance of convenience does not favour the granting of *mandamus* in these circumstances. While the GCMS notes confirm the Applicant was found eligible, the Applicant, notably, had not yet passed inadmissibility screening. That is fatal to his application generally and to this point specifically.

[90] To grant *mandamus* to the Applicant would mean bypassing the requirements designed to protect the security of Canadians without sufficient basis in law or fact.

[91] With respect, the Applicant simply seeks to jump the queue. That is not the purpose of *mandamus* nor any remedy from the Federal Court.

VI. Conclusion

[92] This application for *mandamus* must be dismissed.

VII. Certified question

[93] Neither party proposes a question for certification and none arises.

VIII. Costs

[94] The Applicant requests his costs and claims entitlement on the basis of delay, the Respondent's failure to meaningfully respond to the Applicant's request to process the application, and the purported hardship endured by the Applicant.

[95] If I were to award costs, they would of course be against the Applicant given his application is without merit. Costs are only awarded in special circumstances in immigration matters, and I see no reason to depart from that rule. There will be no order as to costs.

JUDGMENT in IMM-23896-24

THIS COURT'S JUDGMENT is that:

1. This application for judicial review is dismissed.
2. No question of general importance is certified.
3. There is no order as to costs.

"Henry S. Brown"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-23896-24

STYLE OF CAUSE: ZHILEI JIAO v THE MINISTER OF CITIZENSHIP AND
IMMIGRATION

PLACE OF HEARING: TORONTO, ONTARIO

DATE OF HEARING: OCTOBER 2, 2025

JUDGMENT AND REASONS: BROWN J.

DATED: OCTOBER 8, 2025

APPEARANCES:

No one appeared	FOR THE APPLICANT
Nicole John	FOR THE RESPONDENT

SOLICITORS OF RECORD:

Attorney General of Canada Toronto, Ontario	FOR THE RESPONDENT
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