

Federal Court



Cour fédérale

Date: 20240828

Docket: IMM-10389-23

Citation: 2024 FC 1341

Ottawa, Ontario, August 28, 2024

PRESENT: Mr. Justice O'Reilly

BETWEEN:

JIANTING LIU

Applicant

and

THE MINISTER OF IMMIGRATION, REFUGEES AND CITIZENSHIP CANADA

Respondent

JUDGMENT AND REASONS

I. Overview

[1] Mr Jianting Liu, a citizen of China, applied for a work permit in 2022 and is still waiting for a decision. Usually, work permit applications are processed within 3 months; Mr Liu has been waiting nearly 2 years. He asks me to issue a *mandamus* order compelling Immigration, Refugees and Citizenship Canada (IRCC) to make a decision on his application.

[2] The Minister submits that the delay is a result of lengthy security screenings. The Minister provided an affidavit, which I accepted as evidence, attaching recent correspondence

from IRCC to Mr Liu explaining the basis for its concern that he may be inadmissible to Canada on security grounds, and inviting him to attend an interview on October 2, 2024. In these circumstances, the Minister argues that the requested order is not justified.

[3] I agree with the Minister that the order Mr Liu seeks should not be issued. The Minister has shown that Mr Liu's application is being processed on an ongoing basis and has provided an explanation for the delay. For the reasons that follow, I must dismiss Mr Liu's application.

[4] The sole issue is whether an order of *mandamus* compelling IRCC to render a decision is justified.

II. Is an Order of *Mandamus* Justified?

[5] The test of issuing a *mandamus* order is set out in *Apotex Inc v Canada*, 1993 CanLII 3004 (FCA). The only branch of the test seriously in issue here is whether there has been unreasonable and unexplained delay on the part of the decision maker, *ie* IRCC (see *Conille v Canada*, 1998 CanLII 9097 (FC)).

[6] Without the recently-filed affidavit explaining the complexity of Mr Liu's application, including the possibility that he might be inadmissible to Canada on security grounds, and showing that a interview has been scheduled with him within a few weeks, I might have been inclined to agree with Mr Liu that IRCC had failed to justify the delay. However, in light of these developments, I cannot conclude that the delay is unreasonable or unexplained. Further, in the circumstances, an order of *mandamus* would probably serve no useful purpose because it would

be unlikely to accelerate the processing of Mr Liu's work permit application, which remains active.

[7] Accordingly, I must dismiss Mr Liu's application.

III. Conclusion and Disposition

[8] There is no longer any justification to issue an order of *mandamus* given the current state of the processing of Mr Liu's application for a work permit. Accordingly, I must dismiss this application for judicial review. Neither party proposed a question of general importance for me to certify, and none is stated.

JUDGMENT IN IMM-10389-23

THIS COURT'S JUDGMENT is that:

1. The application for an order of *mandamus* is denied.
2. No question of general importance is stated.

"James W. O'Reilly"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-10389-23
STYLE OF CAUSE: JIANTING LIU v. MCI

PLACE OF HEARING: TORONTO, ONTARIO

DATE OF HEARING: AUGUST 26, 2024

JUDGMENT AND REASONS: O'REILLY J.

DATED: AUGUST 28, 2024

APPEARANCES:

Jianting Liu

FOR THE APPLICANT
(ON HIS OWN BEHALF)

Rachel Hepburn Craig

FOR THE RESPONDENT

SOLICITORS OF RECORD:

Attorney General of Canada
Toronto, Ontario

FOR THE RESPONDENT