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CITIZENSHIP AND IMMIGRATION

STATUS IN CANADA

Permanent Residents

Related subject: Practice

Application for judicial review seeking order of *mandamus* to compel respondent Minister of Citizenship and Immigration to finalize principal applicant's application for permanent residence made under "Spouse or Common-Law Partner in Canada" class — Principal applicant, family arrived in Canada in 1996 holding false Saudi Arabian passports, claimed refugee protection against Egypt — Principal applicant's wife obtained Canadian citizenship in 2011 — In 2016, Immigration, Refugees and Citizenship Canada (IRCC) received applicants' application for permanent residence under spousal sponsorship class — In 2017, IRCC asked principal applicant to provide police clearances, his passport, travel documents, birth certificate — Applicants told in 2018 that application undergoing security background checks — Principal applicant provided IRCC with expired Egyptian passport with missing pages — In 2021, IRCC advised principal applicant that he met eligibility requirements to apply for permanent residence as member of "Spouse or Common-Law Partner in Canada class — Also advised him that he needed passport from country of origin, police certificates, detailed list of his travels — Principal applicant could not obtain police certificates without valid passport — In 2022, applicants commenced within application for judicial review — Applicants argued that respondent having legal duty to finalize application for permanent residence, that reasonable period of time has passed since they submitted their application, that they responded to all requests to provide documents, that security investigations resolved in favour of principal applicant — Respondent arguing, *inter alia*, that applicants' failure to provide personal affidavit from principal applicant, in support of their application for judicial review, fatal to this proceeding — Whether order of *mandamus* should be granted — Absence of personal affidavit not fatal — Requirements for unreasonable delay in context of processing citizenship application outlined in *Conille v. Canada (Minister of Citizenship and Immigration)*, [1999] 2 F.C. 33(T.D.) — An application for permanent residence should not, in ordinary course of events, take nearly seven years — Time taken to process principal applicant's permanent residence application longer than nature of process requires — Neither applicants nor their counsel responsible for delays in processing their outstanding application — Applicants recognizing that respondent holding a discretion in matter of granting application for permanent residence, but their complaint in this cause not about "granting", but "processing" of their application — Applicants satisfied test in order to obtain order of *mandamus* — Most significant factor in their favour is length of time that spousal application for permanent residence has been outstanding — Application allowed.

JABALLAH V. CANADA (CITIZENSHIP AND IMMIGRATION) (IMM-5032-22, 2024 FC 163, Heneghan J., reasons for judgment dated February 1, 2024, 15 pp.)