

Federal Court



Cour fédérale

**Date: 20200924**

**Docket: IMM-6000-19**

**Citation: 2020 FC 932**

[UNREVISED CERTIFIED ENGLISH TRANSLATION]

**Ottawa, Ontario, September 24, 2020**

**PRESENT: The Honourable Mr. Justice Pamel**

**BETWEEN:**

**AMARA TASLIM TOURÉ**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP AND  
IMMIGRATION**

**Respondent**

**JUDGMENT AND REASONS**

I. Overview

[1] This is an application for judicial review of a decision by a visa officer [officer] refusing to issue a study permit for Canada to the applicant, Amara Taslim Touré.

[2] For the reasons that follow, I will dismiss Mr. Touré's application.

## II. Facts

[3] Mr. Touré is a 25-year-old citizen of Guinea. After being accepted for a program of study at New Brunswick Community College, Mr. Touré applied for a study permit at the Canadian Embassy in Dakar.

[4] On August 6, 2019, his application was denied by the officer. Mr. Touré had not convinced the officer that he had adequate financial resources available to pay his tuition fees without working in Canada. The officer found that the offer of support from a third party was unsatisfactory; he questioned the likelihood that the guarantor would continue to assist Mr. Touré given that the family relationship and continuity of relations had not been formally established.

[5] Mr. Touré is seeking judicial review of that decision.

## III. Issue

[6] Was it reasonable for the officer to have determined that the relationship or continuity of relations between Mr. Touré and his potential guarantor had not been formally established?

## IV. Applicable law

[7] The student class is a class of persons who may become temporary residents of Canada pursuant to section 210 of the *Immigration and Refugee Protection Regulations*, SOR/2002-227 [IRPR].

[8] Pursuant to section 11 of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [IRPA], the issuance of a temporary resident visa is at the discretion of the visa officer.

[9] The onus is on the foreign national to demonstrate that they meet the requirements of the IRPA and the IRPR (*Solopova v Canada (Citizenship and Immigration)*, 2016 FC 690 at para 22 [*Solopova*]; *Ali v Canada (Immigration, Refugees and Citizenship)*, 2018 FC 702 at para 11; *Tabari v Canada (Citizenship and Immigration)*, 2019 FC 1046 at para 24; *Patel v Canada (Citizenship and Immigration)*, 2017 FC 570 at para 12).

[10] In particular, the foreign national must demonstrate that they have sufficient financial resources to pay tuition fees, maintain themselves and pay their transportation costs to and from Canada, without having to be employed in Canada, in accordance with section 220 of the IRPR.

[11] Moreover, the officer has wide discretion in assessing the evidence and coming to a decision (*Zhang v Canada (Citizenship and Immigration)*, 2003 FC 1493 at para 7; *Solopova* at para 11). The officer's duty to provide reasons for the decision is minimal (*Solopova* at para 32). The decision maker is assumed to have weighed and considered all the evidence presented to him unless the contrary is shown (*Florea v Canada (Minister of Employment and Immigration)* (FCA), [1993] FCJ No. 598 at para 1).

#### V. Standard of review

[12] The standard of review of a decision concerning the financial capacity of a foreign national seeking a study permit is reasonableness (*Canada (Minister of Citizenship and*

*Immigration) v Vavilov*, 2019 SCC 65 at para 23 [*Vavilov*]; *Kamguia Kouam v Canada (Citizenship and Immigration)*, 2015 FC 858 at para 11).

VI. Analysis

[13] Mr. Touré criticized the officer in particular for not taking into account certain evidence concerning support for the applicant from his potential guarantor, his maternal uncle, Mr. Mamady Kaba. This evidence consisted principally of birth certificates establishing a family relationship between Mr. Touré and Mr. Kaba.

[14] The respondent argued that the officer’s reasons indicate that he considered the evidence on the record, but found that it was insufficient and did not establish the relationship between the guarantor and the applicant.

[15] I agree with the respondent. The documents submitted as part of the application for a study permit could reasonably create confusion in the mind of the officer as to the family relationship between Mr. Touré and Mr. Kaba.

[16] In the document [TRANSLATION] “Plan and Letter of Motivation for Studying in Canada” that was submitted by Mr. Touré in support of his application for a study permit, Mr. Touré indicated that if his application was accepted, he would be financially supported by his potential guarantor, his maternal uncle, Mr. Kaba. In addition, the birth certificates in the file indicate that Mr. Kaba is actually Mr. Touré’s uncle. Indeed, according to these documents, Mr. Touré’s

mother, Kaba Djéné, had the same parents as Mr. Kaba, namely Kaba Snassy (or Sanassy) and Béréte Djéné, born respectively on March 22, 1939, and January 18, 1950.

[17] However, in his letter undertaking to support Mr. Touré, Mr. Kaba identified Mr. Touré as his brother, rather than his nephew.

[18] It is possible, though regrettable, that this characterization by Mr. Kaba used the term brother in the general sense, in the way that one might characterize a friend (or nephew) as a brother. However, the potential for confusion on the part of the officer was serious, and given the evidence before him, I cannot say that his decision was unreasonable.

[19] Mr. Touré's own counsel submitted a memorandum bases on the premise that Mr. Kaba was the applicant's brother, and then argued before me that Mr. Kaba was in fact Mr. Touré's uncle. Although this fact was not before the officer and I therefore cannot consider it in making my decision, it does illustrate the confusion that could arise from Mr. Touré's file.

[20] Therefore, considering the contradictory evidence on this question, the finding that Mr. Touré did not discharge his burden of establishing a family relationship or continuity of relations with his potential guarantor falls within the realm of outcomes that can be justified in light of the law and facts constraining the decision maker (*Vavilov* at para 85).

## VII. Conclusion

[21] For the reasons above, I would dismiss the application for judicial review.

**JUDGMENT in IMM-6000-19**

**THE COURT’S JUDGMENT** is as follows:

1. The application for judicial review is dismissed.
2. There is no question for certification.

“Peter G. Pamel”

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Judge

Certified true translation  
This 7th day of October 2020

Sebastian Desbarats, Translator

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

**DOCKET:** IMM-6000-19

**STYLE OF CAUSE:** AMARA TASLIN TOURÉ v. THE MINISTER OF  
CITIZENSHIP AND IMMIGRATION

**PLACE OF HEARING:** MATTER HEARD BY VIDEOCONFERENCE IN  
MONTRÉAL, QUEBEC, AND QUÉBEC CITY,  
QUEBEC

**DATE OF HEARING:** SEPTEMBER 23, 2020

**JUDGMENT AND REASONS:** PAMEL J.

**DATED:** SEPTEMBER 24, 2020

**APPEARANCES:**

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