Federal Court

Cour fédérale

Date: 20220301

Docket: IMM-1613-21

Citation: 2022 FC 294

Ottawa, Ontario, March 1, 2022

PRESENT: Mr. Justice Diner

BETWEEN:

VICTORIA ONYEMA MUKORO

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

AMENDED JUDGMENT AND REASONS

(Delivered Orally from the Bench by Videoconference on February 28, 2022)

[1] The Applicant seeks judicial review, pursuant to section 72 of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [*IRPA*], of the decision of a visa officer (the Officer) in the Canadian Embassy in Beijing, dated January 12, 2021, which rejected her study permit application, on the basis that the Officer was not satisfied the Applicant would leave Canada at the end of her stay, as well as that her proposed studies were "not reasonable in light of one or

more: your qualifications, previous studies, level of establishment, language abilities, or your future prospects and plans."

[2] The Officer's notes in the Global Case Management System (GCMS), which form part of the decision, state that the Applicant's study plan was "vague and poorly documented" and that "the Applicant has not outlined a clear career path with the proposed studies in light of previous qualifications, education employment history, and considering the magnitude of investment".

[3] The tribunal record contains evidence the Applicant had been accepted to pursue a two-year culinary management diploma program at Algonquin College in Ottawa for which she paid a deposit of her first year of tuition. She also included a transcript of her time studying French at the University of Benin, a certificate of completion of a training in catering, and a "Statement of Purpose" letter.

[4] The Statement of Purpose outlines her experience in catering and cake craft, her dream of owning a food business, and her reasons for selecting Canada and Algonquin College's program in particular, which focuses on a mix of culinary and business skill development.

[5] She also provided evidence of financial support, as well as property and business ownership. The record also contained evidence of prior international travel, with no evidence of overstays.

[6] The parties agree that the appropriate standard of review is reasonableness, which was outlined in detail by the Supreme Court of Canada in *Canada (Minister of Citizenship and Immigration) v. Vavilov*, 2019 SCC 65 [*Vavilov*]. A court performing a reasonableness review scrutinizes the decision maker's decision in search of the hallmarks of reasonableness – justification, transparency and intelligibility – to determine whether it is justified in relation to the relevant factual and legal constraints that brought the decision to bear (*Vavilov* at para 99).

[7] The Applicant in this case has convinced me that the Officer's decision was unreasonable. I come to this conclusion for two reasons, namely, the reasons provided by the Officer were not justified in light of the facts, nor were they intelligible.

[8] Visa officers often handle many applications each day, and there is no obligation for their reasons to be detailed or comprehensive, but they must still be tethered to the facts before them and the law bearing upon their decision.

[9] Here, the Officer opined that the Applicant's proposed studies were not reasonable, "in light of one or more" of the five factors cited above. It is only by reading the GCMS notes that I can deduce which of those five factors were germane to the decision, namely the qualifications, previous studies, and future prospects and plans.

[10] However, each of these three factors the officer lists are clearly addressed in the documents the Applicant provided in support of her application, despite the officer's explanation of them begin "vague and poorly documented". Respondent's counsel did the best that he could

to fill in for the officer as to why the evidence was "vague and poorly documented". However, the record does not make the reason clear as to what exactly the issue was with the Statement of Purpose, or other supporting documentation provided in support of both the Applicant's work background, and future plans, to substantiate that weakness.

[11] The Respondent relied on, and drew my attention to *Nimely v. Canada (Citizenship and Immigration)*, 2020 FC 282 which states at paragraphs 8-9:

> The Applicant argues that it was unreasonable for the Officer to find that his plan of studies appeared vague and poorly documented. His application for a study permit indicated that he has been the church pastor of his congregation since 2008 and that he attended biblical studies in 2016 at the WEPA College of Theology and Mission in Liberia. According to the Applicant, the Officer should have considered that this one-year course in Canada was just a natural progression in his biblical, educational and professional life.
>
> While the Officer could have viewed the Applicant's plan of studies in the manner that the Applicant suggests, it was entirely open to the Officer to find that the plan was indeed vague and poorly documented. There was no plan of study outlining the Applicant's long-term goals. The Applicant did not articulate how these studies would benefit him. There was no indication of how these studies were different from those he had followed in 2016. Aside from the Applicant's statements in his application form and the acceptance letter from the College, there was simply no other information for the Officer to assess.

[12] Here, I note that there was, by contrast, a plan provided, as detailed above, which included a concrete attachment to the vocation to be studied (culinary management), entrepreneurship (ownership of a business), and reference to past work experience (in catering and baking). Supporting documentation for all of those elements were also included.

[13] That said, it is not for me to substitute my appreciation of the facts for those of the Officer.

[14] Having either overlooked, ignored or disregarded these aspects, or at least failed to articulate what made the Application and in particular the Statement of Purpose vague and poorly documented, I do not find the officer decision to be justified or intelligible. For these reasons, the Officer's decision cannot stand.

[15] The Applicant also seeks costs in the application, and despite the hyperbole employed in her written representations, including referring to the officer's errors being "egregious, grossly cavalier and in bad faith", I am not satisfied that there are any special reasons to warrant an order as to costs (Rule 22, *Federal Courts Citizenship, Immigration and Refugee Protection Rules*, SOR/93-22).

AMENDED JUDGMENT in IMM-1613-21

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is granted.

2. The applicants visa application is remitted to a new officer for redetermination.

3. No questions were raised for certification.

4. No costs will be issued.

"Alan S. Diner"

Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	IMM-1613-21
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