

Federal Court



Cour fédérale

Date: 20220413

Docket: IMM-4043-21

Citation: 2022 FC 539

Ottawa, Ontario, April 13, 2022

PRESENT: The Associate Chief Justice Gagné

BETWEEN:

UMAR, BILQIS SURAKTU

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

I. Overview

[1] Ms. Bilqis Suraktu Umar is a young Ghanaian who applied for a Temporary Resident Visa in order to complete a postgraduate diploma in Global Business Management at Georgian College in Ontario. An immigration officer refused her Application because he was not convinced the Applicant would depart Canada at the end of her authorized stay. The Applicant now seeks judicial review of that negative decision.

II. Decision Under Review

[2] The refusal letter is quite standard and simply states that the study permit is refused on the following grounds:

- I am not satisfied that you will leave Canada at the end of your stay, as stipulated in subsection 216(1) of the IRPR, based on your personal assets and financial status;
- I am not satisfied that you will leave Canada at the end of your stay, as stipulated in subsection 216(1) of the IRPR, based on the purpose of your visit.

[3] However, the officer's Global Case Management System notes provide additional support for the decision:

- Minimal funds available to cover tuition and living costs while in Canada (bank statements show mainly volatile balances not conducive of cover living/tuition costs as a student in Canada);
- Weak ties to the country of residence, lack of establishment;
- The Applicant's planned studies do not appear reasonable when reviewing their past study and employment history (PA has not attached any letter of motivation or explanation of choice of uni/program, nor has PA attached any transcripts/diplomas to show previous education and standing);
- Concerns about the Applicant's "bona fide purpose of travel to Canada;
- Poor grades in previous university studies led to concerns about the Applicant's capacity to perform as a post-secondary student in Canada;

III. Issues and Standard of Review

[4] The issues are as follows:

A. *Did the Officer err in his assessment of the purpose of the Applicant's visit?*

B. *Did the Officer err in his assessment of the Applicant's financial resources?*

[5] I agree with the parties that the standard of review is one of reasonableness (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65).

IV. Analysis

A. *Did the Officer err in his assessment of the purpose of the Applicant's visit?*

[6] The Applicant argues that while the Officer is not required to accept the Applicant's alleged purpose of visit, he was required to explain his rejection. According to the Officer, the Applicant did not attach a letter of motivation explaining the proposed course of study, or transcripts from her past studies. Yet, the Applicant did attach both documents. The Officer's comments on these supposedly missing documents suggest that he failed to examine the Applicant's statement of intent at all and ignored evidence that contradicted his findings.

[7] The Applicant and Respondent agree that immigration officers possess a certain expertise when it comes to deciding the true intentions of study permit applicants (*My Hong v Canada (Citizenship and Immigration)*, 2011 FC 463 at para 13). They also agree that the Applicant has the burden to show that she is a *bona fide* student (*Duc Tran v Canada (Minister of Citizenship and Immigration)*, 2006 FC 1377 at para 4; *Akomolafe v Canada (Citizenship and Immigration)*, 2016 FC 472 at para 16).

[8] I recognize that visa officers have wide discretion in assessing the evidence and coming to a decision and that they are owed significant deference (*Zhang v Canada (Minister of Citizenship and Immigration)*, 2003 FC 1493 at para 7; *Solopova v Canada (Citizenship and Immigration)*, 2016 FC 690 at para 12; *Obeng v Canada (Citizenship and Immigration)*, 2008 FC 754 at para 21; *Zamor v. Canada (Citizenship and Immigration)*, 2021 FC 479 at para 19).

[9] However, I find the Officer's notes in this case do not allow me to comprehend his line of reasoning, in light of the evidence submitted by the Applicant. In *Vavilov*, the Supreme Court of Canada stated, "the reviewing court must be able to trace the decision maker's reasoning without encountering any fatal flaws in its overarching logic" (para 102). It is clear from the certified copy of the record from the Canadian High Commission in Ghana that the Applicant did indeed attach her post-secondary transcripts to her study permit application, as well as a two-page "Study Plan" explaining her motivation for the chosen studies and an "Intent to Return Letter." Yet, in one sentence, the Officer indicates that the Applicant "has not attached any letter of motivation or explanation of choice of uni/program, nor has PA attached any transcripts/diplomas to show previous education and training." A couple of sentences later, the Officer states, "Transcript is weak for (post)secondary schooling marks."

[10] In my view, this contradiction in the Officer's reasons makes it impossible to conclude that the decision is reasonable.

[11] Considering that the Officer gave this alleged lack of documentary evidence substantial weight, I am of the view that this decision cannot stand on any other basis.

V. Conclusion

[12] For the above reasons, I find that the Officer's decision is not based on internally coherent reasoning and is not justified in light of the legal and factual constraints that bear on it. I therefore allow this Application for judicial review, quash the decision, and return the matter to a new decision maker. The parties did not propose any question of general importance for certification, and no such question emanates from the facts of this case.

JUDGMENT in IMM-4043-21

THIS COURT’S JUDGMENT is that:

1. The Application for judicial review is granted;
2. The decision of the Immigration Officer dated April 22, 2021 is set aside and the matter is remitted to High Commission in Canada in Ghana for a new determination;
3. No question of general importance is granted.

“Jocelyne Gagné”

Associate Chief Justice

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-4043-21

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