Federal Court  Cour fédérale

Date: 20230607

Docket: IMM-8498-22

Citation: 2023 FC 805

Vancouver, British Columbia, June 7, 2023

PRESENT: Mr. Justice Sébastien Grammond

BETWEEN:

KIMIA KHOSRAVI AND BABAK GHADERI YAZDI

Applicants

and

MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

[1] Ms. Khosravi, a citizen of Iran, was denied a permit to study for a one-year graduate diploma in hotel and tourism management at Niagara College in Toronto. Her husband, Mr. Ghaderi Yazdi, was also denied a work permit. The visa officer found that Ms. Khosravi had previous studies at a higher academic level, that the program appeared redundant given her previous studies and employment and that it was not reasonable given its cost.

[2] Ms. Khosravi now applies for judicial review. The general framework for the judicial review of denials of study permits was summarized in *Nesarzadeh v Canada (Citizenship and Immigration)*, 2023 FC 568 at paragraphs 5–9, which I reproduce without the references to caselaw or legislation:

> - A reasonable decision must explain the result, in view of the law and the key facts.
>
> - Vavilov seeks to reinforce a "culture of justification" requiring the decision-maker to provide a logical explanation for the result and to be responsive to the parties' submissions, but it also requires the context for decision-making to be taken into account.
>
> - Visa Officers face a deluge of applications, and their reasons do not need to be lengthy or detailed. However, their reasons do need to set out the key elements of the Officer's line of analysis and be responsive to the core of the claimant's submissions on the most relevant points.
>
> - The onus is on the Applicant to satisfy the Officer that they meet the requirements of the law that applies to consideration of student visas, including that they will leave at the end of their authorized stay.
>
> - Visa Officers must consider the "push" and "pull" factors that could lead an Applicant to overstay their visa and stay in Canada, or that would encourage them to return to their home country.

[3] While Ms. Khosravi raised a number of grounds to challenge the decision, the determinative issue is the officer's treatment of her study plan.

[4] In her study plan, Ms. Khosravi explained that she initially studied engineering and worked in the oil and gas industry, and also obtained a Master of Business Administration [MBA]. However, she developed an interest for tourism, started to work part-time as a tour

guide, and eventually abandoned her career in engineering to devote herself entirely to tourism-related jobs.

[5] She also explained that she intends to build and operate a resort hotel on a family property in northern Iran and that the proposed studies are needed for her to acquire the knowledge necessary for the success of this project.

[6] As explained above, a visa officer's decision need not be lengthy or exhaustive, but it must be responsive to an applicant's main submissions.

[7] The decision in this case does not show that the officer gave adequate consideration to Ms. Khosravi's submissions, in particular her study plan. The officer's reasons in this regard consist of three boilerplate sentences that frequently recur in similar decisions. As I stated in *Safarian v Canada (Citizenship and Immigration)*, 2023 FC 775 at paragraph 3, "the use of boilerplate is not in itself objectionable, but the reviewing court must be satisfied that the decision-maker turned their minds to the facts of the case."

[8] The fact that the proposed studies are at a lower academic level than previous studies may be a valid reason for questioning a study plan, but may also be explained by the person's change of career, as in Ms. Khosravi's case. The officer's use of a boilerplate sentence does not show that the officer understood this.

[9] The fact that the proposed studies appear redundant given past studies or employment may be a relevant consideration in a study permit application—one is unlikely to undertake a course of study that brings no benefits. However, such a statement must be compatible with the evidence. Here, the previous studies were in an unrelated field. Ms. Khosravi is currently employed as a tour guide or tour operator. This is different from operating a hotel, and the proposed studies pertain specifically to hotel management. Given these facts, the officer needed to explain, perhaps in one sentence, why they thought that the proposed studies were redundant. The failure to do so leads me to believe that the officer simply did not consider the facts.

[10] The officer's statement to the effect that the proposed studies are not reasonable in light of their high costs appears to be inextricably tied to the two preceding sentences that I reviewed above. It adds little to the analysis. If the benefits of the proposed studies have not been established, it follows logically that the program is not justified in light of its cost. In contrast, where the applicant has provided evidence of those benefits, the amount of resources that one is willing to devote to the program is largely a matter of individual choice.

[11] In the end, it would appear that the visa officer failed to grasp Ms. Khosravi's main reason for undertaking the proposed studies, which is to facilitate the starting of her own hotel/resort business. This is very similar to the mistake made by another officer in *Nourani v Canada (Citizenship and Immigration)*, 2023 FC 732. Rather, the officer's notes suggest that they took only a few selected facts into consideration and then generated boilerplate reasons by ticking boxes that correspond to those facts. In this process, however, the gist of Ms. Khosravi's application was lost.

[12] I note that Ms. Khosravi's application was "processed with the assistance of Chinook 3+". I do not know if the shortcomings outlined above result from the use of this tool. I will simply say that the use of assisted decision-making tools does not relieve officers from the duty to fully consider an application, most importantly the study plan. If the use of such a tool gives the officer a truncated vision of the application, the resulting decision may well be unreasonable.

[13] For these reasons, the application for judicial review will be granted and the matter will be remitted to a different officer for reconsideration.

JUDGMENT in IMM-8498-22

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is granted.

2. The decisions made regarding the applicants are quashed.

3. The matter is remitted to a different visa officer for reconsideration.

4. No question is certified.

"Sébastien Grammond"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

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