

Federal Court



Cour fédérale

Date: 20221125

Docket: IMM-5066-22

Citation: 2022 FC 1630

Vancouver, British Columbia, November 25, 2022

PRESENT: The Honourable Mr. Justice Bell

BETWEEN:

BENYAMIN BAHRAMI

Applicant

and

**THE MINISTER OF CITIZENSHIP
AND IMMIGRATION**

Respondent

JUDGMENT AND REASONS

(Delivered from the Bench at Vancouver, British Columbia, on November 24, 2022 and edited for syntax and grammar with added references to the relevant case law)

[1] The Applicant, Benjamin Bahrami, hereinafter referred to as the “Applicant”, is a 13 year old male citizen of Iran who sought a study permit to attend Grade 8 in Canada as an unaccompanied minor. Custodianship arrangements were made for Mr. Bahrami’s stay while in Canada. At the time of his application, he was in his first year of high school in Tehran, Iran, and

was a top student with a GPA of 20 in that country, which is the equivalent of 100 percent. The Applicant submitted transcripts as evidence of his academic success.

[2] By letter dated March 2, 2022, the Langley School District international student program, in Langley, British Columbia, accepted the Applicant as a student at Grade 8 at the Walnut Grove Secondary school for the 2022-2023 school year, conditional upon his receipt of a study permit. The Langley School District fees for international students in the amount of \$16,325 CDN had been paid in full at the time his application was being considered.

[3] In support of his application, the Applicant provided the following proof of means of financial support:

1. A bank statement for the Applicant's father showing an account balance of \$29,651 CDN;
2. A notarized affidavit of support and sponsorship obligations by the Applicant's parents, Mr. Jafar Bahrami and Ms. Sara Hassani;
3. An employment confirmation certificate of employment, three current pay slips and personnel action form for the Applicant's father, Jafar Bahrami;
4. A business licence, three current pay slips and pension certificates for the Applicant's mother, Sara Hassani;
5. Copies of two property title deeds from an apartment of the Applicant's parents in Tehran, a lease contract for an apartment of the Applicant's parents in Tehran, and a pre-construction bill of sale for the Applicant's father;
6. A certificate of title for a vehicle in the father's name, and health insurance coverage for the Applicant through his father's employer for his stay while in Canada.

[4] In the Applicant's statement of purpose, he sets out his reasons for wanting to study in Canada. While many of those reasons are generic, one that I found persuasive – persuasiveness being something that I recognize as being irrelevant to my task – is the following statement:

Based on my efforts, academic results and our family consultations, my parents have offered me a chance to study outside of Iran. With their research, we chose Canada as a destination to continue my studies.

[5] On May 19, 2022, an Immigration, Refugees and Citizenship Canada visa officer [the "Officer"] refused Mr. Bahrami's student visa application. The refusal letter simply states that the application is being refused on the grounds that the Officer is not satisfied that the Applicant will leave at the end of his stay as contemplated by section 216(1) of the *Immigration and Refugee Protection Regulations*, SOR/2002-227 [IRPR]. The Officer's Global Case Management Summary notes ["GCMS notes"] read rather succinctly:

"I have reviewed the application. The study plan does not appear reasonable given availability of grade level studies at a fraction of the cost in country of residence. Weighing the factors in this application. [sic] I am not satisfied that the applicant will depart Canada at the end of the period authorized for their stay. For the reasons above, I have refused this application".

[6] While the Officer refers to the third person plural pronoun "their", I note that this minor will be unaccompanied and there is no other person accompanying him to Canada, so the period for authorization was for "his" stay.

[7] The Applicant now seeks judicial review pursuant to section 72(1) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [IRPA] of the visa Officer's decision to refuse his entry to Canada on a study permit.

[8] The only issue that arises on this application for judicial review is whether the Officer's decision to refuse the Applicant's study permit was reasonable. At issue, in particular, is whether the Officer's decision meets the hallmarks of reasonableness, namely, whether or not the decision was intelligible, transparent, and justified.

[9] Both parties agree that given this is a judicial review of the merits of the Officer's negative study permit application decision, the presumptive standard of review is reasonableness: *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [*Vavilov*]. None of the exceptions to the presumption of reasonableness apply in the circumstances. Therefore, the question is whether the Officer's reasoning and the outcome of the decision was based on an inherently coherent and rational analysis that is justified in light of legal and factual constraints (*Vavilov* at para 85).

[10] I find the decision is not justified as contemplated by *Vavilov*. The Officer refers to the availability of lower cost programs in Iran, but does not discuss the financial feasibility of the one year of study for the Applicant in Canada. The Officer concludes the Applicant will not return to Iran upon completion of his studies but makes no reference to the pull factors to Canada or the push factors from Iran. Importantly, he or she fails to mention that all of the Applicant's family members remain in Iran.

[11] Finally, and importantly, the Officer appears to overlook in his or her analysis that this opportunity to study in Iran was a parental expression of pride and congratulation following the Applicant's clearly extraordinary efforts in placing highest in his class at one of the best schools

in Iran. In the circumstances, I find that the decision lacks justification. While the decision may have been justifiable in the pre-*Vavilov* era, it is not so given the current jurisprudential landscape.

[12] The application for Judicial Review is allowed. There is no award of costs. There is no question certified for consideration by the Federal Court of Appeal. The matter is remitted to a different visa officer for re-determination.

JUDGMENT in IMM-5066-22

THIS COURT'S JUDGMENT is that:

1. The application for Judicial Review is allowed and the matter is remitted to a different visa officer for re-determination.
2. No question is certified for consideration by the Federal Court of Appeal.
3. All without costs.

"B. Richard Bell"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-5066-22

STYLE OF CAUSE: BENYAMIN BAHRAMI v THE MINISTER OF
CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: HELD VIA VIDEOCONFERENCE

DATE OF HEARING: NOVEMBER 24, 2022

JUDGMENT AND REASONS: BELL J.

DATED: NOVEMBER 25, 2022

APPEARANCES:

Richard Kurland FOR THE APPLICANT

Richard Li FOR THE RESPONDENT

SOLICITORS OF RECORD:

Kurland, Tobe FOR THE APPLICANT
Vancouver, British Columbia

Attorney General of Canada FOR THE RESPONDENT
Vancouver, British Columbia