Federal Court  Cour fédérale

Date: 20240126

Docket: IMM-1473-23

Citation:2024 FC 131

Ottawa, Ontario, January 26, 2024

PRESENT: Madam Justice Azmudeh

BETWEEN:

SEPIDEH SAYARBAHRI

Applicant

and

THE MINISTER OF IMMIGRATION AND CITIZENSHIP

Respondent

JUDGMENT AND REASONS

I. Overview

[1] The Applicant, Sepideh Sayarbahri (the "Applicant"), is seeking a Judicial Review under section 72(1) of the *Immigration and Refugee Protection Act* [IRPA] concerning the rejection of her Temporary Resident Visa for a visitor visa application for Canada. The Judicial Review is dismissed for the following reasons.

[2] The Applicant is a 34 year old Iranian citizen who applied for a visitor visa to visit her sister and her sister's family in Canada for approximately one month. The Applicant is married

and lives with her husband in Tehran, Iran. Her parents are divorced and while her mother lives in Canada as a permanent resident, her father also lives in Iran. The Applicant wished to travel to Canada without her husband or father for her visit.

[3] The immigration Officer (the "Officer") who reviewed the application, refused it on January 14, 2023. The refusal letter cited the Applicant's lack of significant family ties outside Canada and the Officer not being satisfied that the Applicant would leave Canada at the end of her stay as required by para. 179(b) of the *Immigration and Refugee Protection Regulations* [IRPR] as the reason for the refusal. In their Global Case Management System ("GCMS") notes which constitute the reasons, the Officer also cited additional reasons on doubting the Applicant's economic means as bank statements provided did not include transactions to track the provenance of available funds. The Officer's analysis of the Principal Applicant's application is set out in the GCMS notes as follows:

> I have reviewed the application. I have considered the following factors in my decision. I note that the applicant is married and states to have close family ties in their home country, but is not sufficiently well established. Bank statement provided did not include banking transactions to demonstrate the history of funds accumulation and the availability of these funds. Further, bank account was recently opened on 2021-08-04. In the absence of satisfactory documentation showing the source and availability of these funds, I am not satisfied the applicant has sufficient funds for the intended travel. Evidence of available funds associated with assets such as a vehicle, rental properties, or potential income, have not been included in the calculation of available funds. The purpose of visit (sister) does not appear reasonable given the applicant's socio-economic situation and therefore I am not satisfied that the applicant would leave Canada at the end of the period of authorized stay. The applicant's travel history is not sufficient to count as a positive factor in my assessment. Weighing the factors in this application. 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.

II. Issues and Standard of Review

[4] The only issue before me is whether the Officer's decision was reasonable.

[5] Reasonableness review is a deferential and disciplined evaluation of whether an administrative decision is transparent, intelligible and justified: *Canada (Minister of Citizenship and Immigration) v Vavilov,* 2019 SCC 65, at paras 12-13 and 15 [*Vavilov*]; *Mason v Canada (Citizenship and Immigration),* 2023 SCC 21, at paras 8, 63 [*Mason*].

[6] I have started by reading the reasons of the decision-maker in conjunction with the record that was before them holistically and contextually. As guided by *Vavilov,* at paras 83, 84 and 87, as the judge in reviewing court, I have focused on the reasoning process used by the decision-maker. I have not considered whether the decision-maker's decision was correct, or what I would do if I were deciding the matter itself: *Vavilov,* at para 83; *Canada (Justice) v D.V.,* 2022 FCA 181, at paras 15, 23.

[7] A reasonable decision is based on an internally coherent and rational chain of analysis and is justified in relation to the facts and law that constrained the decision-maker: *Vavilov,* esp. at paras 85, 91-97, 103, 105-106 and 194; *Canada Post Corp v Canadian Union of Postal Workers,* 2019 SCC 67, [2019] 4 SCR 900, at paras 2, 28-33, 61; *Mason,* at paras 8, 59-61, 66. For a decision to be unreasonable, the applicant must establish the decision contains flaws that are sufficiently central or significant (*Vavilov* at para 100). Not all errors or concerns about a decision will warrant intervention.

III. Legislative Overview

[8] The following sections of the IRPA are relevant:

***Immigration and Refugee Protection Act*, SC 2001, c 27 [IRPA]**

Application before entering Canada	**Visa et documents**
11 (1) A foreign national must, before entering Canada, apply to an officer for a visa or for any other document required by the regulations. The visa or document may be issued if, following an examination, the officer is satisfied that the foreign national is not inadmissible and meets the requirements of this Act.	11 (1) L'étranger doit, préalablement à son entrée au Canada, demander à l'agent les visa et autres documents requis par règlement. L'agent peut les délivrer sur preuve, à la suite d'un contrôle, que l'étranger n'est pas interdit de territoire et se conforme à la présente loi.
Obligation on entry	**Obligation à l'entrée au Canada**
20 (1) Every foreign national, other than a foreign national referred to in section 19, who seeks to enter or remain in Canada must establish,	20 (1) L'étranger non visé à l'article 19 qui cherche à entrer au Canada ou à y séjourner est tenu de prouver :
(a) to become a permanent resident, that they hold the visa or other document required under the regulations and have come to Canada in order to establish permanent residence; and	a) pour devenir un résident permanent, qu'il détient les visa ou autres documents réglementaires et vient s'y établir en permanence;
(b) to become a temporary resident, that they hold the visa or other document required under the regulations and will leave Canada by the end of the period authorized for their stay.	b) pour devenir un résident temporaire, qu'il détient les visa ou autres documents requis par règlement et aura quitté le Canada à la fin de la période de séjour autorisée.
[…]	[…]

Temporary resident	**Résident temporaire**
22 (1) A foreign national becomes a temporary resident if an officer is satisfied that the foreign national has applied for that status, has met the obligations set out in paragraph 20(1)(b), is not inadmissible and is not the subject of a declaration made under subsection 22.1(1).	22 (1) Devient résident temporaire l'étranger dont l'agent constate qu'il a demandé ce statut, s'est déchargé des obligations prévues à l'alinéa 20(1)b), n'est pas interdit de territoire et ne fait pas l'objet d'une déclaration visée au paragraphe 22.1(1).

[9] Section 179 of the *IRPR* governs the requirements for a temporary resident visa and reiterates that a foreign national must establish, among other things, that they will leave Canada by the end of the period authorized for their stay:

***Immigration and Refugee Protection Regulations*, SOR/2002-227 [IRPR]**

Issuance	**Délivrance**
179 An officer shall issue a temporary resident visa to a foreign national if, following an examination, it is established that the foreign national	179 L'agent délivre un visa de résident temporaire à l'étranger si, à l'issue d'un contrôle, les éléments suivants sont établis :
[…]	[…]
(b) will leave Canada by the end of the period authorized for their stay under Division 2;	b) il quittera le Canada à la fin de la période de séjour autorisée qui lui est applicable au titre de la section 2;
[…]	[…]

IV. Analysis

A. *Was the Officer's decision reasonable?*

[10] On a Temporary Resident Visa application, the Applicant must establish that they meet the requirements of the IRPA and the IRPR. Visa officers have a wide discretion in their assessment of the application and the Court ought to provide considerable deference to an officer's decision given the level of expertise they bring to these matters (*Chera v Canada*

(Citizenship and Immigration), 2023 FC 733 at para 36 and *Singh v Canada (Citizenship and Immigration)*, 2022 FC 1745 at para 14). The onus is on the Applicant who seeks temporary entry to Canada to establish and satisfy a visa officer that they will leave Canada at the end of the authorized period of stay requested.

[11] In addition, in assessing the reasonableness of the decision, the Court recognizes that the high volume of visa decisions and the narrow consequences of a refusal are such that extensive reasons are not required: *Vavilov* at paras 88, 91; *Lingepo v Canada (Citizenship and Immigration)*, 2021 FC 552 at para 13; *Yuzer v Canada (Citizenship and Immigration)*, 2019 FC 781 at paras 9, 16 [*Yuzer*]; *Wang v Canada (Minister of Citizenship and Immigration)*, 2006 FC 1298 at paras 19–20. Nonetheless, the reasons given by the Officer must, when read in the context of the record, adequately explain and justify why the application was refused: *Yuzer* at paras 9, 20; *Hashemi v Canada (Citizenship and Immigration)*, 2022 FC 1562 at para 35 [*Hashemi*]; *Vavilov* at paras 86, 93–98.

[12] Visa officers "must assess the strength of the ties that bind or pull the Applicant to their home country against the incentives, economic and otherwise, that might induce the foreign national to overstay": *Hashemi* at para 19; *Rivaz v Canada (MCI)*, 2023 FC 198 at para 21-22; *Ali v Canada (MCI)*, 2023 FC 608 at paras 9-11; *Zeinali v Canada (Citizenship and Immigration)*, 2022 FC 1539 [*Zeinali*]at para 20; *Hassanpour v Canada (Citizenship and Immigration)*, 2022 FC 1738 at para 19; *Nesarzadeh v Canada (Citizenship and Immigration)*, 2023 FC 568 at paras 16-18; *Hassani v Canada (Citizenship and Immigration)*, 2023 FC 734 at para 20; *Chhetri v Canada (Citizenship and Immigration), 2011 FC 872* at para 14.

B. *Family Ties and Establishment*

[13] At the hearing, The Respondent argued that it was reasonable for the Officer to find that there were no significant family ties in Canada when the family members in Canada outnumber those in the home country. While the number of family members is a relevant factor, I disagree that assessing family ties can be reduced to a simple quantitative exercise. However, I agree with the Respondent that the Officer's findings must be assessed in the context of the totality of the evidence and not in isolation in the context of the pull or push factors. It is uncontested that the Applicant had not provided the Officer with pertinent details of her husband, including his income.

[14] In fact, it is uncontested by the parties that Officer was privy to the following facts:

- There was no evidence of the Applicant's income, or her husband's income. The Applicant had filed a copy of her husband's business licence as a member of the Union of Realtors and a lease agreement between him and a landlord dated April 12, 2022, for a 100 square meter property in Tehran.
- Even though the Applicant's bank account was opened in August 2021, the origin of the funds in the Applicant's bank account was unknown, and virtually, the entire net balance of approximately $17,700 was deposited in the preceding six months;
- The Applicant was a half-owner of a real property in Tehran. The other half was owned by her Canadian sister. Their mother, who is a permanent resident of Canada, had transferred the ownership of the property to her two daughters in or about 2002;
- The Applicant's family consisted of her Canadian citizen sister, niece, brother-in-law and her permanent resident mother. In Iran, she had her husband and father. While there was

evidence of co-ownership of an Iranian property with her Canadian sister, and that their mother had transferred it to them, there was no evidence before the Officer on the specifics of the relationship with her father or husband;

- While financial documents from the Applicant's sister and brother-in-law demonstrated good jobs with a good income, the brother-in-law's bank statement showed a significant non-mortgage liability of over $500,000.

[15] In their GCMS notes, the Officer acknowledges that the Applicant stated that they have close family ties in Iran, but that they found this was not sufficiently established. Given the totality of the evidence, and that the onus was on the Applicant to provide the Officer with sufficient credible evidence of her ties, I find that it was reasonable for the Officer to find that she had not discharged the onus. There were no particulars of the Applicant's ties to her husband or father, whether financial, emotional or otherwise. While I am mindful of the fact that Officers must engage with contrary evidence in their analysis, in this case, the Applicant had not provided the Officer with sufficient evidence of any ties to the family in Iran while she had provided ample evidence of ties to her family in Canada. Therefore, there was no contradictory evidence for the Officer to analyse (*Seyedsalehi v Canada (Citizenship and Immigration)*, 2022 FC 1250).

[16] The Applicant argued that the Officer should have seen the half-ownership of a real property in Tehran as evidence of establishment. I disagree. The apartment's ownership was transferred from the Applicant's mother to her and to her Canadian sister in 2002. It is unclear how and why the Officer should have seen this as establishment for the Applicant any more than for her Canadian sister or as a pull factor towards Iran.

[17] The role of this Court is not to reweigh the evidence on record and substitute its own

conclusions for those of visa officers (*Zhou v Canada (Citizenship and Immigration)*, 2020 FC 676, at para 21; *Solis Mendoza v Canada (Citizenship and Immigration)*, 2021 FC 203, at para 43; *Chukwunyere v Canada (Citizenship and Immigration)*, 2021 FC 210, at para 16).

[18] I agree with the Respondent that the cases of *Kazemi*, *Pirhadi*, *Balepo* and *Zoie*, relied on by the Applicant, are distinguishable. In all of these cases, nor only did the applicants had greater numbers of family members in their countries of residence than they did in Canada, there was some evidence of the quality of those relationships, which was absent here (*Kazemi v Canada (Citizenship and Immigration)*, 2023 FC 615 (CanLII), at para 9 [*Kazemi*]; *Pirhadi v Canada (Citizenship and Immigration)*, 2023 FC 1535 (CanLII), at para 20 [*Pirhadi*]; *Balepo v Canada (Citizenship and Immigration)*, 2016 FC 268 [*Balepo*]). It is notable that the Court subsequently upheld a decision to refuse Mr. Balepo's visa application in *Balepo v Canada (Citizenship and Immigration)*, 2017 FC 1104 (CanLII). *Zoie v Canada (Citizenship and Immigration)*, 2022 FC 1297 (CanLII), at para 22 [*Zoie*].

[19] Given the totality of the evidence before the Officer, the Officer turned their mind sufficiently into the relevant factors as seen in their notes. I find that the reasons are intelligible, justified and transparent and therefore reasonable.

V. Conclusion

[20] The Officer's decision is reasonable, as it does exhibit the requisite degree of justification, intelligibility, and transparency. The application for judicial review is dismissed.

[21] Neither party proposed a question for certification and I agree that none arises in this matter.

JUDGMENT IN IMM-1473-23

THIS COURT'S JUDGMENT is that

1. The Judicial Review is dismissed.

"Negar Azmudeh"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

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