

Federal Court



Cour fédérale

Date: 20240507

Docket: IMM-11510-22

Citation: 2024 FC 692

Ottawa, Ontario, May 07, 2024

PRESENT: Justice Andrew D. Little

BETWEEN:

ZAHRA FARKHONDEHFAL

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

[1] The applicant is a 43-year-old citizen of Iran. She seeks to set aside a decision by a visa officer dated November 1, 2022, refusing her application for a study permit under subsection 216(1) of the *Immigration and Refugee Protection Regulations*, SOR/2002-227 (the “IRPR”). The officer was not satisfied that the applicant would leave Canada at the end of her stay based on the purpose of her visit and the motivation for her proposed studies in Canada.

[2] The applicants ask the Court to set aside the decisions as unreasonable, applying the principles in *Canada (Minister of Citizenship and Immigration) v. Vavilov*, 2019 SCC 65, [2019] 4 SCR 563.

[3] For the reasons that follow, I conclude that the application must be allowed because the study permit decision was unreasonable.

I. Facts and Events leading to this Application

[4] In 2003, she received a Bachelor of Nursing from Tehran University. She has worked in various roles in companies associated with pharmaceuticals. Since 2022, she has been the head of the Sales Department at a company called Padide Shimi Jam in Tehran.

[5] On October 9, 2022, the applicant applied for a study permit to Canada to pursue an office administration and health services program at Sheridan College in Mississauga, Ontario.

[6] An immigration consultant filed a letter on behalf of the applicant, together with the following documents:

- a) Identity documents;
- b) the applicant's Application for Study Permit Made Outside Of Canada, in which she requested a thirteen-month study permit to attend Sheridan College. Under the Employment section, she listed her current role as Sales Department Head and prior roles, including Business Development Manager, and Sales and Operation Manager;

- c) bank statements and title deeds under her and/or her husband's name;
- d) a Notice of Establishment of a company called Parnian Mehr Pardis Co. Ltd (the "Company") setting out the Company's purposes to establish and manage pain clinics, the equity of each shareholder, the directors, and authorized signatories; and
- e) Notice of Changes of the Company with Board resolutions that included the applicant's appointment as a Board member.

[7] The applicant filed an affidavit in this Court that attached a copy of the complete study permit application package, including the following additional documents that were not in the Certified Tribunal Record:

- a) The applicant's firm offer of admission from Sheridan College, dated August 17, 2022;
- b) a letter from Sheridan College noting that the applicant was selected to receive an entrance scholarship in the amount of \$1,500, dated August 17, 2022;
- c) an international fee estimate made by Sheridan College, dated August 17, 2022;
- d) a receipt from Sheridan College indicating that the applicant had paid \$17,842.47 on September 9, 2022;
- e) the applicant's resumé; and
- f) a Statement of Purpose letter, undated, written by the applicant.

[8] The respondent did not object to the admission of these materials in the application record. In addition, at the hearing in this Court, the parties expressly confirmed that the Statement of Purpose letter was before the officer.

[9] In the applicant's Statement of Purpose letter, she outlined her reasons for pursuing the proposed program in Canada. She noted that Iran has "significant gaps in medical documentation, scheduling, working with new applications and treating patients according to the requirements of the standard of performance". She advised that she searched for "academic programs wishing to find a reputed and globally acclaimed institution which offers the highest possible academic standards" and found that the proposed program will provide "qualitative exposure to global best practices in the field of health services". She also noted that she has "always had a great desire to improve people's experience with the medical journey, particularly those afflicted with different health issues" and will fulfill this goal by developing her knowledge in the field of health services. She stated that this knowledge goes "beyond the current discipline of patient satisfaction through more effective methods of procedures, applications and communication tools".

[10] The immigration consultant's cover letter stated that the applicant is a "member of the Board of directors of multi-specialty pain clinics in [the Company] and plans to have a more direct and operational activity in this company after graduation". This information was not mentioned in the applicant's Statement of Purpose letter.

II. The Decision under Review

[11] By letter dated November 1, 2022, an officer refused the applicant's application for a study permit. The letter advised that the officer was not satisfied that she would leave Canada at the end of her stay, as required by subsection 216(1) of the *IRPR*, based on the purpose of her visit.

[12] The Global Case Management System ("GCMS") contained the following entry on November 1, 2022, in relation to the application for the study permit:

I have reviewed the application. I have considered the following factors in my decision. The purpose of the applicant's visit to Canada is not consistent with a temporary stay given the details provided in the application. Iranian national applying for a study permit to attend Sheridan College in Office Administration - Health Services Program. The client's previous studies were in an unrelated field. The client's previous employment and educational history demonstrate an inconsistent career progression. The client has previous studies at a higher academic level than the proposed studies in Canada. Previous university studies in Bachelor of Nursing. Currently employed as a Head of Sales Department. Client's Explanation letter reviewed. [The applicant] does not demonstrate to my satisfaction reasons for which the international educational program would be of benefit. Given the [the applicant]'s previous education and work history, their motivation to pursue studies in Canada at this point does not seem reasonable. 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.

[13] The parties agreed that the officer's reference to the applicant's "explanation letter" was the applicant's Statement of Purpose letter.

III. Analysis

[14] The parties submitted that the standard of review is reasonableness, as described in *Vavilov*. I agree: see e.g., *Pirhadi v. Canada (Citizenship and Immigration)*, 2023 FC 1535, at para 9; *Shahba v. Canada (Citizenship and Immigration)*, 2023 FC 1515, at paras 4, 12; *Nourani v. Canada (Citizenship and Immigration)*, 2023 FC 732, at para 14.

[15] The starting point for reasonableness review is the reasons provided by the decision maker, which are read holistically and contextually, and in conjunction with the record that was before the decision maker. 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, 102-103, 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. In order to intervene, the Court on this application must find an error in the decision that is sufficiently central or significant to render the decision unreasonable: *Vavilov*, at para 100.

[16] Justice Pentney has summarized the principles found in recent decisions of this Court applying the *Vavilov* standard to study permit decisions: *Nesarzadeh v. Canada (Citizenship and Immigration)*, 2023 FC 568, at paras 5-9. Those principles are set out below (without reference to the supporting cases and 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.

[17] Justice Pentney emphasized that a key consideration in the judicial review of an officer’s denial of a student visa is whether the reasons meet the standard of “responsive justification”, as appropriate for the context of study permit decision. Pentney J. referred to the high volume of applications to be processed, as well as the nature of the interests involved, including the fact that in most instances an applicant can simply re-apply. See *Nesarzadeh*, at paras 6, 11, 13; *Vavilov*, at paras 127-128; *Mason v. Canada (Citizenship and Immigration)*, 2023 SCC 21, at paras 61, 74, 76; *Lingepo v. Canada (Citizenship and Immigration)*, 2021 FC 552, at para 13.

[18] A study permit application is a temporary resident visa application. Before granting a visa for study purposes, a visa officer must be satisfied that an applicant will leave Canada by the end of the applicant’s authorized stay period. Paragraph 216(1)(b) of the *IRPR* requires a study permit applicant to establish that they “will leave Canada by the end of the period authorized for their stay”.

[19] In the case at hand, both parties agreed that the premise of the officer’s analysis was that the applicant was not a genuine applicant for a study permit. If she was not a genuine student, she would not leave Canada at the end of any stay authorized for study.

[20] The officer's concern that the applicant would not leave Canada at the end of her authorized stay is found in two statements in the GCMS notes:

The purpose of the applicant's visit to Canada is not consistent with a temporary stay given the details provided in the application.

[...]

Given the PA's previous education and work history, their motivation to pursue studies in Canada at this point does not seem reasonable.

[21] In this Court, applicant submitted that she was a genuine student, while the respondent argued that it was open to the officer to conclude she was not. The applicant specifically challenged the underlined conclusions in the officer's GCMS notes, below, as inconsistent with the information in the record before the officer:

Iranian national applying for a study permit to attend Sheridan College in Office Administration - Health Services Program. The client's previous studies were in an unrelated field. The client's previous employment and educational history demonstrate an inconsistent career progression.

Explanation letter reviewed. [The applicant] does not demonstrate to my satisfaction reasons for which the international educational program would be of benefit. Given the [applicant's] previous education and work history, their motivation to pursue studies in Canada at this point does not seem reasonable.

[22] The applicant submitted that it was not evident why the officer did not find the proposed educational program beneficial because it would significantly benefit her "academic achievement, career advancement and personal and professional goals", contrary to the officer's finding. The applicant's purpose of study was career advancement. She also argued that as a shareholder and Board member of the Company, she planned to be involved in a more direct and operational capacity in the company. The applicant submitted that the company is active in

providing pain management services and medical equipment and that she needed to “first update” her knowledge and skills in “health services” through the intended program at Sheridan College.

[23] The respondent submitted that the officer’s statements must be read in light of the record. The respondent argued in detail that the applicant’s Statement of Purpose did not actually link the proposed program at Sheridan College with any future operational activities at the company, recognizing that documents filed by the applicant showed that she was a shareholder and on the Board. The respondent noted that the only mention of the applicant’s future plan was in the immigration consultant’s letter, which was brief and not supported by anything from the applicant herself. The respondent also argued that nothing in the Statement of Purpose letter connected the Sheridan program with the applicant’s stated purpose for studying in that letter. According to the respondent, it was clear why the officer reached the conclusion that the applicant had not demonstrated reasons showing the benefit of the program at Sheridan.

[24] I am unable to agree entirely with either party’s submissions on these issues. Some of the applicant’s arguments are not supported by the evidence before the officer. Her Statement of Purpose, which the officer stated did not demonstrate a sufficient benefit of the proposed study program, did not mention her position as a board member and owner of the Company (which is not her current employer), its business in pain management, or her intended plans to become more involved in its operations in the future. The applicant did not file a letter from the Company about a new role or position for the applicant after her studies. The Statement of Purpose described her future aims and objectives in some detail and linked them to her background

education and work experience. She referred to improving patient satisfaction and experiences in Iran's medical system, as well as professionals' experiences in that system, and referred to the need for exposure to global best practices. However, she did not link that to the contents of the specific course at Sheridan College except at a general level.

[25] I agree with the respondent that the officer's reasons must be assessed in light of the record, which includes the information immediately above. The respondent's submissions offered plausible reasons for why the officer could have concluded that the applicant did not demonstrate "to [the officer's] satisfaction" that the Sheridan program was not of benefit to her. However, the GCMS notes did not provide those reasons. It may be that the officer looked at the record and followed the reasoning advanced by the respondent in this Court. Or perhaps the officer had other reasons. We do not know from the GCMS notes. Although the respondent referred to *Zeifmans LLP v. Canada*, 2022 FCA 160, I am not sufficiently confident that the proposed reasoning offered by the respondent in argument actually reflects the officer's view on the absence of benefit of the Sheridan program: *Zeifmans*, at paras 9-11. A reviewing court is not permitted to buttress the officer's reasons (nor can the respondent's submissions), and I cannot provide my own views on the matter looking at the record: *Vavilov*, esp. at paras 83, 97. Specifically, I cannot look at the record and determine what I would have done if I were in the officer's shoes. See also *Shahba*, at paras 13-16; *Shahrezaei v. Canada (Citizenship and Immigration)*, 2023 FC 499, at paras 15, 17, 19.

[26] Three points together persuade me to find the officer's decision unreasonable. First, I agree with the applicant that it is not evident from the GCMS notes why the officer found the

proposed educational program was not beneficial to the applicant. As summarized in Part I, above, the applicant's Statement of Purpose described why the proposed study program would be of benefit to her. What did the officer think of those reasons? The GCMS notes do not enlighten us. The officer was not satisfied with the explanation provided by the applicant, but the reasoning provided is conclusory.

[27] Second, the officer's GCMS entry characterized her previous studies (in nursing) as "in an unrelated field" to her proposed study in "Office Administration – Health Services Program" at Sheridan College and found that her education and previous employment showed an "inconsistent career progression". As the applicant submitted, the GCMS entry did not seem to recognize that health care was the common thread running through her study permit application, from her education in nursing, to her career since graduation in the pharmaceutical industry, to her proposed study in Canada. Her Statement of Purpose made that link clear. She proposed to study office administration in health services in Canada in order to improve both patients' and professionals' experiences in the medical journey in Iran from a nurse's perspective, and with the benefit of her background in the pharmaceutical industry. If there was something the officer knew or learned about the program at Sheridan College that made it unrelated to the applicant's education or career, or her stated objectives in the Statement of Purpose, the officer did not share it in the GCMS notes. While the respondent suggested that the Court could take judicial notice of the course description at Sheridan (presumably found online), I decline to do so: see e.g., *Canada (Attorney General) v. Kattenburg*, 2020 FCA 164, at para 32. It was the role of the officer to provide some form of explanation, if brief.

[28] Lastly, it is hard to appreciate from the GCMS notes how the officer came to the conclusion that the applicant's previous education and work history made her motivation to pursue the proposed studies in Canada not "reasonable". The GCMS notes are again conclusory. If the conclusion was linked to the prior conclusion that the program had no benefit, my earlier analysis applies. There was a stated, if imperfect, explanation in the applicant's Statement of Purpose, but the GCMS entry did not engage with the information provided in the study permit application.

[29] For these reasons, I conclude that the officer's reasons did not provide a transparent and responsive justification for the determination that the applicant was not a genuine student and would not leave Canada at the end of her permitted stay.

IV. Conclusion

[30] The officer's study permit decision was unreasonable and must be set aside.

[31] Neither party proposed a question to certify for appeal and none will be stated.

JUDGMENT IN in IMM-11510-22

1. The application is allowed. The decision dated November 1, 2022, is set aside. The application for a study permit is remitted to another officer for redetermination.
2. No question is certified for appeal under paragraph 74(d) of the *Immigration and Refugee Protection Act*.

"Andrew D. Little"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-11510-22

STYLE OF CAUSE: ZAHRA FARKHONDEHFAL v THE MINISTER OF
CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: OTTAWA, ONTARIO

DATE OF HEARING: DECEMBER 19, 2023

**REASONS FOR JUDGMENT
AND JUDGMENT:** A.D. LITTLE J.

DATED: MAY 7, 2024

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