

Federal Court



Cour fédérale

**Date: 20240619**

**Docket: IMM-3678-22**

**Citation: 2024 FC 946**

**Toronto, Ontario, June 19, 2024**

**PRESENT: Mr. Justice Diner**

**BETWEEN:**

**OMAR STEITIE**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP AND  
IMMIGRATION**

**Respondent**

**JUDGMENT AND REASONS**

[1] Mr. Steitie seeks judicial review of a decision [Decision] made by a Visa Officer [Officer] at the Embassy of Canada in Riyadh, dated February 28, 2022, refusing his application for a work permit under the IRCC International Mobility program. The Officer was not satisfied that Mr. Steitie would leave Canada by the end of the authorized period, pursuant to paragraph 200(1)(b) of the *Immigration and Refugee Protection Regulations*, SOR/2002-227, based on his (i) immigration status, (ii) travel history, (iii) personal assets and financial status, (iv) limited employment prospects in Saudi Arabia, and (v) purpose of visit to Canada.

[2] For the reasons below, this application for judicial review is allowed. The Officer's reasons for refusing the work permit are not justified, intelligible or transparent.

I. Background

[3] In brief, Mr. Steitie is a resident of Saudi Arabia. He holds a mechanical engineering degree and has been working in his family's Heating, Ventilation and Air Conditioning [HVAC] business in Saudi Arabia since 2010. An affiliate of this company was incorporated in Ontario in 2020. In May 2021, Mr. Steitie accepted a temporary secondment as the General Manager and President of the Canadian affiliate corporation. In July 2021, he submitted an application for a work permit as an International Mobility Program C12 intra-company transferee.

[4] The accompanying Global Case Management System [GCMS] notes indicate the following, which supplement the Decision letter contained in the introductory paragraph above:

PA cit of Palestine, travelling on Lebanon travel doc, male, 36, married, residing in KSA as a temporary worker. Not accompanying: wife and 4 minor children (15, 12, 10, 7) in KSA. POV: WP under C12 - intra- company transferee/significant benefit. PA employed as General Manager at Afifi Contracting Establishment since 2011, monthly basic salary in 2021 was 10k SARJmth, approx 3.5k CAD. Employer's bank statements on file, no personal proof of savings provided. PA is in KSA on temporary status, status is not secure. Considering the current economic reforms in KSA (Saudization), PA is employed as a general manager (engineering), an occupation and employment sector that has been identified as subject to plans for Saudization reforms and may be subject to further reforms, I am not satisfied PA has strong future employment prospects in KSA. Given the documents provided, PA does not appear well established: PA has modest employment income in KSA. Low proof of personal savings/assets provided. PA has limited travel history, no comparable travel history which could count as a positive. Considering current socio-political situation in country of nationality, I am not satisfied PA will be motivated and

or able to return to country of nationality. Weighing all the evidence before me the applicant has not demonstrated sufficient ties outside of Canada that would leave me satisfied the applicant will depart at the end of the authorized period. Given the above considerations (imm status in CoR, employment prospects in CoR, travel history, funds, purpose) based on the documents provided, on balance, I am not satisfied PA has met bona fides to be a temporary resident (worker) in Cda. Not satisfied PA would be a temporary resident who would comply with conditions. R200 not met. Application refused.

[5] Mr. Steitie challenges both the reasonableness and fairness of the Decision. I agree that the decision was unreasonable pursuant to the relevant jurisprudence (*Mason v Canada (Citizenship and Immigration)*, 2023 SCC 21 at paras 59–63 [*Mason*]; *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at para 99 [*Vavilov*]).

## II. Analysis

[6] Mr. Steitie argues that the Officer's conclusions do not follow from the evidence. I agree that the Officer misapprehended and failed to account for key evidence in Mr. Steitie's application, particularly regarding the evidence provided on Mr. Steitie's current and future employment status in Saudi Arabia, his travel history, and his strong ties to Saudi Arabia. Specifically, I agree for five reasons.

[7] First, the conclusion that Mr. Steitie's future employment is not secure due to the economic reforms in Saudi Arabia is speculative. This is because the evidence demonstrates that Mr. Steitie has been gainfully employed in Saudi Arabia since 2009, and will retain his position when he returns. The evidence shows that he recently received a promotion to General Manager of the company that employs over 100 qualified technical staff, and has seen his income exceed

the equivalent of a six-figure Canadian income. Furthermore, the Officer's reasoning about future unsecure employment is not responsive to the evidence contained in the employer's documentation stating that Mr. Steitie would be returning to his position after his three-year secondment to Canada, where he would be earning approximately the same salary as in his current position.

[8] Second, the Officer's negative findings about Mr. Steitie's immigration history fail to square with Mr. Steitie's evidence that he has complied with any travel or immigration conditions placed upon him since being a university student in the United Arab Emirates for a period of about six years, and since then in his professional career, having demonstrated full compliance with immigration conditions during his business visits to the U.S., Austria, Germany, Czech Republic, Bahrain and Malaysia. It is thus unclear how the Officer lists travel history as a ground for refusing the application in the decision letter, citing "limited travel history," and "no comparable travel history" in the GCMS notes.

[9] Third, the conclusion that Mr. Steitie has insufficient ties outside of Canada is also unreasonable given that his wife and four minor children will remain in Saudi Arabia during his temporary stay in Canada. This element of continuing ties to his country of residence went unaddressed in the Decision, undermining the conclusion that "the applicant has not demonstrated sufficient ties outside of Canada." The Officer should have engaged with his family's non-presence in Canada (see *Ul Zaman v Canada (Citizenship and Immigration)*, 2020 FC 268 at paras 49–50).

[10] Fourth, the Respondent maintains that Mr. Steitie did not provide any proof of savings or assets, the Officer therefore being entitled to question his ties and financial stability to Saudi Arabia and the likelihood that he would return upon the end of his authorized stay in Canada. But here, neither the Riyadh visa office instructions, nor the general guidance on the C-12 category contained on the IRCC website at the time of this Decision, required such evidence of savings or assets. Though not binding, operational manuals help decision-makers when they exercise discretion and obligations (see *Shang v Canada (Minister of Citizenship and Immigration)* 2021 FC 633 at paras 46–47). And so should the Officer have required evidence of savings or assets due to concerns about the financial status or the *bona fides* of the previous pay set out—thereby making a determination that is not aligned with the guidelines mentioned above—then the Officer should have made that clear through a request for savings and assets.

[11] Fifth and finally, the Applicant has lived in Saudi Arabia his entire life. He appears to have residence there on the basis of his mother, according to his Resident Identity document, and not due to his employment, as the Decision suggests. There is also mention of “current economic reforms in KSA (Saudization),” and the fact that Mr. Steitie is travelling on a “Lebanon travel doc.” Why these two observations are relevant, given Mr. Steitie’s compliance with his previous external travel, his employment, and/or his income through his employment, is unclear.

[12] Simply put, the Officer’s five conclusions enumerated above in tandem with the GCMS notes simply do not form a decision that is justified, transparent, or responsive to the evidence that was placed before them (*Patel v Canada (Citizenship and Immigration)*, 2020 FC 77 at paras

15, 17, 21). Given my findings on reasonableness, it is thus unnecessary to address the fairness arguments raised.

III. Conclusion

[13] In my view, the Decision contains sufficiently fundamental flaws and shortcomings in light of the relevant factual and legal constraints of the case, rendering it unreasonable (*Vavilov* at paras 99–101; *Mason* at para 66).

**JUDGMENT in file IMM-3678-22**

**THIS COURT'S JUDGMENT is that:**

1. The judicial review is allowed. The matter shall be sent back for re-determination by a different officer.
2. There is no question to certify.
3. No costs will issue.

"Alan S. Diner"

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Judge

**FEDERAL COURT**  
**SOLICITORS OF RECORD**

**DOCKET:** IMM-3678-22

**STYLE OF CAUSE:** OMAR STEITIE v THE MINISTER OF CITIZENSHIP  
AND IMMIGRATION

**PLACE OF HEARING:** TORONTO, ONTARIO

**DATE OF HEARING:** JUNE 17, 2024

**JUDGMENT AND REASONS:** DINER J.

**DATED:** JUNE 19, 2024

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