

Federal Court



Cour fédérale

Date: 20240627

Docket: IMM-865-23

Citation: 2024 FC 1002

Toronto, Ontario, June 27, 2024

PRESENT: The Honourable Mr. Justice A. Grant

BETWEEN:

YASMIN MOHAMMADI ROUZBAHANI

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

I. OVERVIEW

[1] The Applicant seeks judicial review of a decision of a visa officer [the Officer] refusing her study permit application. The Officer was not satisfied that the Applicant would leave Canada at the end of her stay.

[2] I will grant this application for judicial review, as I find that the reasons for decision did not adequately explain or justify the Officer's conclusions.

II. BACKGROUND

A. *Facts*

[3] The Applicant, Yasmin Mohammadi Rouzbahani, is a citizen of Iran. She completed her high school education in July 2022 and subsequently applied, and was accepted, to the Bachelor's of Arts program at York University's Glendon College, as an undecided major. She paid \$29,993.00 in Canadian funds towards her first year tuition, and applied for a study permit [Study Permit 1], which was denied. She reapplied for a second study permit [Study Permit 2], after removing her father from the initial application. Study Permit 2 was also refused. This is the decision under review.

[4] In support of her student visa application, the Applicant submitted a study plan, detailed bank statements of her father's accounts, proof of her father's employment and registration of her father's company, her father's social security documents, and property deeds. From the documents tendered as proof of finances, it is clear that the Applicant has the means to pay her tuition, living costs, and transportation to and from Canada for the duration of her stay.

[5] In her study plan, Ms. Rouzbahani stated that she would be motivated to return to Iran because of her close familial ties to her country of origin. She wrote that:

My main reason for coming back to my country is the fact that, I live in a small family, and the affinity among us is strong. I live

with my parent, and they will be reaching the elderly period of their life span by the time that I receive my degree. **I want to be there for them during that time and support them when they need help.** [Emphasis added.]

B. *Decision*

[6] The Applicant's study permit was denied because the Officer found that the Applicant had not established that she would leave Canada at the end of her stay. This finding was based on the following factors: (1) the Officer concluded that the Applicant did not have significant family ties outside Canada; and (2) the purpose of her visit was not consistent with a temporary stay.

[7] In notes entered into the Global Case Management System [GCMS], which form part of the reasons for decision, the Officer elaborated on the determination, as follows:

- a) Study plan: the Applicant is applying to York University, Glendon Campus for an undecided major. Given no work history was provided, and that the Applicant had just finished secondary education, the Officer was not satisfied that the study plan demonstrated how the educational program in question would be of benefit or would improve the Applicant's job prospects in Iran. The Officer was also not satisfied that the study plan was reasonable, given that similar programs, with more competitive tuition fees, are available closer to Iran.
- b) Family ties: the Applicant is unemployed, unmarried, and with no dependents. She lives with her parents in Iran. She has significant financial assets that are linked to her parents. The Officer stated, "[t]he applicant states a strong connection to their family, the living circumstances demonstrating weak economic ties to their COR."

[8] The Officer did not offer any further analysis of the Applicant's family ties. Neither did the Officer explain how the two statements, "[t]he applicant states a strong connection to their family" and "the living circumstances demonstrating economic ties to their COR" related to each other.

III. ISSUES

[9] This matter raises only the following issue: was the officer's decision to refuse the Applicant's study permit reasonable?

IV. RELEVANT PROVISIONS

[10] The following provisions of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [IRPA] are applicable to this matter:

Application before entering Canada

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 admissible and meets the requirements of this Act.

Visa et documents

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.

[11] The following provisions of the *Immigration and Refugee Protection Regulations*, SOR/2002-227 [IRPR] are applicable to this matter:

Study permits

216 (1) Subject to subsections (2) and (3), an officer shall issue a study permit to a foreign national if, following an examination, it is established that the foreign national

(a) applied for it in accordance with this Part;

(b) will leave Canada by the end of the period authorized for their stay under Division 2 of Part 9;

(c) meets the requirements of this Part;

(d) meets the requirements of subsections 30(2) and (3), if they must submit to a medical examination under paragraph 16(2)(b) of the Act; and

(e) has been accepted to undertake a program of study at a designated learning institution.

[...]

Financial resources

220 An officer shall not issue a study permit to a foreign national, other than one described in paragraph 215(1)(d) or (e), unless they have sufficient and available financial resources, without working in Canada, to

Permis d'études

216 (1) Sous réserve des paragraphes (2) et (3), l'agent délivre un permis d'études à l'étranger si, à l'issue d'un contrôle, les éléments suivants sont établis :

a) l'étranger a demandé un permis d'études conformément à la présente partie;

b) il quittera le Canada à la fin de la période de séjour qui lui est applicable au titre de la section 2 de la partie 9;

c) il remplit les exigences prévues à la présente partie;

d) s'il est tenu de se soumettre à une visite médicale en application du paragraphe 16(2) de la Loi, il satisfait aux exigences prévues aux paragraphes 30(2) et (3);

e) il a été admis à un programme d'études par un établissement d'enseignement désigné.

[...]

Ressources financières

220 À l'exception des personnes visées aux sous-alinéas 215(1)d) ou e), l'agent ne délivre pas de permis d'études à l'étranger à moins que celui-ci ne dispose, sans qu'il lui soit nécessaire d'exercer un emploi au Canada, de ressources financières suffisantes pour :

- | | |
|---|---|
| <p>(a) pay the tuition fees for the course or program of studies that they intend to pursue;</p> <p>(b) maintain themselves and any family members who are accompanying them during their proposed period of study; and</p> <p>(c) pay the costs of transporting themselves and the family members referred to in paragraph (b) to and from Canada.</p> | <p>a) acquitter les frais de scolarité des cours qu'il a l'intention de suivre;</p> <p>b) subvenir à ses propres besoins et à ceux des membres de sa famille qui l'accompagnent durant ses études;</p> <p>c) acquitter les frais de transport pour lui-même et les membres de sa famille visés à l'alinéa b) pour venir au Canada et en repartir.</p> |
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V. STANDARD OF REVIEW

[12] It is not in dispute that the standard of review in this case is reasonableness: *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [*Vavilov*]. That is to say, the role of the Court in this application is to determine whether the Officer's decision was reasonable.

VI. ANALYSIS

A. *The Applicant's Family Ties*

[13] I find that this application for judicial review must be granted, because the Officer's assessment of the Applicant's family ties was inadequate. The Officer's reasons lack coherence and do not meet the standard of responsive justification required under *Vavilov*. The Officer failed to grapple meaningfully with submissions made by the Applicant as to her motivation to return to Iran — namely, her strong familial ties and responsibility to care for her parents as they age.

[14] It is trite law that the reasons provided in a visa refusal do not need to be extensive, considering the rights at stake in these proceedings and the high-volume context of such applications.

[15] Equally, a visa officer does not need to address every piece of evidence to be presumed to have considered the totality of the record before them. However, if an officer renders a decision without referring to key evidence, a reviewing court may infer that the officer's decision was made without regard to such evidence and is therefore unreasonable: *Penez v Canada (Citizenship and Immigration)*, 2017 FC 1001 at para 24. The more important the evidence an officer fails to address, the more likely it is that the officer rendered a decision “without regard to the evidence”: *Cepeda-Gutierrez v Canada (Minister of Citizenship and Immigration)*, [1998] FCJ No 1425.

[16] An officer's reasons 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: *Lingepo v Canada (Citizenship and Immigration)*, 2021 FC 552 at para 13; *Afuah v Canada (Citizenship and Immigration)*, 2021 FC 596 at paras 9-10; *Patel v Canada (Citizenship and Immigration)*, 2020 FC 77 at para 16-17.

[17] In regard to student permits specifically, this Court has held in several recent cases that the use of template language in refusal letters is not inherently unreasonable, but the officer's reasons must still satisfy the essential indicia of reasonableness as set out in *Vavilov*, see for example: *Khosravi v Canada (Citizenship and Immigration)*, 2023 FC 805 at para 7; *Safarian v Canada (Citizenship and Immigration)*, 2023 FC 775 at para 3; *Zibadel v Canada (Citizenship*

and Immigration), 2023 FC 285 at paras 36-37; *Singh v Canada (Citizenship and Immigration)*, 2023 FC 497 at para 7.

[18] Most recently, in *Kashefi v. Canada (Citizenship and Immigration)*, 2024 FC 856 [*Kashefi*], the Honourable Mr. Justice Pentney held that a visa officer's boilerplate refusal was unreasonable because it did not "show an actual engagement with the specific situation of these particular Applicants" (*Kashefi* at para 13).

[19] When making an assessment, a visa officer is required to assess an applicant's "push and pull" factors: the factors that might encourage the individual to remain in Canada, and those that might pull them back to their home country. As noted in *Kashefi* at para 9, "[f]amily connections in Canada and the country of origin are obviously relevant to this assessment."

[20] Here, the Officer's decision was unreasonable as it was not responsive to the Applicant's submissions on her strong family ties to Iran. The Applicant was clear that she intends to return to Iran to support her parents, physically and financially, as they age. She comes from a small family and has only a much younger sister, and so would be responsible for her parents' care as they move into the elderly phase of their lives. This strong "pull" factor was only superficially mentioned, and was not at all assessed or analyzed, in the Officer's reasons.

[21] In the letter sent to the Applicant, the Officer indicated, through what appears to be template language, that Ms. Rouzbahani did not have significant family ties outside of Canada. This was patently incorrect. The uncontested evidence was that the Applicant does have strong

family ties outside Canada, and the Officer's own GCMS notes acknowledge this. As such, the decision and the reasons do not demonstrate a rational, justifiable, and intelligible chain of analysis. Either the Officer made an error in selecting the "does not have significant family ties outside of Canada" box when generating the standard form refusal letter or the Officer disregarded the information that had been submitted in support of the application. In either case, the decision letter and the GCMS notes appear incoherent when read together. It is also clear that the Officer's decision does not show "an actual engagement with the specific situation" of this particular Applicant (*Kashefi* at para 13).

[22] Even read on their own, the GCMS notes do not demonstrate that the Officer meaningfully grappled with the Applicant's familial "pull" factors. As noted above, the Officer's only mention of family ties is this short and equivocal statement: "[t]he applicant states a strong connection to their family, the living circumstances demonstrating weak economic ties to their COR."

[23] I find this statement to be unreasonable for two reasons. First, it is unclear how the two statements in the above sentence relate to each other or how, in the Officer's calculus, they come to bear on Ms. Rouzbahani's motivation to leave Canada at the end of her prescribed stay. Second, the Officer's reasons do not indicate that the Officer considered the Applicant's submission that she would be motivated to leave Canada after completing her education because she will need to care for her parents as they age. The Officer's reasons thus fail to demonstrate the justification required by the jurisprudence.

[24] This Court found similarly in *Kashefi*, which also considered an officer's treatment of family ties in the context of a study permit application. There, Justice Pentney held (at para 3) that the reasons provided by the Officer were "simply too generic to meet the standard of responsive justification demanded by [*Vavilov*]."

[25] This case involves essentially the same error: the Officer ignored central evidence related to the Applicant's family ties. These ties were considered only in a short and confusing statement in GCMS notes, and they provided no clear analysis as to why the Applicant's family status weighed in favour of denying the student visa. As such, I find that the Officer's decision was unreasonable.

VII. CONCLUSION

[26] This application for judicial review is granted. The underlying decision should be set aside and the matter remitted to a different decision-maker for reconsideration. For the sake of the Applicant, who is not represented by counsel, this decision does not mean that a study permit will be issued. Instead, a different visa officer will make a new determination of the study permit application, in support of which new information may be provided, if desired.

[27] I commend counsel for the Respondent for his concise, yet helpful, representations.

[28] I also applaud the Applicant who has now, on her own, submitted two student visa applications and has capably represented herself before this Court.

[29] No questions of general purpose for certification was proposed and I agree that none exists.

JUDGMENT in IMM-865-23

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is granted.
2. The matter is remitted to a new decision-maker for redetermination.
3. No question is certified for appeal.

“Angus G. Grant”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-865-23

STYLE OF CAUSE: YASMIN MOHAMMADI ROUZBAHANI v THE
MINISTER OF CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: TORONTO, ONTARIO

DATE OF HEARING: JUNE 18, 2024

**REASONS FOR JUDGMENT
AND JUDGMENT:** GRANT J.

DATED: JUNE 27, 2024

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