

Federal Court



Cour fédérale

Date: 20240726

Docket: IMM-7568-23

Citation: 2024 FC 1197

Ottawa, Ontario, July 26, 2024

PRESENT: Madam Justice Sadrehashemi

BETWEEN:

**SARFARAZ AKBERALI GHUGHARIA
SAIYDA SARFARAZ GHUGHARIA
MOHAMMED AYAAN SARFARAZ GHUGHARIA**

Applicants

and

**MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

[1] The Applicants are a family: husband, wife and their minor child. The Applicants applied for a Canadian visitor visa to visit their adult daughter, who is a permanent resident of Canada. Their application was refused by an officer at Immigration, Refugees and Citizenship Canada [IRCC]. The Applicants challenge this refusal on judicial review. I advised the parties at the end

of the judicial review hearing that I would be allowing this application. These are my reasons for doing so.

[2] Both parties agree, as do I, that the standard of review I should apply to reviewing the Officer's decision is reasonableness. I find that the Officer's reasons are not justified, transparent or intelligible as is required for a decision to be found reasonable (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [*Vavilov*] at para 15).

[3] The core basis for the Officer's refusal is the finding that the Applicants had not demonstrated that they had sufficient funds for the visit they were planning in Canada. The only reason provided for this finding is that submitted bank statements were not recent. While it is true that one set of the multiple bank statements provided was dated five months prior to the submission of the application, there were a number of recent bank statements showing a substantial amount of savings.

[4] The Respondent had argued in their written submissions that these bank statements with substantial savings related to the business of one of the Applicants and therefore it was not relevant to the Officer's assessment unless there was further evidence that this money was available to be used by the Applicants. I note, first, that the Officer did not make any comment distinguishing amongst the bank statements. I find this argument is an impermissible attempt to bolster the Officer's reasons. In any case, at the beginning of the hearing, the Respondent's counsel advised that they were no longer pursuing this argument because it was clear from the documents in the Certified Tribunal Record that the Applicants had provided evidence that he

had a sole proprietorship of an unincorporated business and therefore these funds were accessible to them.

[5] I also note that the Applicants provided numerous financial documents, including: income tax statements, proof of ownership of properties, and an income tax audit report for their business. The Officer did not comment on any of these materials. Ultimately, it is not clear from the reasons provided how the Officer reached the determinative conclusion that the Applicants had insufficient funds.

[6] While extensive reasons are not required, an officer's decision must be transparent, justified and intelligible. There needs to be a "rational chain of analysis" so that a person impacted by the decision can understand the basis for the determination (*Vavilov* at para 103; see also *Patel v Canada (Minister of Citizenship and Immigration)*, 2020 FC 77 at para 17; *Samra v Canada (Minister of Citizenship and Immigration)*, 2020 FC 157 at para 23; and *Rodriguez Martinez v Canada (Minister of Citizenship and Immigration)*, 2020 FC 293 at paras 13–14).

[7] I agree with the Applicants that the Officer's reasons are not transparent, intelligible or justified in light of the evidence before them. Accordingly, the matter must be sent back to be redetermined.

JUDGMENT in IMM-7568-23

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is allowed;
2. The decision dated May 5, 2023 is set aside and sent back to be redetermined by a different decision-maker; and
3. No serious question of general importance is certified.

"Lobat Sadrehashemi"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-7568-23

STYLE OF CAUSE: SARFARAZ AKBERALI GHUGHARIA, SAIYDA
SARFARAZ GHUGHARIA, AND MOHAMMED
AYAAN SARFARAZ GHUGHARIA v MINISTER OF
CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: TORONTO, ONTARIO

DATE OF HEARING: JULY 24, 2024

JUDGMENT AND REASONS: SADREHASHEMI J.

DATED: JULY 26, 2024

APPEARANCES:

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