

Federal Court



Cour fédérale

Date: 20241016

Docket: IMM-12259-23

Citation: 2024 FC 1633

Ottawa, Ontario, October 16, 2024

PRESENT: The Honourable Mr. Justice Pentney

BETWEEN:

FAEZEH JAFARKHANI

Applicant

and

**THE MINISTER OF CITIZENSHIP,
REFUGEES, AND IMMIGRATION**

Respondent

JUDGMENT AND REASONS

[1] The Applicant, Faezeh Jafarkhani, is seeking judicial review of a negative study permit decision. She is a citizen of Iran, who wanted to come to Canada to enrol in the Master's program in Inclusive Design at the Ontario College of Art and Design (OCAD) in Toronto. She wanted her husband and child to come with her for the two-year duration of her program.

[2] The key reasons for the Visa Officer's (the "Officer") refusal are that:

- Her family ties to Iran were not sufficiently strong because her husband and child would accompany her to Canada.
- Her study plan provided insufficient details about the knowledge and experience she needed and how the OCAD program would help advance her career in Iran.
- The letter from her employer was generic and did not indicate why an international degree was required for the job she was offered.

[3] Based on these considerations, the Officer was not satisfied that the Applicant would depart Canada at the end of her authorized stay.

[4] The only issue in this case is whether the Officer's decision is reasonable, applying the framework set out in *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [Vavilov].

[5] This Court has discussed the legal framework that governs the judicial review of student visa denials in a large number of recent decisions (see for example: *Nesarzadeh v Canada (Citizenship and Immigration)*, 2023 FC 568 at paras 5–9; *Safarian v Canada (Citizenship and Immigration)*, 2023 FC 775 at para 2; *Amini v Canada (Citizenship and Immigration)*, 2024 FC 653 at para 4; *Kandath v Canada (Citizenship and Immigration)*, 2024 FC 1130 at para 5):

- 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 the 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.
- The decision must be assessed in light of the context for decision-making, including the high volume of applications to be processed, the nature of the interests involved, and the fact that in most instances an applicant can simply reapply.

- It is not open to the Minister’s counsel or the Court to fashion their own reasons to buttress or supplement the Officer’s decision: see *Ajdadi v Canada (Citizenship and Immigration)*, 2024 FC 754.

[6] Applying the principles set out above, I find the decision to be unreasonable.

[7] In this case, the Officer’s reasons fail to meet the minimum standard of responsive justification because:

- The discussion of family ties fails to mention the Applicant’s evidence that her and her husband’s entire family live in Iran, and she felt compelled to return to support her siblings following the death of their parents. The Officer does not deal with the “push” and “pull” elements of the evidence on family ties.
- The study plan indicates why the OCAD program represents a logical next step in the Applicant’s educational path leading to greater employment opportunities, based on her prior education and work history. She explained that she is not changing direction in her career but rather seeking to enter a highly regarded program that is different than anything available in Iran. The Officer’s statement that her study plan lacks details and makes “sweeping statements on how the education will improve the [A]pplicant’s situation in Iran” does not reflect an engagement with the actual study plan she submitted.

- The employer's letter clearly offers her a position following the completion of the OCAD program. While the Officer correctly notes that the letter does not state that an international diploma is necessary for the job, that is not a necessary element in all job offers. I agree with the Applicant that this letter was intended to corroborate her explanation that the OCAD program would improve her job prospects, and the offer of a job represented an important incentive for her to return to Iran. The Officer misconstrues the purpose for which the employer's letter was put forward and thereby diminishes its weight as a factor in the overall analysis.

[8] While Visa Officers need not give exhaustive reasons to uphold the reasonableness of their decisions, this does not relieve them from the need to address evidence that contradicts key aspects of their decision, even if briefly (*Mahdavi v Canada (Citizenship and Immigration)*, 2024 FC 629 at para 19). That was not done here.

[9] The Respondent argued that the Officer's reasons were responsive to the application submitted by the Applicant. I disagree. At best, the decision was partially responsive to some of the evidence.

[10] For the reasons set out above, I find the decision is unreasonable. The application for judicial review is granted.

[11] The decision is quashed and set aside. The matter is remitted back for reconsideration by a different Officer.

[12] There is no question of general importance for certification.

JUDGMENT in IMM-12259-23

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is granted.
2. The decision is quashed and set aside, and the matter is remitted back for reconsideration by a different Officer.
3. There is no question of general importance for certification.

“William F. Pentney”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-12259-23

STYLE OF CAUSE: FAEZEH JAFARKHANI v THE MINISTER OF
IMMIGRATION, REFUGEES, AND CITIZENSHIP

PLACE OF HEARING: TORONTO, ON

DATE OF HEARING: OCTOBER 9, 2024

**JUDGMENT AND
REASONS:** PENTNEY J.

DATED: OCTOBER 16, 2024

APPEARANCES:

Sadeq Ziaee Bigdeli FOR THE APPLICANT

Leanne Briscoe FOR THE RESPONDENT

SOLICITORS OF RECORD:

Sadeq Ziaee Bigdeli FOR THE APPLICANT
Barrister & Solicitor

Attorney General of Canada FOR THE RESPONDENT
Toronto, Canada