Federal Court Cour fédérale

Date: 20241021

Docket: IMM-3039-23

Citation: 2024 FC 1652

Ottawa, Ontario, October 21, 2024

PRESENT: Mr. Justice Norris

BETWEEN:

SHERMIN HABIBZADEH BOUKANI

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

[1] The applicant is a citizen of Iran. After she was accepted into a Master's of Business Administration (MBA) program at Vancouver Island University, the applicant applied for a study permit. In her application, the applicant indicated that her husband and their young child would be accompanying her to Canada.

[2] In a decision dated January 6, 2023, a visa officer with Immigration, Refugees and Citizenship Canada refused the application because the officer was not satisfied that the applicant would leave Canada at the end of her authorized stay, as required by paragraph 216(1)(b) of the *Immigration and Refugee Protection Regulations*, SOR/2002-227. The officer gave two reasons for reaching this conclusion: first, given that the applicant's immediate family would be accompanying her to Canada, the applicant's ties to Iran would be weakened and her motivation to return would be diminished as a result; second, given the applicant's previous education and work history, her motivation to pursue studies in Canada at this point does not seem reasonable.

[3] The applicant now applies for judicial review of this decision under subsection 72(1) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 (*IRPA*).

[4] The parties agree, as do I, that the officer's decision is to be reviewed on a reasonableness standard. A reasonable decision "is one that is based on an internally coherent and rational chain of analysis and that is justified in relation to the facts and law that constrain the decision maker" (*Canada (Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at para 85). A decision will be unreasonable when the reasons "fail to provide a transparent and intelligible justification" for the result (*Vavilov*, at para 136). To set aside the decision on the basis that it is unreasonable, the reviewing court must be satisfied that "there are sufficiently serious shortcomings in the decision such that it cannot be said to exhibit the requisite degree of justification, intelligibility and transparency" (*Vavilov*, at para 100).

[5] In *Nesarzadeh v Canada (Citizenship and Immigration)*, 2023 FC 568 at paras 5-9, Justice Pentney provided a helpful summary of the key principles that guide judicial review of study permit decisions. Drawing on this summary and the jurisprudence cited in *Nesarzadeh*, I would state these principles as follows:

- 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.

- The reviewing court must take the administrative context in which the decision was made into account. Visa officers face a deluge of applications, and their reasons do not need to be lengthy or detailed. However, the reasons do need to set out the key elements of the officer's line of analysis and be responsive to the central aspects of the application.

- The onus is on an applicant to satisfy the officer that they meet the legal requirements for obtaining a study permit, including that they will leave Canada at the end of their authorized stay.

- Visa officers must consider the "push" and "pull" factors that, on the one hand, could lead an applicant to overstay their visa and remain in Canada, or that would, on the other hand, encourage them to return to their home country when required to.

[6] The applicant challenges the reasonableness of the officer's assessment of both of the factors the officer relied on to conclude that she would not leave Canada at the end of her authorized stay.

[7] Regarding the applicant's family ties, I do not agree that the officer's assessment of this factor is unreasonable. The applicant submits that it is factually incorrect to say, as the officer did, that she does not have "significant family ties outside Canada" when the record before the officer demonstrated that several close family members (including her parents) would be remaining in Iran. Reading the decision as a whole, however, it is clear that the officer's concern is that, with her husband and child accompanying her to Canada, the applicant's ties to Iran would be weakened and her motivation to return would be diminished as a result. This was a reasonable determination with respect to a relevant consideration. It was not unreasonable for the officer to rely on it.

[8] On the other hand, I agree with the applicant that the officer's adverse assessment of her education and work history is unreasonable. The officer noted that while the applicant intended to undertake an MBA degree, her previous studies (which had led to an associate's and a bachelor's degree in graphics) were in an "unrelated field." This Court has observed on several occasions that it is not uncommon – and, in fact, may be quite typical – for someone to undertake an MBA degree after studying in another field and gaining work experience: see, for example, *Ahadi v Canada (Citizenship and Immigration)*, 2023 FC 25 at para 15; *Sefidgar v Canada (Citizenship and Immigration)*, 2023 FC 1563 at para 12; *Safarian v Canada (Citizenship and Immigration)*, 2023 FC 775 at para 5; and *Naserikarimvand v Canada (Citizenship and*

Immigration), 2024 FC 757 at paras 22-23. It was unreasonable for the officer to find that the fact that the applicant had not studied business previously weighed against her. Likewise, the officer found that the applicant had shown an "inconsistent career progression" yet the information before the officer indicated that the applicant had been working full time as an advertising manager with her father's company since 2017.

[9] In sum, the applicant explained in her study plan why, given her previous education and work experience, obtaining an MBA from a Canadian school would enable her to make an even greater contribution to the success of her father's company. The officer's failure to meaningfully and reasonably grapple with this explanation leaves the decision lacking in transparency, intelligibility and justification.

[10] For these reasons, the application for judicial review will be allowed. The officer's decision dated January 6, 2023, will be set aside and the matter will be remitted for redetermination by a different decision maker.

[11] The parties did not suggest any serious questions of general importance for certification under paragraph 74(d) of the *IRPA*. I agree that no question arises.

JUDGMENT IN IMM-3039-23

THIS COURT'S JUDGMENT is that

1. The application for judicial review is allowed.
2. The decision dated January 6, 2023, is set aside and the matter is remitted for redetermination by a different decision maker
3. No question of general importance is stated.

"John Norris"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	IMM-3039-23
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APPEARANCES:

Sadeq Ziaee Bigdeli	FOR THE APPLICANT
Lorne McClenaghan	FOR THE RESPONDENT

SOLICITORS OF RECORD:

Sadeq Ziaee Bigdeli Toronto, Ontario	FOR THE APPLICANT
Attorney General of Canada Toronto, Ontario	FOR THE RESPONDENT