Federal Court  Cour fédérale

Date: 20230330

Docket: IMM-3206-22

Citation: 2023 FC 453

Ottawa, Ontario, March 30, 2023

PRESENT: The Hon Mr. Justice Henry S. Brown

BETWEEN:

NASEEM TAYABI

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

I. Nature of the matter

[1] This is an application for judicial review of a decision by an immigration officer [Visa Officer] at the Embassy of Canada in Abu Dhabi, dated March 1, 2022, denying the Applicant's temporary resident visa [TRV] application for misrepresenting her status in the U.S. The officer found the Applicant's visa to enter the US had been revoked, and that she misrepresented that fact on her TRV application.

II. Facts

[2] The Applicant is a 56-year-old citizen of India who resides in India and whose son was at the time a Canadian permanent resident (now a Canadian citizen). The Applicant and her husband obtained U.S. Non-Immigrant Visas [USNIV] in 2013. The Applicant applied for a TRV to enter Canada to visit her son and daughter-in-law's first child, who was expected to be born in April 2022. Since this was the couple's first child together, the Applicant was eager to be in Canada to assist her daughter-in-law, whose own mother was outside of Canada.

[3] The Applicant (and her husband) received separate emails on July 22, 2020, from the U.S. government advising that their USNIVs "visas" (note the plural) were revoked. No explanation was provided except the revocation was based on information that became available after issuance.

[4] The Applicant assumed the revocation was only for her husband's visa because of criminality on his part. She also assumed her visa was not impacted notwithstanding she received a separate email from her husband, and notwithstanding the emails were both addressed to both the Applicant and her husband and referred to visas in the plural.

[5] In addition, while the email said details of the visas revoked followed, in fact the email named the Applicant's husband twice, and did not name the Applicant. In addition, it appears the U.S. government email failed to note two others named on the same visa were also not listed on the revocation.

[6] The Applicant filed an application on her own for the Canadian TRV on October 2, 2021. In answer to the following question, she answered “NO”: “2(b) Have you ever been refused a visa or permit, denied entry or ordered to leave Canada or any other country or territory?”

[7] On November 21, 2021, the Applicant received a procedural fairness letter stating that she had failed to disclose her USNIV refusal as required in the application. As noted, the couple’s U.S. visas were revoked in 2020. The Procedural Fairness letter went on to request an explanation: “Explain why this information was not provided, and provide copies of documentation you have to support your response, which may include copies of refusal letters or other correspondence”. It went on to note that if she had engaged in misrepresentation shecould be found inadmissible to Canada for a period of five years.

[8] The Applicant retained counsel who provided a lengthy response to the procedural fairness letter. It did not meet the Officer’s concerns. Ultimately, the Officer found the Applicant had misrepresented information in her TRV application as a result of which she is inadmissible for five years.

III. Decision under review

[9] Ultimately, the Officer was not satisfied that the Applicant truthfully answered all the questions in the TRV application form, specifically concerning a failure to disclose her previous USNIV refusal. As per the Officer’s initial assessment, the Officer determined the failure to disclosure full information could have led to an error in the administration of justice; therefore,

the Applicant may be inadmissible to Canada under paragraph 40(1)(a) of the *Immigration and Refugee Protection Act*, S.C. 2001, c. 27 [IRPA].

[10] The Applicant had asserted in response that she was not aware of the revocation of her own U.S. visa, only that of her husband. The Officer rejected this response, noting that the Applicant should have been aware that the U.S. visa was revoked given the fact that the notice of revocation was addressed to both her husband and herself and the precise language in the email referring to both individuals.

[11] Specifically, the Officer found:

> Applicant asserts that she was not aware of the revocation of her own US visa, had understood that only her spouse's was revoked. Applicant should have been aware that her US visa was revoked along with that of her husband, because the notification of revocation that she submitted was clearly addressed to both her husband and herself. The subject and verbs are plural (e.g. "visas… have been revoked …. Visas are no longer valid…" "Dear Mr. Tayabi Fazal Hussain and Ms. Maseem Tayabi, The nonimmigrant visas issued to you with the following details have been revoked based on information that became available after the visa issuance. The visas are no longer valid for admission into the United States. Consequently, the applicant has not disabused me of the concerns. The answer to question 2(b) was not truthful, An error could have been induced in administering IRPA, in weighing travel history and status.

[12] Given these issues, the Officer was not disabused of the Officer's concerns and found the Applicant misrepresented the fact that her USNIV had been revoked. This finding brought with it inadmissibility into Canada for 5 years pursuant to paragraph 40(1)(a) of IRPA.

IV. Issues

[13] The Applicant submits the following issues:

1) Did the Officer make a reasonable conclusion in finding the Applicant to have misrepresented herself with regards to procedural fairness?

2) Does the court have the jurisdiction to consider the humanitarian and compassionate grounds included in this application?

[14] As issue is the reasonableness of the Decision.

V. Standard of Review

[15] The applicable standard of review is reasonableness. In *Canada Post Corp v Canadian Union of Postal Workers*, 2019 SCC 67, issued at the same time as the Supreme Court of Canada's decision in *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [*Vavilov*], the majority per Justice Rowe explains what is required for a reasonable decision, and what is required of a court reviewing on the reasonableness standard:

> [31] 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" (*Vavilov*, at para. 85). Accordingly, when conducting reasonableness review "[a] reviewing court must begin its inquiry into the reasonableness of a decision by examining the reasons provided with 'respectful attention' and seeking to understand the reasoning process followed by the decision maker to arrive at [the] conclusion" (*Vavilov*, at para. 84, quoting *Dunsmuir*, at para. 48). The reasons should be read holistically and contextually in order to understand "the basis on which a decision was made" (*Vavilov*, at para. 97, citing *Newfoundland Nurses*).

> [32] A reviewing court should consider whether the decision as a whole is reasonable: "what is reasonable in a given situation will always depend on the constraints imposed by the legal and factual context of the particular decision under review" (*Vavilov*, at para. 90). The reviewing court must ask "whether the decision bears the hallmarks of reasonableness – justification, transparency and intelligibility – and whether it is justified in relation to the relevant factual and legal constraints that bear on the decision" (*Vavilov*, at para. 99, citing *Dunsmuir*, at paras. 47 and 74, and *Catalyst Paper Corp. v. North Cowichan (District)*, 2012 SCC 2, [2012] 1 S.C.R. 5, at para. 13).
>
> [33] Under reasonableness review, "[t]he burden is on the party challenging the decision to show that it is unreasonable" (*Vavilov*, at para. 100). The challenging party must satisfy the court "that any shortcomings or flaws relied on ... are sufficiently central or significant to render the decision unreasonable" (*Vavilov*, at para. 100).
>
> [Emphasis added]

[16] That said, the Supreme Court of Canada in *Vavilov* makes it clear the role of this Court is not to reweigh and reassess the evidence unless there are "exceptional circumstances". No such circumstances exist in the case at bar. The Supreme Court of Canada instructs as follows:

> [125] It is trite law that the decision maker may assess and evaluate the evidence before it and that, absent exceptional circumstances, a reviewing court will not interfere with its factual findings. The reviewing court must refrain from "reweighing and reassessing the evidence considered by the decision maker": *CHRC*, at para. 55; see also *Khosa*, at para. 64; *Dr. Q*, at paras. 41-42. Indeed, many of the same reasons that support an appellate court's deferring to a lower court's factual findings, including the need for judicial efficiency, the importance of preserving certainty and public confidence, and the relatively advantageous position of the first instance decision maker, apply equally in the context of judicial review: see *Housen*, at paras. 15-18; *Dr. Q*, at para. 38; *Dunsmuir*, at para. 53.
>
> [Emphasis added]

[17] In addition, the Federal Court of Appeal recently held in *Doyle v Canada (Attorney General),* 2021 FCA 237 that the role of this Court is not to reweigh and reassess the evidence:

> [3] In doing that, the Federal Court was quite right. Under this legislative scheme, the administrative decision-maker, here the Director, alone considers the evidence, decides on issues of admissibility and weight, assesses whether inferences should be drawn, and makes a decision. In conducting reasonableness review of the Director's decision, the reviewing court, here the Federal Court, can interfere only where the Director has committed fundamental errors in fact-finding that undermine the acceptability of the decision. Reweighing and second-guessing the evidence is no part of its role. Sticking to its role, the Federal Court did not find any fundamental errors.
>
> [4] On appeal, in essence, the appellant invites us in his written and oral submissions to reweigh and second-guess the evidence. We decline the invitation.
>
> [Emphasis added]

[18] *Vavilov* also requires the reviewing court to assess whether the decision subject to judicial review meaningfully grapples with the key issues:

> [128] Reviewing courts cannot expect administrative decision makers to "respond to every argument or line of possible analysis" (*Newfoundland Nurses*, at para. 25), or to "make an explicit finding on each constituent element, however subordinate, leading to its final conclusion" (para 16). To impose such expectations would have a paralyzing effect on the proper functioning of administrative bodies and would needlessly compromise important values such as efficiency and access to justice. However, a decision maker's failure to meaningfully grapple with key issues or central arguments raised by the parties may call into question whether the decision maker was actually alert and sensitive to the matter before it. In addition to assuring parties that their concerns have been heard, the process of drafting reasons with care and attention can alert the decision maker to inadvertent gaps and other flaws in its reasoning: *Baker*, at para. 39.

[19] In addition, the jurisprudence establishes reasons such as these are not to be assessed against a standard of perfection. That the reasons "do not include all the arguments, statutory provisions, jurisprudence or other details the reviewing judge would have preferred" is not on its own a basis to set aside the decision: see *Vavilov* at paras 91 and 128, and *Canada Post* at paras 30 and 52. Reviewing courts cannot expect administrative decision makers to "respond to every argument or line of possible analysis" or to "make an explicit finding on each constituent element, however subordinate, leading to its final conclusion": *Vavilov*, paras 91 and 128 again, and *Newfoundland and Labrador Nurses' Union v. Newfoundland and Labrador (Treasury Board)*, 2011 SCC 62, [2011] 3 SCR 708, at paras 16 and 25.

[20] All applicants have the onus to establish their case to the satisfaction of the issuing officer. It is also the case that because visa applications do not raise substantive rights — foreign nationals have no unqualified right to enter Canada — the level of procedural fairness is low, and generally does not require that applicants be granted an opportunity to address the officer's concerns: see for examples *Bautista v Canada (MCI)*, 2018 FC 669 at para 17; *Kaur v Canada (MCI)*, 2017 FC 782 at para 9 and *Sulce v Canada (MCI)*, 2015 FC 1132 at para 10.

[21] Finally, by way of the legal framework, the shorter term visa administrative setting is important. Every year, Canada receives upwards if not in excess of one million (1,000,000) applications for various types of permission to spend time in Canada, of which some 400,000 are granted annually. That leaves some 600,000 applicants who receive decisions stating they are not successful each year. Each decision must be supported by reasons on its face, or in many cases

such as this, more usually in association with the underlying record. Given this huge volume, the law has developed as noted above, such that the need to give reasons is "typically minimal."

[22] In *Iriekpen v Canada (Citizenship and Immigration)*, 2021 FC 1276 Justice McHaffie determined, and I agree:

> [7] The "administrative setting" of the visa officer's decision includes the high volume of visa and permit applications that must be processed in the visa offices of Canada's missions: *Canada (Minister of Citizenship and Immigration) v Khan*, 2001 FCA 345 at para 32; and *Patel v Canada (Citizenship and Immigration)*, 2020 FC 77 at paras 15, 17. Given this context and the nature of a visa application and refusal, the Court has recognized that the requirements of fairness, and the need to give reasons, are typically minimal: *Khan* at paras 31–32; *Yuzer* at paras 16, 20; *Touré v Canada (Citizenship and Immigration)*, 2020 FC 932 at para 11.
>
> [Emphasis added]

[23] The Federal Court of Appeal affirmed this principle and went a step further in *Zeifmans LLP v Canada*, 2022 FCA 160:

> [9] We disagree. *Vavilov* goes further. *Vavilov* tells us that reviewing courts must not insist on the sort of express, lengthy and detailed reasons that, if asked to do the job themselves, they might have provided: *Vavilov* at paras. 91-94. To so insist could subvert Parliament's intention that administrative processes be timely, efficient and effective.
>
> [10] *Vavilov* says more. It tells us that an administrative decision should be left in place if reviewing courts can discern from the record why the decision was made and the decision is otherwise reasonable: *Vavilov* at paras. 120-122; *Canada (Citizenship and Immigration) v. Mason*, 2021 FCA 156 at paras. 38-42. In other words, the reasons on key points do not always need to be explicit. They can be implicit or implied. Looking at the entire record, the reviewing court must be sure, from explicit words in reasons or from implicit or implied things in the record or both, that the administrator was alive to the key issues, including issues of legislative interpretation, and reached a decision on them.

[24] An example of these principles at work is *Hashem v Canada (Citizenship and Immigration)*, 2020 FC 41:

> [27] It is not for the Court to reweigh the evidence before the visa section. I agree with the respondent that Mrs. Hashem is essentially asking the Court to reweigh the evidence and to substitute its view for that of the visa section officers.
>
> [28] A decision-maker is not obliged to refer explicitly to all the evidence. It is presumed that the decision-maker considered all the evidence in making the decision unless the contrary can be established (*Hassan v Canada (Minister of Employment & Immigration)*, [1992] FCJ No 946 at para 3; *Cepeda-Gutierrez v Canada (Minister of Citizenship and Immigration)*, [1998] 157 FCJ No 1425 at para 16).
>
> [29] Mrs. Hashem's failure to show that the visa section officers ignored evidence amounts to a mere disagreement with the factors they found to be determinative *(Boughus v Canada (Minister of Citizenship and Immigration)*, 2010 FC 210 at paras 56 and 57). There is no reason to intervene and set the decision aside.

[25] I would refer also to my decisions in *Sharafeddin v Canada (Citizenship and Immigration)*, 2022 FC 1269 and *Siddiqua v Canada (Citizenship and Immigration)*, 2022 FC 1263, for further practical applications of this principle.

[26] Finally, as this Court noted in *Alaje v Canada (Citizenship and Immigration)*, 2017 FC 949, at para 14, this Court owes great deference to the Officer's assessment of the evidence: "… the Court owes great deference to the officer's assessment of the evidence."

VI. Analysis

[27] Before I outline and consider the parties' submissions, it would be beneficial to consider some of the principles surrounding the duty of candour associated with paragraph 40(1)(a) of the

IRPA. As the parties note, these principles well-established and equally well summarized by Justice Strickland in *Goburdhun v Canada (Minister of Citizenship and Immigration)*, 2013 FC 971:

> [28] In *Oloumi*, above, Justice Tremblay-Lamer describes general principles arising from this Court's treatment of section 40 of the IRPA which are summarized below together with other such principles arising from the jurisprudence:
>
> - Section 40 is to be given a broad interpretation in order to promote its underlying purpose (*Khan v Canada (Minister of Citizenship and Immigration*), 2008 FC 512 at para 25 [*Khan*]);
>
> - Section 40 is broadly worded to encompasses misrepresentations even if made by another party, including an immigration consultant, without the knowledge of the applicant (Jiang v Canada (*Minister of Citizenship and Immigration*), 2011 FC 942 at para 35 [*Jiang*]; *Wang v Canada (Minister of Citizenship and Immigration)*, 2005 FC 1059 at paras 55-56 [*Wang*]);
>
> - The exception to this rule is narrow and applies only to truly extraordinary circumstances where an applicant honestly and reasonably believed that they were not misrepresenting a material fact and knowledge of the misrepresentation was beyond the applicant's control (*Medel*, above);
>
> - The objective of section 40 is to deter misrepresentation and maintain the integrity of the immigration process. To accomplish this, the onus is placed on the applicant to ensure the completeness and accuracy of their application (*Jiang*, above, at para 35;*Wang*, above, at paras 55-56);
>
> - An applicant has a duty of candour to provide complete, honest and truthful information in every manner when applying for entry into Canada (*Bodine v Canada (Minister of Citizenship and Immigration*), 2008 FC 848 at para 41; *Baro v Canada (Minister of Citizenship and Immigration),* 2007 FC 1299 at para 15);

> - As the applicant is responsible for the content of an application which they sign, the applicant's belief that he or she was not misrepresenting a material fact is not reasonable where they fail to review their application and ensure the completeness and veracity of the document before signing it (*Haque*, above, at para 16; *Cao v Canada (Minister of Citizenship and Immigration)*, 2010 FC 450 at para 31 [*Cao*]);
>
> - In determining whether a misrepresentation is material, regard must be had for the wording of the provision and its underlying purpose (*Oloumi*, above, at para 22);
>
> - A misrepresentation need not be decisive or determinative. It is material if it is important enough to affect the process (*Oloumi*, above, at para 25);
>
> - An applicant may not take advantage of the fact that the misrepresentation is caught by the immigration authorities before the final assessment of the application. The materiality analysis is not limited to a particular point in time in the processing of the application. (*Haque*, above, at paras 12 and 17; *Khan*, above, at paras 25, 27 and 29; *Shahin v Canada (Minister of Citizenship and Immigration)*, 2012 FC 423 at para 29 [Shahin]);

A. *Misrepresentation*

[28] The Applicant submits the Officer's decision does not meet the standard of reasonableness. She also alludes to breach of procedural fairness. In the Applicant's view, it was not sufficient for the Officer to state that they had considered all of the evidence without explaining how the review of that evidence led them to their decision. In this way, the Applicant notes that Officers have a duty to fully and carefully consider all of the evidence before them when making a decision. In my view, these concepts are not disputed by the Respondent and are well established in the case law with the caveats mentioned above.

[29] The Applicant goes on to suggest that this Court should take a "broad view of the range of rights, privileges and interest that will attract a right of procedural fairness." Moreover, the Applicant argues that "privileges 'refer to benefits, the grant or revocation of which are to a greater or lesser extend within the discretion of the relevant agency' and would include the ability of a non-citizen to enter Canada." What the Applicant attempts to convey is that a certain level of procedural fairness is owed to those non-citizen individuals trying to enter Canada. As already noted this is the case but it is typically limited, which I find to be the situation here. Many foreign nationals do not receive a procedural fairness letter but are obliged to make their case in their original submissions. Notably this Applicant benefitted as an exception to the general rule. To the extent the Applicant raises an issue of procedural fairness, in my view the Officer's Procedural Fairness letter more than passes muster.

[30] With reference to the facts, the Applicant takes issue with the specific reasoning, or lack thereof, from the Officer. The Applicant notes only two substantial sentences in the Officer's notes that explain the reason for refusal. In the Applicant's view, the rest of the decision is general template language and/or copied and pasted law or quotes.

[31] Specifically, the Applicant points out that the Officer failed to note the email from U.S. Immigration admitting to an error where the Applicant's husband's name was on both visas that were being referenced, while hers was not. Moreover, the Applicant further notes that her son was not named in the email from U.S. Immigration despite being included on the same application as a dependent. Given theses considerations, the Applicant submits that the email she received was clearly erroneous in its instruction and clarity.

[32] Finally, the Applicant submits that the Officer failed to conduct an individualized assessment, instead falling into the trap of oversimplified generalizations as in contravention of this Court's decision in *Baylon v Canada (Citizenship and Immigration)*, 2009 FC 938 [*Baylon*]. In *Baylon*, Justice de Montigny, as he was then, found:

> [34] This extraneous evidence is unsupported and undocumented, and in any event irrelevant. I accept that local conditions in the applicant's home country can be part of the broader picture which the Visa Officer ought to consider in assessing whether an applicant will leave Canada at the end of the period authorized for any temporary stay. But the mere fact that many low-skilled workers from the Philippines work overseas does not, in and of itself, mean that they overstay their authorized work permit, let alone that they live illegally in other countries. Oversimplified generalizations cannot and should not form the basis of what must always be an individualized assessment based on the particular circumstances of each individual. For all of these reasons, I am of the view that this application for judicial review should be granted.
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> [Emphasis added]

[33] The Applicant suggests that decisions, like the underlying application, must be transparent and justifiable as per the Supreme Court of Canada's decision in *Dunsmuir v New Brunswick*, 2008 SCC 9. Given this, the Applicant submits the Officer's finding of misrepresentation upon receiving a response to the procedural fairness letter from the Applicant constitutes a breach of procedural fairness.

[34] I disagree with the Applicant's conclusions for several reasons.

[35] First of all, the issue of procedural fairness was addressed above and fully met by the Procedural Fairness letter.

[36] Secondly, I agree with the Respondent that the Applicant's failure to disclose a relevant fact, i.e. her prior visa revocation, was a reasonable basis for a misrepresentation finding, and that the "innocent mistake" exception does not apply given the straightforward and undisputed facts that (1) the Applicant's U.S. visa had been revoked, and (2) she failed to disclose this.

[37] In this respect I adopt the language of Justice Régimbald in *Wang v Canada (Citizenship and Immigration)*, 2023 FC 62 (CanLII) [*Wang*]:

> [48] In applying these elements, the Court must be mindful of the comments of Justice Bell in *Lin* at para 27 that the "innocent misrepresentation exception is very narrow and only applies to truly extraordinary circumstances." Such extraordinary circumstances may include situations where the applicant "honestly and reasonably believed that they were not misrepresenting a material fact and that knowledge of the misrepresentation was beyond the applicant's control (*Patel v Canada (Citizenship and Immigration)* 2017 FC 401 at para 64; *Ahmed* at para 32)."
>
> [49] Moreover, in *Ahmed* at para 30, Justice Russell added that "the innocent misrepresentation exception may not be established through mere inadvertence, or because the mistake was made by a third-party representative: see *Goudarzi v Canada (Citizenship and Immigration)*, 2012 FC 425 at para 40 and *Sayedi v Canada (Citizenship and Immigration)*, 2012 FC 420 at para 43."
>
> [50] Applying these principles, in this case, the Officer did not err in failing to consider whether the innocent misrepresentation exception applied. Rather, as was the case in *Alalami*, the Officer specifically considered and rejected the explanation of the Applicant for the omission and as such, the "innocent misrepresentation exception" could not apply.
>
> [51] Indeed, in their reasons, the Officer rejected the Applicant's explanation that the forms were prepared in haste. The Officer specifically noted that the application was signed and submitted almost two months before Ms. Wang's intended departure date, with documentation obtained even prior to that. The Officer stated that this advanced preparation "does not suggest haste or unreasonable duress." This finding is reasonable.

[52] Therefore, the Officer did not have to consider whether the explanation, that he rejected, could meet the "innocent misrepresentation exception." As held by Justice Southcott in *Alalami*: "If this explanation had been accepted, it may have been incumbent upon the Officer to consider the innocent error exception…" (*Alalami* at para 16). However, when an officer specifically rejects an applicant's explanation for the omission, no further inquiry as to any justification or the application of the innocent misrepresentation exception is necessary.

[53] The Applicant also argues that the Officer mischaracterized her evidence and that only the relevant *forms* were completed in haste, and not the entire application. In her submission, the advanced date of the preparation of the application is not indicative of the time spent on the relevant application forms. That argument ignores that "the onus is on the Applicant to ensure the completeness and accuracy of their application" (*Wang*, 2018 at para 15, citing *Oloumi* at para 23, *Jiang v Canada (Citizenship and Immigration)*, 2011 FC 942 at para 35, and *Wang*, 2005 at paras 55-56).

[54] While the Officer did not specifically find that Ms. Wang made an *intentional* misrepresentation, the reasons indicate that the Officer did not accept her explanation for the omission as being objectively reasonable. Moreover, as held by Justice Russell in *Ahmed* at para 30, the innocent misrepresentation exception may not be established through mere inadvertence. That is essentially what the Applicant is asking for in this case. As stated in her response to the procedural fairness letter dated June 4, 2020, she "completed her immigration forms with haste and, as a result, she failed to read the portion of the question about "any other country.""

[55] To remove from the objective element of the test considerations such as whether the misrepresentation was beyond the applicant's control or whether the errors were by mere inadvertence would mean that every case where an applicant claims that a misrepresentation was the result of an accident would warrant the application of this exception. That is not consistent with the jurisprudence that characterizes the exception as "narrow" and "extraordinary."

[56] Moreover, applying the "innocent misrepresentation exception" to mere inadvertence, errors, or inattention in the completion of forms would diminish the onus put on applicants to ensure the completeness and accuracy of their application, which

> could then lead to additional concerns in the administration of the IRPA and the assessment of requests for entry into Canada.
>
> [Emphasis added]

[38] As the Officer reasonably concluded, the Applicant should have been aware that her US visa was revoked along with that of her husband, because the notification of revocation that she submitted was clearly addressed to both her husband and herself. They received separate emails. They were both named in the salutation. Repeated references are made to "visas" in the plural. In terms of the other arguments in the response to the Procedural Fairness letter, as noted above, they need not have been considered once the Officer found the Applicant's answer on the TRV applicant untruthful.

[39] I would add the Applicant had ample notice her US visa was at risk, and both could and in my view should have taken steps to clarify matters with US authorities. Her arguments are inconsistent – on the one hand she points to errors in the email and calls it bizarre, but on the other hand she assumed it only applied to her husband. I agree with the Respondent that innocent mistakes cannot be grounded in willful blindness or deliberate non-engagement.

[40] I am overall not persuaded to depart from the general rule that considerable deference is to be given decision makers such as the Officer in this case.

B. *Humanitarian & compassionate grounds*

[41] While I agree that the Applicant's circumstances are sympathetic, there is no merit in the Applicant's request to apply H&C considerations on judicial review, particularly when no such request was advanced before the Officer.

VII. Conclusion

[42] Given the above findings, the Application for judicial review is dismissed.

VIII. Certified Question

[43] Neither party proposed a question of general importance, and none arises.

JUDGMENT in IMM-3206-22

THIS COURT'S JUDGMENT is that this application is dismissed, no question of general importance is certified, and there is no Order as to costs.

"Henry S. Brown"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

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