

Federal Court



Cour fédérale

**Date: 20240118**

**Docket: IMM-1800-23**

**Citation: 2024 FC 85**

**Ottawa, Ontario, January 18, 2024**

**PRESENT: The Honourable Mr. Justice Gleeson**

**BETWEEN:**

**ZOHREH DAVOODABADI  
MOHAMMADALI KESHAVARZ**

**Applicants**

**and**

**THE MINISTER OF CITIZENSHIP AND  
IMMIGRATION**

**Respondent**

**JUDGMENT AND REASONS**

I. Overview

[1] The Applicants are citizens of Iran. The Principal Applicant [PA] applied for a study permit to pursue a Master's Degree in Leadership, Healthcare. The PA's husband, the Dependent Applicant [DA], applied for a spousal open work permit to allow him to accompany his spouse.

[2] In a decision dated January 30, 2023, the study and work permit applications were refused. The Immigration Officer [Officer] was not satisfied the PA would leave Canada at the end of her studies. The DA's application was refused on similar grounds based on the PA's refusal; the DA had sought entry for the purposes of accompanying the PA.

[3] The Applicants apply under subsection 72(1) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [IRPA] for judicial review of the Officer's decision. Two issues are raised:

- A. Was the Officer's decision unreasonable?
- B. Did the Officer breach the requirements of procedural fairness?

[4] The Respondent argues the Officer's decision, when considered holistically, is reasonable. The Respondent submits the process was procedurally fair within the context of a study permit application, which imposes fairness requirements that are at the lower end of the spectrum.

[5] For the reasons that follow, the Application is dismissed.

## II. Decision under review

[6] The PA has a Bachelor's degree in Midwifery and held midwife positions in several hospitals in Iran. She sought to study in Canada to aid in her career progression and to qualify for a position in Iran.

[7] In considering the visa applications, the Officer was not satisfied that the PA had demonstrated sufficient financial assets to cover tuition, living expenses and travel. The Officer also noted the banking history provided did not show regular deposits, and found that ties to Iran were weakened because the PA's spouse would be accompanying her to Canada. In addition, the Officer was of the view that satisfactory reasons to establish that studying in Canada would be beneficial had not been provided. The reasons for refusal of the PA's application are set out in the Officer's Global Case Management System notes and it is helpful to reproduce those reasons:

I have reviewed the application. I have considered the following factors in my decision. I note multiple property deeds and titles are provided, however, no banking transaction history to show regular intervals of deposits into the applicant's accounts from said properties. Bank balance statements provided; large balances noted, no transaction history. I have concerns that the property documents are for demonstration purposes only and are not reflective of the applicants [*sic*] legitimate financial resources. Taking this into account, alongside the applicant's plan of studies into account [*sic*] and banking records provided, I find the applicant's financial situation does not demonstrate that funds would be sufficient or available for tuition, living expenses and travel. I am not satisfied that the proposed studies would be a reasonable expense. The applicant does not have significant family ties outside Canada. PA is traveling with their spouse, [*sic*] I have concerns that the ties to Iran are not sufficiently great to motivate departure from Canada. The ties to Iran are weakened [*sic*] with the intended travel to Canada by the client as the travel involves their immediate family; the motivation to return will diminish with the applicant's immediate family members residing [*sic*] with them in Canada. The purpose of the applicant's visit to Canada is not consistent with a temporary stay given the details provided in the application. Iranian national applying for a study permit to attend Trinity Western University in MA in Leadership, Health Care. Previous university studies in Bachelor of Midwifery. Currently employed as a Midwife. Client's Explanation letter reviewed. PA does not demonstrate to my satisfaction reasons for which the international educational program would be of benefit. Given the PA's previous education and work history, their motivation to pursue studies in Canada at this point does not seem reasonable. Weighing the factors in this application. [*sic*] I am not satisfied that the applicant will depart Canada at the end of the period authorized

for their stay. For the reasons above, I have refused this application.

III. Analysis

A. *Standard of review*

[8] The parties agree that the Officer's decision to refuse the permits is reviewable on the presumptive standard of reasonableness (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at paras 10 and 25). The second issue the Applicants raise, procedural fairness, is reviewable against a standard akin to correctness. The question to be asked is whether the procedure was fair having regard to all of the circumstances (*Canadian Pacific Railway Company v Canada (Attorney General)*, 2018 FCA 69 at para 54).

B. *The law*

[9] In considering applications to study in Canada, section 216 of the *Immigration and Refugee Protection Regulations*, SOR/2002-227 [IRPR] requires that the Officer be satisfied the evidence has established that the claimant will leave Canada at the end of their stay (*Chhetri v Canada (Citizenship and Immigration)*, 2011 FC 872 at para 9 [*Chhetri*]; *Hashem v Canada (Citizenship and Immigration)*, 2020 FC 41 at para 31). The burden is on the person applying for the study permit to demonstrate that they will leave Canada once their visa expires (*Jalilvand v Canada (Citizenship and Immigration)*, 2022 FC 1587 at para 11 [*Jalilvand*]; *Zhang v Canada (Citizenship and Immigration)*, 2022 FC 1679 at para 6). More generally, the onus is on the claimant to provide sufficient evidence to demonstrate that the requirements of the IRPA and IRPR have been satisfied (*Omijie v Canada (Citizenship and Immigration)*, 2018 FC 878 at para

10; *Bestar v Canada (Citizenship and Immigration)*, 2022 FC 483 at para 12 [*Bestar*]). An Officer will be required to issue a study permit where it is established that the requirements of section 216 of the IRPR have been satisfied.

[10] Section 220 of the IRPR provides that an officer shall not issue a study permit unless it is established the applicant has sufficient and available financial resources, without working in Canada, to pay tuition and fees, maintain themselves and accompanying family members, and pay the costs of transport for themselves and accompanying family members to and from Canada.

[11] Officers are to be given a high degree of deference by reviewing courts (*Momi v Canada (Citizenship and Immigration)*, 2013 FC 162 at para 26; *Chhetri* at para 9; *Jalilvand* at para 11; *Bestar* at para 13). Decisions need not provide comprehensive reasons – they can be brief or limited (*Barril v Canada (Citizenship and Immigration)*, 2022 FC 400 at para 12, *Groohi v Canada (Citizenship and Immigration)*, 2009 FC 837 at para 16). An officer's reasons can be sparse, as long as they provide insight into the chain of analysis and outcome of the decision (*Iyiola v Canada (Citizenship and Immigration)*, 2020 FC 324 at para 18; *Shah v Canada (Citizenship and Immigration)*, 2020 FC 448 at para 21).

C. *The Applicants have not demonstrated an error warranting intervention*

[12] The Applicants argue that the Officer's treatment of the PA's financial evidence was unreasonable, and that the Officer unreasonably determined the PA's financial assets were insufficient to support the stated purpose for travel. I disagree.

[13] In assessing the PA's financial situation, the Officer noted the PA's failure to provide a record of banking transactions. Instead, the PA provided bank balance statements only. The failure to include transaction records is contrary to the study permit checklist provided to applicants from Iran (Study Permit - Ankara Visa Office Instructions (IMM 5816 E)). That checklist requires applicants include with their documentation "[c]opies of bank statements or bank book covering the past 6 months."

[14] It was reasonable for the Officer to note this information was omitted from the Applicants' documentation and to conclude, in the absence of a financial transaction history, that the PA had failed to meet the burden of demonstrating sufficient available funds for tuition, living expenses and travel. The Officer's conclusion is justified transparent and intelligible.

[15] Having reasonably concluded the PA had failed to demonstrate sufficient and available financial resources to cover expenses identified at section 220 of the IRPR, the Officer was required to refuse the Application.

[16] The Officer's financial conclusion relating to the sufficiency of the financial information in support of the study permit application was not only reasonable but was determinative of the Application. I need not address the Applicants' arguments as they relate to the reasonableness of the Officer's treatment of family ties to Iran or the benefits of the international education program the PA intended to undertake.

[17] On the issue of fairness, the Applicants submit that the Officer's implicit credibility findings as well as the Officer's failure to address evidence, articulate adequate reasons, and provide the Applicant with an opportunity to respond to concerns all render the process unfair. There is little merit to any of these submissions.

[18] Although the Applicants argue that a lack of adequate reasons and a failure to address evidence raise issues of procedural fairness, the jurisprudence the Applicants rely on invariably demonstrates that the sufficiency of reasons and the treatment of evidence are issues that affect the reasonableness of a decision.

[19] Similarly, it has been consistently held that an applicant has no right to a notice of deficiencies in their application. The "principle of procedural fairness does not stretch to the point of requiring that a visa officer has an obligation to provide an applicant with a 'running score' of the weaknesses in their application [...]. And there is no obligation on the part of a visa officer to apprise an applicant of her concerns that arise directly from the requirements of the former Act or Regulations [...]" (*Rukmangathan v Canada (Minister of Citizenship and Immigration)*, 2004 FC 284 at para 23, cited in *Singh v Canada (Citizenship and Immigration)*, 2022 FC 855 at para 22).

[20] Finally, and contrary to the Applicants' view, the Officer did not doubt the authenticity of the Applicants' property documents. In concluding the property documents were for demonstration purposes only, the Officer was simply noting that the real property was not reflective of available financial resources in support of the application. Nor did the Officer

exceed their authority or breach the doctrine of legitimate expectation in refusing the Application.

IV. Conclusion

[21] For the above reasons, the Application is dismissed. The parties have not identified a question of general importance and none arises.



**JUDGMENT IN IMM-1800-23**

**THIS COURT'S JUDGMENT is that:**

1. The Application is dismissed.
2. No question is certified.

**"Patrick Gleeson"**  

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**Judge**

**FEDERAL COURT**  
**SOLICITORS OF RECORD**

**DOCKET:** IMM-1800-23

**STYLE OF CAUSE:** ZOHREH DAVOODABADI MOHAMMADALI  
KESHAVARZ v THE MINISTER OF CITIZENSHIP  
AND IMMIGRATION

**PLACE OF HEARING:** HELD BY VIDEOCONFERENCE

**DATE OF HEARING:** NOVEMBER 29, 2023

**JUDGMENT AND REASONS:** GLEESON J.

**DATED:** JANUARY 18, 2024

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