Federal Court  Cour fédérale

Date: 20240409

Docket: IMM-3635-23

Citation: 2024 FC 550

Ottawa, Ontario, April 9, 2024

PRESENT: Mr. Justice Norris

BETWEEN:

ZAHRA RAOUFI

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

[1] The applicant is a 31-year-old citizen of Iran. She was accepted into a Master of Business Administration (MBA) program at University of Canada West. However, her application for a study permit was refused by a visa officer with Immigration, Refugees and Citizenship Canada because the officer was not satisfied that the applicant would leave Canada at the end of her authorized stay.

[2] 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*). As I will explain, I agree with the applicant that the decision must be set aside because it is unreasonable.

[3] The parties agree, as do I, that the substance of 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).

[4] 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 the 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 could lead an applicant to overstay their visa and stay in Canada, or that would, on the other hand, encourage them to return to their home country when required to.

[5] As noted above, the officer refused the study permit application because the officer was not satisfied that the applicant would leave Canada at the end of her authorized stay. The officer drew this conclusion for four reasons. First, the applicant's previous studies were in an unrelated field. Second, the applicant had failed to satisfy the officer that "pursuing the selected program of study is reasonable given the high cost of international study in Canada when weighed against the potential career/employment benefits after completion, and the local options available for similar studies." Third, in the absence of transcripts from her previous academic pursuits (which included a Bachelor in Computer Engineering), the applicant had failed to satisfy the officer that she "demonstrates the academic proficiency necessary to complete studies in Canada." Fourth, the officer was not satisfied that the applicant had sufficient funds for her proposed course of

studies in Canada because banking records provided by the applicant "do not include [a] history of transactions to track the provenance of available funds."

[6] The applicant challenges the reasonableness of each of these findings. The respondent submits that the result is justified by the officer's reasons and that the applicant is simply asking the court to reweigh the evidence and reach a different conclusion than the officer did.

[7] I do not agree with the respondent, Rather, I agree with the applicant that none of these findings meet the requirements of transparency, intelligibility and justification.

[8] First, while it is true that the applicant's previous studies were in computer engineering and not business, it is altogether unclear from the decision why the officer thought this was significant.

[9] Second, the officer failed to provide a transparent and intelligible basis for the conclusion that the selected program of study is reasonable when its costs are weighed against the expected benefits "and the local options available for similar studies." In her study permit application, the applicant had explained in detail why she had chosen to pursue an MBA and why she preferred to pursue this degree at a Canadian university rather than study business locally. She gave several reasons why she judged the Canadian program to be superior to any local options. The officer did not engage in any way with the applicant's explanation for her choice. The officer was not required to accept the applicant's explanation; however, for the decision to be reasonable, the officer was required to explain (even briefly) why it was not persuasive. Bald,

conclusory statements do not suffice: see *Yuzer v Canada (Citizenship and Immigration)*, 2019 FC 781 at para 21; *Aghaalikhani v Canada (Citizenship and Immigration)*, 2019 FC 1080 at para 20; *Afuah v Canada (Citizenship and Immigration)*, 2021 FC 596 at para 15; and *Zibadel v Canada (Citizenship and Immigration)*, 2023 FC 285 at para 41.

[10] Third, the officer failed to provide a transparent and intelligible basis for the conclusion that the applicant had failed to demonstrate the academic proficiency necessary to complete her studies in Canada. The applicant had been admitted into the MBA program. The university had therefore judged her to be qualified for the program. The visa decision reveals nothing about the officer's understanding of what is required academically to succeed in an MBA program, nor the officer's qualifications to second-guess the university's decision to admit the applicant. In the absence of such information, this finding is unreasonable.

[11] Fourth, the officer failed to provide a transparent and intelligible basis for the conclusion that the applicant lacked sufficient means to finance her studies in Canada. The applicant provided certificates of account balances (as of February 1, 2023) for bank accounts held by herself and by her husband. She also provided documentation to establish that both she and her husband have been gainfully employed for several years. (It bears noting that the applicant's husband would remain in Iran and continue to work while the applicant was studying in Canada.) The officer does not explain why, despite this information, and despite the absence of any credibility concerns, there were concerns about the "provenance" of the available funds. In the absence of any explanation for these concerns, this finding is also unreasonable: see *Jalilvand v Canada (Citizenship and Immigration)*, 2022 FC 1587 at paras 16-17.

[12] In sum, the officer provided four reasons for rejecting the study permit application. None of them stand up to scrutiny under a reasonableness standard. The decision must, therefore, be set aside. The matter will be remitted to a different decision maker for redetermination.

[13] Finally, neither party proposed a serious question of general importance for certification under paragraph 74(d) of the *IRPA*. I agree that no question arises.

JUDGMENT IN IMM-3635-23

THIS COURT'S JUDGMENT is that

1. The application for judicial review is allowed.
2. The decision of the visa officer dated March 13, 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

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APPEARANCES:

Richard X.C. An	FOR THE APPLICANT
Brad Gotkin	FOR THE RESPONDENT

SOLICITORS OF RECORD:

Evremonde Law Professional Corporation Markham, Ontario	FOR THE APPLICANT
Attorney General of Canada Toronto, Ontario	FOR THE RESPONDENT