

Federal Court



Cour fédérale

Date: 20190917

Docket: IMM-6344-18

Citation: 2019 FC 1186

Toronto, Ontario, September 17, 2019

PRESENT: The Honourable Madam Justice Heneghan

BETWEEN:

TATIANA CERVJAKOVA

Applicant

and

**THE MINISTER OF CITIZENSHIP
AND IMMIGRATION**

Respondent

JUDGMENT AND REASONS

[1] Mrs. Tatiana Cervjakova (the “Applicant”) seeks judicial review of the decision of a visa officer (the “Officer”) refusing her application for a study permit.

[2] That application was made pursuant to the *Immigration and Refugee Protection Act*, S.C. 2001, c. 21 (the “Act”) and the *Immigration and Refugee Protection Regulations*, SOR/2002-227 (the “Regulations”).

[3] The Applicant argues that the Officer unreasonably refused her application for a study permit and, among other things, ignored relevant evidence.

[4] The Minister of Citizenship and Immigration (the “Respondent”) submits that the Applicant failed to produce evidence to support her application and the refusal by the Officer was reasonable.

[5] The decision is reviewable on the standard of reasonableness; see the decision in *Akomolafe v. Canada (Minister of Citizenship and Immigration)*, 2016 FC 472 at paragraph 9.

[6] According to the decision in *Dunsmuir v. New Brunswick*, [2008] 1 S.C.R. 190, the standard of reasonableness requires that a decision be justifiable, transparent and intelligible, falling within a range of possible, acceptable outcomes that are defensible on the law and the facts.

[7] In my opinion, the Officer’s decision fails to meet the applicable standard of review.

[8] I am not satisfied that the Officer reasonably considered the evidence submitted by the Applicant.

[9] The Officer, in my opinion, carried out a perfunctory assessment following the Applicant’s successful challenge, by judicial review, to the first refusal of her application for a

study permit; see the decision in *Cervjakova v. Canada (Minister of Citizenship and Immigration)*, 2018 FC 1052.

[10] In the result, this application for judicial review is allowed, the decision of the Officer is set aside and the matter is remitted to a different officer for re-determination.

[11] There is no question for certification.

JUDGMENT in IMM-6344-18

THIS COURT'S JUDGMENT is that the application for judicial review is allowed, the decision of the Officer is set aside and the matter remitted to a different officer for re-determination; there is no question for certification arising.

“E. Heneghan”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-6344-18

STYLE OF CAUSE: TATJANA CERVJAKOVA v. THE MINISTER OF
CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: TORONTO, ONTARIO

DATE OF HEARING: SEPTEMBER 17, 2019

JUDGMENT AND REASONS: HENEGHAN J.

DATED: SEPTEMBER 17, 2019

APPEARANCES:

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