Federal Court Cour fédérale

Date: 20200220

Docket: IMM-4553-19

Citation: 2020 FC 282

Vancouver, British Columbia, February 20, 2020

PRESENT: The Honourable Madam Justice Roussel

BETWEEN:

PRINCE NIMELY

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

I. Background

[1] The Applicant, Prince Nimely, seeks judicial review of a decision by a visa officer [Officer] at the High Commission of Canada, in Accra, Ghana, dated July 8, 2019, refusing his application for a study permit made outside Canada.

[2] The Applicant is a citizen of Liberia. In 2019, the Applicant applied for a study permit under subsection 216(1) of the *Immigration and Refugee Protection Regulations*, SOR/2002-227,

after being accepted into a one-year Bible Certificate program at the Canada Christian College and School of Graduate Theological Studies [College], based in Whitby, Ontario, starting in September 2019 and ending in April 2020.

[3] After considering the application, the Officer was not satisfied that the Applicant would leave Canada at the end of his stay, based on three (3) grounds: (1) the Applicant's plan of studies appeared vague and poorly documented; (2) the Applicant's incentives to remain in Canada could outweigh his ties to his home country given his family ties or economic motives to remain in Canada; and (3) the Applicant did not appear to be sufficiently well established such that the proposed studies would be a reasonable expense.

[4] The Applicant contends that the Officer's decision is unreasonable and unsupported by the evidence.

II. Analysis

[5] In *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [*Vavilov*], the Supreme Court of Canada held that reasonableness is the presumptive standard of review for decisions made by administrative decision makers (*Vavilov* at paras 10, 16-17). None of the exceptions described in *Vavilov* apply here.

[6] In providing guidance on what constitutes a reasonable decision, the Supreme Court of Canada explained that "[t]he burden is on the party challenging the decision to show that it is unreasonable" (*Vavilov* at para 100). The reviewing court must consider "the decision actually

made by the decision maker, including both the decision maker's reasoning process and the outcome" (*Vavilov* at para 83) to determine whether the decision 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). Close attention must be paid to a decision maker's written reasons and they must be read holistically and contextually (*Vavilov* at para 97). It is not a "line-by-line treasure hunt for error" (*Vavilov* at para 102). If "the decision bears the hallmarks of reasonableness — justification, transparency and intelligibility — and [if] it is justified in relation to the relevant factual and legal constraints that bear on the decision", it is not for the reviewing court to substitute the outcome it would prefer (*Vavilov* at para 99).

[7] In the context of decisions made by visa officers, extensive reasons are not required for the decision to be reasonable given the immense pressure they have to produce a large volume of decisions every day (*Vavilov* at paras 91, 128; *Hajiyeva v Canada (Citizenship and Immigration)*, 2020 FC 71 at para 6 [*Hajiyeva*]). Moreover, it is well established that they are entitled to considerable deference given the level of expertise they bring to these matters (*Vavilov* at para 93; *Hajiyeva* at para 4; *Solopova v Canada (Citizenship and Immigration)*, 2016 FC 690 at para 12; *Akomolafe v Canada (Citizenship and Immigration)*, 2016 FC 472 at para 22).

[8] The Applicant argues that it was unreasonable for the Officer to find that his plan of studies appeared vague and poorly documented. His application for a study permit indicated that he has been the church pastor of his congregation since 2008 and that he attended biblical studies in 2016 at the WEPA College of Theology and Mission in Liberia. According to the Applicant,

the Officer should have considered that this one-year course in Canada was just a natural progression in his biblical, educational and professional life.

[9] While the Officer could have viewed the Applicant's plan of studies in the manner that the Applicant suggests, it was entirely open to the Officer to find that the plan was indeed vague and poorly documented. There was no plan of study outlining the Applicant's long-term goals. The Applicant did not articulate how these studies would benefit him. There was no indication of how these studies were different from those he had followed in 2016. Aside from the Applicant's statements in his application form and the acceptance letter from the College, there was simply no other information for the Officer to assess.

[10] The Applicant also argued that it was unreasonable for the Officer to believe that his incentives to remain in Canada might outweigh his ties to his home country given that his wife, four (4) minor children and congregation are in Liberia.

[11] The Applicant's argument must fail. To begin with, the Officer did not have the benefit of knowing that the Applicant had children. There is no evidence on the record to that effect. Also, while the Officer could have found that the bond of a wife and congregation are strong incentives to return to one's country, it was not unreasonable for the Officer to find otherwise given the record before him.

[12] Finally, the Applicant submits that the Officer was misguided on the issue of the Applicant's ability to support himself while in Canada. The letter of acceptance from the College

stated that his tuition fees were paid in full, and his application for the study permit indicated that his other fees would be paid by his church. However, the Applicant concedes that he did not provide any financial documents from the church or other proof of funds demonstrating how he would be able to support himself in Canada and his family in Liberia, all while he is attending his studies in Canada. In the absence of such documents, it was not unreasonable for the Officer to have concerns regarding the reasonableness of the expense to come and study in Canada.

[13] While I recognize that a visa officer must examine the totality of the Applicant's circumstances, the onus was on the Applicant to establish, on the balance of probabilities, that he would leave Canada at the end of the authorized stay. His application lacks both information and detail. Moreover, the Applicant adduced no additional evidence to support his application, aside from the acceptance letter from the College and receipts related to the payment of his tuition fees. In that context, I am satisfied that the Officer's reasons were responsive to the information and the evidence provided by the Applicant.

[14] For these reasons, the application for judicial review is dismissed.

[15] No questions of general importance were proposed for certification, and I agree that none arise.

JUDGMENT in IMM-4553-19

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is dismissed; and

2. No question of general importance is certified.

"Sylvie E. Roussel"

Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	IMM-4553-19
STYLE OF CAUSE:	PRINCE NIMELY v THE MINISTER OF CITIZENSHIP AND IMMIGRATION
PLACE OF HEARING:	VANCOUVER, BRITISH COLUMBIA
DATE OF HEARING:	FEBRUARY 19, 2020
JUDGMENT AND REASONS:	ROUSSEL J.
DATED:	FEBRUARY 20, 2020

APPEARANCES:

Malvin J. Harding	FOR THE APPLICANT
Charlotte Chan	FOR THE RESPONDENT

SOLICITORS OF RECORD:

Malvin J. Harding Barrister and Solicitor Surrey, British Columbia	FOR THE APPLICANT
Attorney General of Canada Vancouver, British Columbia	FOR THE RESPONDENT