

Federal Court



Cour fédérale

Date: 20200630

Docket: IMM-4422-19

Citation: 2020 FC 740

Ottawa, Ontario, June 30, 2020

PRESENT: The Honourable Madam Justice Roussel

BETWEEN:

JULIET CARIN

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

[1] The Applicant, Juliet Carin, is a citizen of the Philippines who has been working in the United Arab Emirates [UAE] since January 2013. She seeks judicial review of a decision by a visa officer [Officer] at the Embassy of Canada in Abu Dhabi, UAE, dated July 15, 2019, refusing her application for a study permit. The Officer was not satisfied that the Applicant would leave Canada at the end of her stay because of the purpose of her visit, the limited

employment prospects in her country of residence, her current employment situation and her personal assets and financial status.

[2] The Applicant submits that the decision is unreasonable because the Officer's reasons fail to provide any rational basis for doubting that she is a genuine student and for finding that her ties outside Canada are insufficient to compel her to leave Canada after her studies.

[3] I agree.

[4] The reasonableness standard of review applies to a visa officer's factual assessment of an application for a study permit and an officer's belief that an applicant will not leave Canada at the end of his or her stay (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at paras 10, 16-17 [*Vavilov*]; *Mekhissi v Canada (Citizenship and Immigration)*, 2020 FC 230 at paras 11-13; *Aghaalikhani v Canada (Citizenship and Immigration)*, 2019 FC 1080 at para 11; *Emesiobi v Canada (Citizenship and Immigration)*, 2018 FC 90 at para 11). While extensive or perfect reasons are not required for the decision to be reasonable, the decision must be based on an internally coherent and rational chain of analysis and must be justified in relation to the facts and the law (*Vavilov* at para 85). It must also bear "the hallmarks of reasonableness – justification, transparency and intelligibility" (*Vavilov* at para 99).

[5] The Global Case Management System notes, which form part of the decision, indicate that the Officer was not satisfied that the Applicant was a genuine student who would pursue her studies in Canada. According to the Officer, "the stated benefits of the [Applicant's] intended

studies do not seem to warrant the cost and difficulty of undertaking foreign education”. The Officer was not satisfied that the Applicant “will enroll in a DLI [designated learning institution] and pursue his [*sic*] studies as required by R220.1(1) or leave Canada at the end of the period authorized for their stay as required by R216(1)(b).”

[6] Leaving aside the fact that the Officer refers to the Applicant in the wrong gender, the Officer fails to engage in any way with the Applicant’s motivations outlined in the letter that accompanied her application.

[7] The Applicant explained that she earned a bachelor’s degree in business administration in the Philippines and then moved to the Middle East to pursue a career in the field of human resources and business administration. She did so to earn enough money to continue her education since university graduates in the Philippines only earn a fraction of the amount they can earn in the UAE. In order to stand out from other job applicants in the Philippines, and knowing that Canadian credentials are highly esteemed by employers in her country, she decided to pursue a diploma in social work at a specific college in Canada. She explains that pursuing an education in Canada will enable her to find stable, higher-earning and more rewarding employment than she can earn with her current education and work experience. It will also help her realize her dream of finding employment with the Department of Social Welfare and Development in the Philippines. She further explains that the social work training courses in the Philippines span over four (4) years, in contrast with the two-year intensive course she is intending to follow in Canada. This chosen program of study will enable her to advance her

career in the Philippines and help her reunite with her husband and two (2) daughters who are still in the Philippines. She has already completed the online introduction course at the college.

[8] Despite the explanations provided by the Applicant in her motivation letter, the Officer provides no reasons for doubting that the Applicant genuinely intends to pursue studies in Canada, or why the cost and difficulty of obtaining a foreign education would outweigh the benefit stated by the Applicant in her motivation letter. It is unclear from the reasons which difficulties the Officer is referring to and why the cost of the program is unwarranted. In addition to her motivation letter, the Applicant's application included proof of her admission to the two-year course at the college, as well as proof that she had paid the first instalment of her tuition fees. She also provided proof of property ownership in the Philippines and statements from banks in the UAE, the Philippines and Canada showing that her savings exceeded the amounts required to qualify for the issuance of a study permit.

[9] Given the Applicant's demonstrated ability to afford the expense and her specific reasons for choosing the program, I find that the Officer's bald statement that "the benefits of the intended studies do not seem to warrant the cost and difficulty of undertaking foreign education" falls short of the reasonableness standard.

[10] Similarly, I find that the Officer's reasons fail to include a rational basis for concluding that the Applicant's ties are insufficient to compel her to leave Canada after her studies. Her husband and two (2) daughters live in the Philippines, and they will not be accompanying the Applicant during her studies. The Applicant's mother also lives in the Philippines. The Applicant

owns property in the Philippines. In contrast, the Applicant has no family ties in Canada, and there is no other evidence of property ownership in Canada. Moreover, the Applicant also demonstrated past compliance with foreign immigration requirements by producing passport stamps showing that she has travelled to various countries and always departed before the end of her authorized stay.

[11] I recognize that a visa officer is entitled to considerable deference when granting or refusing study permits and that it is not the role of this Court to reweigh the evidence on the record or to substitute its own conclusions for those of the visa officer. However, I find that even when read as a whole, the requirements of a reasonable decision have not been met in this instance, as I am unable to understand the reasoning that led to the Officer's conclusion (*Vavilov* at para 96).

[12] For these reasons, the application for judicial review is allowed and the matter is referred back for redetermination by a different officer. No questions of general importance were proposed for certification, and I agree that none arise.

JUDGMENT in IMM-4422-19

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is allowed;
2. The decision is set aside and the matter is remitted back to a different officer for redetermination; and
3. No question of general importance is certified.

“Sylvie E. Roussel”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-4422-19

STYLE OF CAUSE: JULIET CARIN v THE MINISTER OF CITIZENSHIP
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