

Federal Court



Cour fédérale

Date: 20230215

Docket: IMM-4050-22

Citation: 2023 FC 218

Ottawa, Ontario, February 15, 2023

PRESENT: Madam Justice Sadrehashemi

BETWEEN:

AMIN SHOHRATIFAR

Applicant

and

**MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

I. Overview

[1] The Applicant, Amin Shohratifar (“Mr. Shohratifar”) is a 23-year-old citizen of Iran. In November 2021, Mr. Shohratifar applied for a study permit to pursue a diploma in Business Administration at Humber College in Toronto, Ontario. On December 31, 2021, an Immigration, Refugees and Citizenship Canada [IRCC] officer (“the Officer”) denied Mr. Shohratifar’s study permit. The Officer was not satisfied that Mr. Shohratifar would leave Canada at the end of his

stay based on the following factors: a lack of sufficient ties to his home country, that he had not demonstrated that he had sufficient funds to pursue the program, that the program was not a reasonable expense given his socio-economic situation, and that his study plan was not reasonable given his education and employment history.

[2] Mr. Shohratifar challenges these findings, principally arguing that the Officer misapprehended the evidence before them. I agree with Mr. Shohratifar. The Officer failed to address relevant evidence that went against their conclusions, and failed to explain to Mr. Shohratifar the basis for some of these key findings in light of the evidence. Because of my determination that the Officer's decision is unreasonable and requires redetermination on this basis, it is unnecessary for me to address the procedural fairness argument also raised by Mr. Shohratifar.

[3] Based on the reasons below, the application for judicial review is allowed.

II. Issue and Standard of Review

[4] The determinative issue on judicial review is whether the Officer's determination that they were not satisfied that Mr. Shohratifar would leave Canada at the end of the period of authorization is reasonable. Both parties agree that the applicable standard of review is reasonableness. The Supreme Court of Canada in *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [Vavilov] confirmed that reasonableness is the presumptive standard of review when reviewing administrative decisions on their merits. This case raises no issue that would justify a departure from that presumption.

III. Analysis

[5] The requirement that an officer be satisfied that a person applying to study in Canada will not overstay the period authorized for their stay is set out in subsections 11(1) and 20(1) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [IRPA] and in paragraph 216(1)(b) of the *Immigration and Refugee Protection Regulations*, SOR/2002-227 [IRPR]. The Officer based their determination that Mr. Shohratifar is not likely to leave Canada at the end of his authorized stay on three factors: study plan, socio-economic situation, and lack of sufficiently strong ties to his home country.

[6] In evaluating the reasonableness of a decision, a reviewing court must consider the decision's institutional context (*Vavilov* at paras 91 and 103). Visa officers are responsible for considering a high volume of study permit applications. While extensive reasons are not required, an officer's decision must be transparent, justified, and intelligible (*Vavilov* at para 15). There needs to be a "rational chain of analysis" so that a person impacted by the decision can understand the basis for the determination (*Vavilov* at para 103; see also *Patel v Canada (Minister of Citizenship and Immigration)*, 2020 FC 77 at para 17 [*Patel*]; *Samra v Canada (Minister of Citizenship and Immigration)*, 2020 FC 157 at para 23; and *Rodriguez Martinez v Canada (Minister of Citizenship and Immigration)*, 2020 FC 293 at paras 13–14).

[7] I find the Officer's analysis of each of these three factors (study plan, socio-economic situation, and ties to home country) is unreasonable. The Officer either fundamentally

misapprehended the evidence before them and/or failed to coherently explain how they reached a conclusion.

A. *Study Plan*

[8] The Officer finds that Mr. Shohratifar's study plan "does not appear reasonable given the applicant's employment and education history." Other than stating that Mr. Shohratifar has a poor academic record, the Officer does not explain what it is about Mr. Shohratifar's employment and education history that make his proposed study plan unreasonable. The evidence before the Officer was that Mr. Shohratifar began a nursing degree, a decision that he asserts was driven primarily by his parents. After two semesters (where, as noted by the Officer, he did not do particularly well academically), he quit because he did not enjoy the program and did not want to continue in that field. He then worked as an assistant manager at a hotel. Mr. Shohratifar explained in the letter before the Officer that it was through his work at the hotel that he developed an interest for business administration.

[9] It is unclear how the Officer reached their conclusion that the study plan was not reasonable in these circumstances. The Officer provided no justification explaining what it was in Mr. Shohratifar's employment or education history that made this study plan unreasonable. An explanation is required.

B. *Socio-economic Situation*

[10] This same problem of failing to provide a justification for a conclusion also arises in the Officer's determination on Mr. Shohratifar's socio-economic situation and the reasonableness of the education expense. The evidence on the record included: payment for half of the first year tuition, a letter from his father's employer stating his father's salary, property deeds in his father's name, and a bank statement from his father showing approximately \$107,000 CAD in the bank.

[11] The Officer found that Mr. Shohratifar had not demonstrated that there were sufficient or available funds for the program. The Officer further found that because of Mr. Shohratifar's "socio-economic situation" the program was not a reasonable expense.

[12] Again, there is no explanation for these conclusions. Before me, the parties took opposing positions on whether the evidence clearly demonstrated that the financial resources were sufficient to fund the program. The problem their positions highlight is that the Officer failed to explain how they reached their conclusion that the Applicant did not have sufficient funds. There are different ways to read the evidence. It is not the Court's role on judicial review to speculate about why the Officer arrived at this conclusion (*Vavilov* at para 97). The justifications offered by the Respondent at the judicial review hearing were attempts to fill the gaps in the Officer's reasons. It was unreasonable for the Officer to not explain why they concluded that Mr. Shohratifar had insufficient funds and that based on this view of his finances, that the program was not a reasonable expense.

C. *Ties to Country of Residence*

[13] The Officer's conclusion that Mr. Shohratifar does not have sufficiently strong ties to Iran is also not explained and not supported by the evidence. The only basis for this finding in the Officer's reasons is the remark that Mr. Shohratifar is single, mobile, and has no dependents. This Court has repeatedly cautioned that the mere fact that an applicant does not have dependents and is single, without any further analysis, is not a basis to draw a negative inference (*Barril v Canada (Minister of Citizenship and Immigration)*, 2022 FC 400 at para 20).

[14] There is no mention of the various ways that Mr. Shohratifar clearly has ties to Iran, including that he lives in Iran with his parents and siblings, that he has only lived in Iran, was educated in Iran, and that his work experience is in Iran. Mr. Shohratifar also described his intention to return to Iran to continue his career and build his life there. The Officer makes no mention of any of these relevant facts and evidence despite it pointing in the opposite direction to the negative determination they made. This too is unreasonable (*Jafari v Canada (Minister of Citizenship and Immigration)*, 2023 FC 183 at paras 18-20).

IV. Disposition

[15] The application for judicial review is allowed. Neither party raised a question for certification and I agree that none arises.

JUDGMENT IN IMM-4050-22

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is granted;
2. The matter is sent back to be redetermined by a different decision-maker; and
3. No serious question of general importance is certified.

"Lobat Sadrehashemi"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-4050-22

STYLE OF CAUSE: AMIN SHOHRATIFAR V MCI

PLACE OF HEARING: HELD BY VIDEOCONFERENCE

DATE OF HEARING: FEBRUARY 8, 2023

JUDGMENT AND REASONS: SADREHASHEMI J.

DATED: FEBRUARY 15, 2023

APPEARANCES:

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