Federal Court  Cour fédérale

Date: 20240418

Docket: IMM-2644-23

Citation: 2024 FC 598

Toronto, Ontario, April 18, 2024

PRESENT: The Honourable Mr. Justice A. Grant

BETWEEN:

PARSA MOHAMMADI

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

I. Overview

[1] The Applicant, a young Iranian citizen, was refused a study permit to attend Grade 12 at a private Ontario high school. A visa officer at Immigration, Refugees and Citizenship Canada [IRCC] found that the Applicant had not established that he would leave Canada at the end of his studies and refused the study permit. The refusal was based on two key findings: 1) the officer was not satisfied that the purpose of the Applicant's visit to Canada was consistent with a

temporary stay; and 2) the Applicant had not provided adequate information to establish that he had sufficient finances to support the stated purpose of his travel.

[2] Based on the information that was before the officer, I find that the first basis on which the permit was denied was unreasonable. However, the Applicant's failure to provide proper bank statements, or to otherwise demonstrate the stability of his (and his parents') funds, justified the second basis on which the officer refused the permit. As this 'standalone' element of the officer's decision was reasonable, I must dismiss this application for judicial review.

II. Background

[3] On January 25, 2023, when the Applicant was 18-years-old, he applied for a study permit to complete grade 12 at Inception School in Markham, Ontario, for an expected study period of April 4, 2023 to March 30, 2024. This was his fourth application to come to Canada, having previously been denied visas in January and June 2018, and in December 2022.

[4] In his most recent application, the Applicant provided information and documents on various aspects of his financial situation. He stated that tuition was $18,500 and room and board was $14,000. He noted he had $168,000 worth of funds from his parents available for his stay. The Applicant further submitted that, at the time of his study permit application, his education fees were already fully paid for by his parents and he met all other requirements for enrolling in Inception School. The Applicant's father also submitted a "non-financial obligation letter" in which he undertook to pay, for the entirety of the Applicant's stay in Canada, all of the Applicant's educational, medical, recreational, food, clothing, and travel expenses, as well as his accommodations.

[5] As part of a study plan submitted in support of his application, the Applicant stated that he wanted to complete his high school education in Canada because he wished to experience being part of an international community of students in Canada; that he wanted to improve his English language skills; and that he wanted to pursue studies in computer science at Toronto Metropolitan University upon completing high school. The Applicant also submitted that the plan was for him to take over his father's position in business once he had obtained his computer science degree and returned to Iran.

III. Decision Below

[6] As briefly outlined above, IRCC refused the Applicant's study permit application. The bulk of the decision letter states:

> I am refusing your application because you have not established that you will leave Canada, based on the following factors:
>
> - Your assets and financial situation are insufficient to support the stated purpose of travel for yourself (and any accompanying family member(s), if applicable).
>
> - The purpose of your visit to Canada is not consistent with a temporary stay given the details you have provided in your application.

[7] In addition to the decision letter, the officer's notes, as contained in the Global Case Management System [GCMS], which form part of the reasons, state:

> I have reviewed the application. I have considered the following factors in my decision. No bank statement submitted to check movement of funds on the account. In the absence of satisfactory documentation showing the source of these funds, I am not satisfied the PA has sufficient funds for the intended purpose. 18 years old applicant to study at Inception School— grade 12. The purpose of the visit itself does not appear to be reasonable, in view of the fact that similar programs are available closer to the applicant's place of residence. Motivation to pursue studies in

> Canada does not seem reasonable given that a comparative course is offered in their home country for a fraction of the cost. The purpose of visit does not appear reasonable given the applicant's socio-economic situation and therefore I am not satisfied that the applicant would leave Canada at the end of the period of authorized stay. Weighing the factors in this application. I am not satisfied that the applicant will depart Canada at the end of the period authorized for their stay. For the reasons above, I have refused this application.

IV. Issue

[8] The sole issue for determination on this application is whether this refusal of the Applicant's study permit application is reasonable.

V. Standard of Review

[9] The parties agree, and I concur, that the decision is reviewable on the standard of reasonableness, as articulated by the Supreme Court of Canada in *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [*Vavilov*]. As the Applicant acknowledges, the reasonableness standard has regularly been applied in the study permit context: *Akomolafe v Canada (Citizenship and Immigration)*, 2016 FC 472 at paras 9, 12; *Yuzer v Canada (Citizenship and Immigration)*, 2019 FC 781 at para 8.

[10] Reasonableness is a deferential, but robust, standard of review: *Vavilov* at paras 12–13. The court must give considerable deference to the decision-maker, as the entity delegated power from Parliament and equipped with specialized knowledge and understanding of the "purposes and practical realities of the relevant administrative regime:" *Vavilov* at para 93. Absent exceptional circumstances, reviewing courts must not interfere with the decision-maker's factual

findings and cannot reweigh and reassess evidence considered by the decision-maker: *Vavilov* at para 125.

[11] That being said, reasonableness review is not a mere "rubber-stamping" process: *Vavilov* at para 13. It is the reviewing court's task to assess whether the decision as a whole is reasonable; the question on reasonableness review is whether the decision is based on an internally coherent and rational chain of analysis that is justified in relation to the facts and law: *Vavilov* at para 85. While exhaustive reasons for decisions on applications for temporary resident visas are not necessary, they must still meet the requirements of justification, transparency, and intelligibility as set out in *Vavilov*: *Chantale v Canada (Citizenship and Immigration)*, 2021 FC 544 at para 5.

VI. Legislative Framework

[12] Paragraph 20(1)(b) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 provides that a foreign national wishing to enter or remain in Canada as a temporary resident must establish that they hold a visa or other document prescribed by the *Immigration and Refugee Protection Regulations*, SOR/2002-227 [IRPR] and will leave Canada by the end of the period authorized for their stay.

[13] Foreign nationals wishing to study in Canada must obtain a study permit to enter the country. The following sections of the IRPR are relevant to the case at bar:

Study permits	**Permis d'études**
216 (1) Subject to subsections (2) and (3), an officer shall issue a study permit to a foreign	**216 (1)** Sous réserve des paragraphes (2) et (3), l'agent délivre un permis d'études à

national if, following an examination, it is established that the foreign national

(a) applied for it in accordance with this Part;

(b) will leave Canada by the end of the period authorized for their stay under Division 2 of Part 9;

(c) meets the requirements of this Part;

(d) meets the requirements of subsections 30(2) and (3), if they must submit to a medical examination under paragraph 16(2)(b) of the Act; and

(e) has been accepted to undertake a program of study at a designated learning institution.

[...]

Financial resources

220 An officer shall not issue a study permit to a foreign national, other than one described in paragraph 215(1)(d) or (e), unless they have sufficient and available financial resources, without working in Canada, to

(a) pay the tuition fees for the course or program of studies that they intend to pursue;

(b) maintain themself and any family members who are accompanying them during their proposed period of study; and

(c) pay the costs of transporting themself and the family members referred to in paragraph (b) to and from Canada.

l'étranger si, à l'issue d'un contrôle, les éléments suivants sont établis :

a) l'étranger a demandé un permis d'études conformément à la présente partie;

b) il quittera le Canada à la fin de la période de séjour qui lui est applicable au titre de la section 2 de la partie 9;

c) il remplit les exigences prévues à la présente partie;

d) s'il est tenu de se soumettre à une visite médicale en application du paragraphe 16(2) de la Loi, il satisfait aux exigences prévues aux paragraphes 30(2) et (3);

e) il a été admis à un programme d'études par un établissement d'enseignement désigné.

[...]

Ressources financières

220 À l'exception des personnes visées aux sous-alinéas 215(1)d) ou e), l'agent ne délivre pas de permis d'études à l'étranger à moins que celui-ci ne dispose, sans qu'il lui soit nécessaire d'exercer un emploi au Canada, de ressources financières suffisantes pour :

a) acquitter les frais de scolarité des cours qu'il a l'intention de suivre;

b) subvenir à ses propres besoins et à ceux des membres de sa famille qui l'accompagnent durant ses études;

c) acquitter les frais de transport pour lui-même et les membres de sa famille visés à l'alinéa b) pour venir au Canada et en repartir.

VII. Analysis

[14] As noted above, I find that the officer's decision was reasonable with respect to the adequacy of the financial information which was provided in support of the Applicant's application. While this finding is dispositive of this application for judicial review, I will briefly comment on other aspects of the decision that I find to be unreasonable.

A. *Sufficiency of funds*

[15] In support of his application, the Applicant provided various financial documents which were presumably meant to establish that he had sufficient financial resources to cover the costs of his stay in Canada, pursuant to section 220 of the IRPR. These documents included a "point in time" bank statement, various land title deeds, tax payment receipts, insurance premium receipts, and employee salary amounts. The Applicant argues that the officer erred in failing to have adequate regard to these documents which, taken together, clearly establish that he had sufficient financial resources to fund his trip. For the below reasons, I disagree.

[16] As the officer pointed out, the Applicant did not provide any information documenting the movement of funds into, or out of, the Applicant's parents' bank accounts, or the source of those funds. In these circumstances, the officer found that the Applicant had not provided sufficient evidence to establish that he met the requirements of the IRPR. At root, I find that the Applicant is asking me to arrive at a different conclusion on this evidence; to find, in effect, that the officer improperly weighed the evidence which, according to the Applicant, *is* sufficient to meet the regulatory requirements. As noted above, however, this is not the role of the Court on judicial review.

[17] With the exception of the bank letter, I acknowledge that the officer did not make specific reference to the other financial documents provided by the Applicant. However, as the Respondent points out, none of this evidence addressed the officer's central concern, which was that the Applicant had failed to provide any information on the stability or movement of the available funds. I further agree with the Respondent that the other documents, namely the land deeds and the business-related information, provided no information as to the actual income or liquid assets available to the Applicant to fund his stay.

[18] Moreover, though this information is not contained in the record, it appears that study permit applicants are specifically requested to provide, amongst other things, copies of bank statements spanning several months as proof of financial support. Justice Régimbald recently made reference to instructions provided to study permit applicants from Iran which, in that case, included requests to provide bank statements covering financial activity over six months: *Aghvamiamoli v Canada (Citizenship and Immigration)*, 2023 FC 1613 [*Aghvamiamoli*] at para 28. Justice Régimbald continued at paragraph 29:

> This Court has also held that when assessing a study permit application, an officer must not only look at an applicant's bank account, but also conduct a more detailed and fulsome analysis about the source, origin, nature, and stability of these funds to determine if the applicant is able to defray the cost of their stay in Canada for the duration of their studies.

[19] The Applicant distinguishes *Aghvamiamoli*, noting that in that case the applicant's parents were deceased and his bank information demonstrated low balances. While this is true, this distinction does not address the core of the officer's concern which, similarly, related to a

lack of documentation on the source and stability of the funds relied on in the Applicant's father's bank account.

[20] Much the same can be said of the Applicant's attempts to distinguish other cases relied on by the Respondent, such as *Kita v Canada (Citizenship and Immigration)*, 2020 FC 1084; *Bidassa v Canada (Citizenship and Immigration)*, 2022 FC 242; and *Zeinali v Canada (Citizenship and Immigration)*, 2022 FC 1539. While the financial situation of the parties in those cases may have appeared more tenuous than the Applicant's situation, the fact remains that the Applicant's evidence did not squarely address a key factor in the officer's analysis, namely, the Applicant's stable access to sufficient financial resources to cover the costs of his studies in Canada.

[21] The conditions set out at section 220 of the IRPR are mandatory and go beyond merely paying the tuition fees for the intended program of studies; they must be met in order for an officer to approve a study permit application. For the reasons set out above, I find the officer's reasons on this element of the decision are reasonable. This finding is determinative of this application for judicial review. While below I outline other aspects of the decision that I find to be problematic, the reasonableness of the decision on the financial support issue requires me to dismiss this application for judicial review. As Justice Régimbald stated in *Aghvamiamoli (at para 36):*

> Nevertheless, even if the Officer's decision is unreasonable in relation to their conclusions on the significance of the Applicant's ties to Iran, or on his study plan, on which I do not need to conclude, the Officer's decision is reasonable in relation to the lack of financial support. That consideration, on its own, is sufficient to justify the Officer's decision to refuse the Applicant's application for a study permit.

B. *Purpose of visit*

[22] As noted above, while the above findings are determinative of this application, I will make brief reference to other aspects of the officer's decision which, in my view, were clearly unreasonable.

[23] First, the officer erred in stating that the purpose of the Applicant's proposed visit to Canada was unreasonable. On this point, the Applicant argues, and I agree, that the officer failed to engage with the study plan submitted in support of his application. This plan contained detailed reasons as to why the Applicant wanted to complete his high school studies in Canada. On the face of the record, I see nothing 'unreasonable' in this plan.

[24] The officer's failure to engage with the evidence in this regard led to other problems. First, the officer concluded, without evidence, that similar programs were available to the Applicant at a lower cost in Iran. This belies the statements made by the Applicant in his study plan that he wished to learn English in a Canadian milieu, and that he thought that completing high school in Canada would be helpful in his goal of attending university in Canada. The officer's findings on this question were therefore unreasonable, as this Court has found in very similar circumstances in *Musasiwa v Canada (Citizenship and Immigration)*, 2021 FC 617 [*Musasiwa*] at para 27 and *Aghaalikhani v Canada (Citizenship and Immigration)*, 2019 FC 1080 at para 20.

[25] Somewhat related, an officer cannot merely state that alternative, lower-cost programs exist without providing supporting evidence: *Yuzer v Canada (Citizenship and Immigration)*,

2019 FC 781 at para 21 [*Yuzer]*; *Aghaalikhani v Canada (Citizenship and Immigration)*, 2019 FC 1080 at para 20; *Afuah v Canada (Citizenship and Immigration)*, 2021 FC 596 at paras 15, 19 [*Afuah]*.

[26] This said, I do acknowledge that in *Hashemi v Canada (Citizenship and Immigration)*, 2022 FC 1562, Justice Pentney found it reasonable for an officer to assume that a proposed high school program in Canada was also available in Iran. However, in this case, the Applicant's rationale for attending high school in Canada transcended his classroom studies, as the Applicant wanted to be immersed in English, and to be around an international community. In this context, I am not satisfied that an officer could simply assume that an equivalent pedagogical experience was available to the Applicant in Iran.

[27] Second, the Officer erred in finding that the Applicant had failed to establish that he was likely to leave Canada at the end of his stay without making any reference to his strong familial ties to Iran nor his lack of any corresponding ties to Canada. Absent my findings above on the financial aspects of the application, the failure to assess this aspect of the application would, in itself, be a reviewable error: *Musasiwa* at para 25.

[28] Third, the Applicant submits, and I again agree, that the officer erred in concluding that his motivation to study in Canada was unreasonable given the high cost of the program. Several decisions of this court have affirmed that it is not the role of a visa officer to determine the reasonableness of an applicant's desire to invest resources into their education: *Lingepo v Canada (Citizenship and Immigration)*, 2021 FC 552 at para 18; *Caianda v Canada (Citizenship and Immigration)*, 2019 FC 218 at para 5; *Zuo v Canada (Citizenship and Immigration)*, 2007

FC 88 at para 25; *Liu v Canada (Minister of Citizenship and Immigration)*, 2001 FCT 1262 at para 16.

VIII. Conclusion

[29] This Court has recognized that, because of the administrative context of visa applications, the obligation to provide extensive reasons is at the lower end of the spectrum: *Yuzer* at paras 16, 20; *Afuah* at para 9. While in the above paragraphs I pointed to clear errors in the officer's approach, I also found that the officer's separate evaluation of the financial information submitted in support of the Applicant's application was reasonable to support the conclusion that the Applicant did not meet the requirements of section 220 of the IRPR. On this latter, determinative issue, there is an internally coherent and rational chain of analysis that can be discerned from the officer's reasons: *Vavilov* at para 85. As such, this application for judicial review is dismissed.

[30] No question of general purpose for certification was proposed and I agree none exists.

JUDGMENT in IMM-2644-23

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is dismissed.

2. No question is certified for appeal.

"Angus G. Grant"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	IMM-2644-23
STYLE OF CAUSE:	PARSA MOHAMMADI v THE MINISTER OF CITIZENSHIP AND IMMIGRATION
PLACE OF HEARING:	TORONTO, ONTARIO
DATE OF HEARING:	MARCH 25, 2024
JUDGMENT AND REASONS:	GRANT J.
DATED:	APRIL 18, 2024

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