

Federal Court



Cour fédérale

Date: 20240429

Docket: IMM-5060-23

Citation: 2024 FC 653

Ottawa, Ontario, April 29, 2024

PRESENT: Mr. Justice McHaffie

BETWEEN:

ARVIN AMINI

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

[1] Arvin Amini seeks judicial review of the refusal of his application for a study permit to pursue a Bachelor of Business Administration in Project Management at Yorkville University in British Columbia. For the following reasons, I agree that several aspects of the decision refusing his application are unintelligible, such that the decision as a whole is unreasonable. The application is therefore granted and Mr. Amini's study permit application is remitted for redetermination.

[2] The visa officer who reviewed Mr. Amini's application decided they were not satisfied he would leave Canada at the end of his stay, as required by paragraph 216(1)(b) of the *Immigration and Refugee Protection Regulations*, SOR/2002-227. A letter sent to Mr. Amini refusing his application, dated April 14, 2023, identified two reasons for this refusal: (i) Mr. Amini did not have significant family ties outside Canada; and (ii) the purpose of his visit was not consistent with a temporary stay given the details in his application.

[3] The visa officer provided further details in the Global Case Management System [GCMS] maintained by Immigration, Refugees and Citizenship Canada, which constitute part of the reasons for decision. The reasons as found in the GCMS notes read as follows, in their entirety, with passages discussed below underlined:

I have reviewed the application. I have considered the following factors in my decision. The applicant does not have significant family ties outside Canada. I note that PA is single, no dependents and has not demonstrated sufficiently strong ties to their country of residence. PA did not submit transcripts in order to substantiate academic proficiency; therefore, I am not satisfied client demonstrates the academic proficiency necessary to complete studies in Canada. English language proficiency test result is not on file. Adverse information noted on family member. The applicant's study plan refers to general advantageous comments regarding the value of international education in Canada and makes sweeping statements on how the education will improve the applicant's situation in Iran. The applicant has failed to satisfy me that pursuing the selected program of study is reasonable given the high cost of international study in Canada when weighed against the potential career/employment benefits after completion, and the local options available for similar studies. 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.

[Emphasis added.]

[4] In reviewing the merits of the refusal of a study permit application, this Court applies the reasonableness standard: *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at paras 16–17, 23–25; *Ocran v Canada (Citizenship and Immigration)*, 2022 FC 175 at paras 14–16. Justice Pentney recently reviewed the various principles set out in the many decisions of this Court with respect to judicial review of study permit decisions: *Nesarzadeh v Canada (Citizenship and Immigration)*, 2023 FC 568 at paras 5–9. I adopt his clear statement of these principles, which I reproduce here without reference to the underlying cases and legislation:

- A reasonable decision must explain the result, in view of the law and the key facts.
- *Vavilov* seeks to reinforce a “culture of justification” requiring the decision-maker to provide a logical explanation for the result and to be responsive to the parties’ submissions, but it also requires the context for decision-making to be taken into account.
- Visa Officers face a deluge of applications, and their reasons do not need to be lengthy or detailed. However, their reasons do need to set out the key elements of the Officer’s line of analysis and be responsive to the core of the claimant’s submissions on the most relevant points.
- The onus is on the Applicant to satisfy the Officer that they meet the requirements of the law that applies to consideration of student visas, including that they will leave at the end of their authorized stay.
- Visa Officers must consider the “push” and “pull” factors that could lead an Applicant to overstay their visa and stay in Canada, or that would encourage them to return to their home country.

[5] I note that Mr. Amini argues that the visa officer’s failure to consider relevant evidence constitutes a breach of procedural fairness, which should be reviewed on a standard akin to

correctness. However, the Supreme Court of Canada in *Vavilov* was clear that a decision maker's analysis of the evidence, or their failure to undertake such analysis, is a matter going to the merits of the decision and is reviewable on the reasonableness standard: *Vavilov* at paras 125–126.

[6] Applying the principles set out above, I conclude that three aspects of the visa officer's decision refusing Mr. Amini's study permit application raise sufficient concerns about the justification, transparency, and intelligibility of the decision that they render the decision as a whole unreasonable.

[7] First, the visa officer states that Mr. Amini “does not have significant family ties outside Canada.” However, Mr. Amini has no family ties at all within Canada, and the only family members Mr. Amini identified in his application are his parents, who live in Iran. Given that Mr. Amini was, at the time of his application, a 19-year-old student looking to undertake an undergraduate program, the officer's implicit assertion that his parents do not constitute “significant family ties” is unintelligible: *Sadeghinia v Canada (Citizenship and Immigration)*, 2023 FC 107 at paras 16–18, citing *Iyiola v Canada (Citizenship and Immigration)*, 2020 FC 324 at para 20. The officer's reference to Mr. Amini being single with no dependents, itself not surprising for a 19-year-old, without reference to his parents in Iran shows a lack of reasonable analysis of the relevant “push” and “pull” factors.

[8] Second, the visa officer's reference to “[a]dverse information noted on family member” is cryptic and unintelligible. The visa officer does not identify the family member, the

information in question, nor why this adverse information was considered a relevant factor. The submission letter filed by an immigration consultant on Mr. Amini's behalf refers to there having potentially been confusion between Mr. Amini and his father (who has a different given name) when Mr. Amini was previously refused a prior temporary resident visa application. However, attempting to draw a connection between this statement and the visa officer's note would go beyond seeking to understand the decision in light of the record to engage in speculation.

[9] The Minister suggests that this factor was a "marginal" one compared to others the visa officer identified. However, while the "adverse information" about the family member was clearly only one factor among others considered, there is little in the visa officer's decision to indicate the degree to which it was important in the decision. Leaving aside any concern about whether it is appropriate to hold adverse information about a family member against a study permit applicant—a matter that may depend on the nature of the information and the family member, issues on which there is little information here—the visa officer's reasons on this point are neither transparent nor intelligible.

[10] Third, the visa officer referred to Mr. Amini's application making "sweeping statements" on how his proposed education program would improve his situation in Iran. Mr. Amini's explanation letter referred to a high demand in Iran for project management professionals given the country's rapid development and investment in infrastructure projects. It also referred to the various positions, public sector organizations, and private sector companies in which a project management graduate could work. While it is not the Court's role to reassess Mr. Amini's study plan, I conclude that in the context of the particular record before me, the visa officer's broad

dismissal of that plan with the subjective description “sweeping” is insufficient to allow the Court, or Mr. Amini, to understand the nature of the visa officer’s concern or why it led them to conclude that Mr. Amini would not leave Canada at the end of his authorized stay. While this issue may not alone have been sufficient to render the decision unreasonable, it contributes to the concerns about the justification, transparency, and intelligibility of the decision as a whole.

[11] The foregoing matters relate to central aspects of the visa officer’s reasons for dismissing Mr. Amini’s study permit application. In the circumstances, they lead me to conclude that the decision does not show the justification, transparency, and intelligibility required of a reasonable decision.

[12] The application for judicial review will therefore be allowed and Mr. Amini’s study permit application remitted for redetermination. Neither party proposed a question for certification; I agree that none arises in the matter.

JUDGMENT IN IMM-5060-23

THIS COURT'S JUDGMENT is that

1. The application for judicial review is granted. The April 14, 2023, refusal of the applicant's study permit application is set aside and the application is remitted for redetermination by a different visa officer.

“Nicholas McHaffie”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-5060-23

STYLE OF CAUSE: ARVIN AMINI v MINISTER OF CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: OTTAWA, ONTARIO

DATE OF HEARING: FEBRUARY 14, 2024

JUDGMENT AND REASONS: MCHAFFIE J.

DATED: APRIL 29, 2024

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