

Federal Court



Cour fédérale

Date: 20241204

**Docket: IMM-13835-23
IMM-13843-23
IMM-13840-23
IMM-15325-23
IMM-15309-23
IMM-15307-23**

Citation: 2024 FC 1959

Ottawa, Ontario, December 4, 2024

PRESENT: The Honourable Mr. Justice Southcott

BETWEEN:

Docket: IMM-13835-23

PAUL ANGELO SAMPANG

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

AND BETWEEN:

Docket: IMM-13843-23

LEA MARIE SAMPANG

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

AND BETWEEN:

Docket: IMM-13840-23

ANGELITO SAMPANG

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

AND BETWEEN:

Docket: IMM-15325-23

PAUL ANGELO SAMPANG

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

AND BETWEEN:

Docket: IMM-15309-23

LEA MARIE SAMPANG

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

AND BETWEEN:

Docket: IMM-15307-23

ANGELITO SAMPANG

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

I. Overview

[1] This decision addresses six applications for judicial review, brought by three members of the same family, challenging the refusal of their intertwined applications for study and work permits, as well as the refusal of their reconsideration requests. In those impugned decisions by an Immigration, Refugees and Citizenship Canada [IRCC] officer [the Officer], the Officer found the Applicants inadmissible to Canada for misrepresentation due to the use of fraudulent academic transcripts in support of the study permit application of one of the Applicants.

[2] As explained in further detail below, these applications are dismissed, because the Officer's procedure as a whole satisfies the requirements of procedural fairness.

II. Background

[3] The Applicants are all citizens of the Philippines and members of the same family – Lea Marie Sampang and her spouse, Angelito Sampang [together, the Parents], and their son, Paul Angelo Sampang [the Principal Applicant]. In February 2023, the Applicants submitted applications for study and work permits (along with study permit applications for other dependents of the Parents that are not material to the present matters).

[4] In April 2023, IRCC requested that the Principal Applicant submit a post-secondary education letter of acceptance [LOA] from a Designated Learning Institution [DLI]. On May 16, 2023, the Applicants submitted an LOA from Centennial College, which is a DLI in Canada.

[5] Subsequently, without the knowledge of the Parents, the Principal Applicant reached out to IRCC and stated the following:

I am writing this in order to report a case of document fraud/misrepresentation that was committed by my family and myself. Attached to this form is a pdf document detailing the situation in greater clarity, the fake and real versions of the forged documents, the word doc file that was used to commit the doctoring, proof of my identity, and more. All of this is explained clearly in the "Explanation of the Situation" pdf document provided as the 1500-character limit of the web form is insufficient to relay everything in a clear and detailed manner. If more information is required or if any questions are needed to be answered I can be contacted by the email address provided in this web form. Thank you for your time.

[6] In a further communication to IRCC on June 12, 2023, the Principal Applicant reiterated the allegation that he and his family had furnished forged transcripts to Centennial College in order to obtain an LOA. The Principal Applicant stated that his parents had instructed him to doctor the transcripts to make them appear more favourable than his actual academic results.

[7] On June 16, 2023, IRCC sent each of the Applicants procedural fairness letters in materially the same form [the PFL], which included the following extract identifying IRCC's concerns with the genuineness of the Principal Applicant's academic transcripts:

I have concerns that you have not fulfilled the requirement put upon you by subsection 16(1) of the Immigration and Refugee Protection Act which states:

16(1) A person who makes an application must answer truthfully all questions put to them for the purpose of the examination and must produce a visa and all relevant evidence and other documents that the officer reasonable [sic] requires.

Specifically, I am concerned that you have misrepresented your purpose of travel to Canada and your academic history. I note here

that you have engaged in a joint enterprise to furnish non-bona fide transcripts to obtain an LOA and Study Permit to facilitate your family's travel to Canada.

Please note that if it is found that you have engaged in misrepresentation in submitting your application, you may be found to be inadmissible under section 40(1)(a) of the **Immigration and Refugee Protection Act**. A finding of such inadmissibility would render you inadmissible to Canada for a period of five (5) years according to section 40(2)(a):

....

I am offering you an opportunity to respond to our concerns by providing a detailed explanation as well as relevant documentation to support your response. ...

[Emphasis in original.]

[8] The Parents responded to the PFL, stating that the Principal Applicant's school documents submitted with his application were genuine and resubmitting those documents.

[9] On September 2, 2023, the Officer refused the Applicants' applications due to misrepresentation, and they were found to be inadmissible to Canada for a period of five years. Those are the decisions being challenged in three of the within applications for judicial review (IMM-13835-23, IMM-13843-23, and IMM-13840-23) [the Refusal Decisions]. The Officer's Global Case Management System [GCMS] notes provide further reasons for the Refusal Decisions as follows:

File reviewed by Senior Immigration Officer. Online docs and notes reviewed.

PFL reply reviewed. PFL reply is a global assessment of the submissions of the father, mother and son Paul Angelo. They are permanent family members and their purpose and travel is intertwined.

The PA x3 was advised of our concerns by PFL, concern of misrep of purpose of travel to Canada and the academic history of Paul Angelo Sampang. (I note here that you have engaged in a joint enterprise to furnish non-bona fide transcripts to obtain an LOA and Study Permit for Paul Angelo Sampang to facilitate your family's travel to Canada.)

The son Paul Angelo applied for SP on 2023/02/17. The PA was sent a request letter for an LOA to complete his SP application.

The PA submitted an explanation of situation on 12JUN2023 stating that they admit to the entire enterprise:

I am writing this in order to report a case of document fraud/misrepresentation that was committed by my family and myself. Attached to this form is a pdf document detailing the situation in greater clarity, the fake and real versions of the forged documents, the word doc file that was used to commit the doctoring, proof of my identity, and more. All of this is explained clearly in the "Explanation of the Situation" pdf document provided as the 1500-character limit of the web form is insufficient to relay everything in a clear and detailed manner. If more information is required or if any questions are needed to be answered I can be contacted by the email address provided in this web form. Thank you for your time.

I note that the PAs replied on 14JUL2023 and 24JUL2023 wherein they then essentially deny any malfeasance.

The two conflicting submissions appear to be from different parties, the first on 12JUN2023 appears to be from son Paul Angelo and the succeeding submissions from the parents.

I place greater weight on the first submission and admission of capability [*sic*], it is spontaneous and provides substantiating documents which correspond to our own information on file.

I am satisfied that the PA has misrepresented, above are the reasons.

I note that had it not been detected by the careful examination of the information submitted by the PA to our office, this possible misrepresentation would not have been noted or open to the decision maker to review.

Lastly, I consider the full and truthful declaration of a PA's purpose of travel and activities coordinating to deceive by providing non bona fide education documents to be material facts

when examining an application for temporary travel to Canada in this category.

As such, on balance and after review of the information on file and the documents before me I am satisfied the PA is as described in A40 of this Act.

Refused per A40 and A11 of this Act, 5 year prohibition imposed by operation of statute, letter prepared.

[10] On or around September 30, 2023, the Parents received a copy of the GCMS notes related to the Refusal Decisions. The Applicants assert that it was only at that stage that the Parents discovered that the Principal Applicant had self-sabotaged his application for a study permit by using an altered transcript and later informing IRCC of this. With the benefit of this information, on October 31, 2023, the Applicants submitted requests for reconsideration of the Refusal Decisions. On November 9, 2023, in the decisions under review in the other three of the within applications for judicial review (IMM-15325-23, IMM-15309-23, and IMM-15307-23), the Officer refused the reconsideration requests [the Reconsideration Decisions]. The Officer's GCMS notes provide reasons for the Reconsideration Decisions as follows:

Recon request for W308309813 or S305925047 or S305925043

File reviewed by Senior Immigration Officer. Online docs and notes reviewed.

Submission considered, the PA's her with intertwined purpose and intent, parents and child request recon and also request to change A40 to A16.

State that the reason for the misrep was the child did not want to travel so he scuppered the applications for all.

I am not satisfied this is accurate given the review of the cases details. I note that the family was given chance to provide genuine documents but non BF docs were submitted. The parents could not of been completely unaware of this submission and I reject this contention on their part that the son was acting completely of his

own volition, that he produced on [*sic*] bona fide docs, submitted them and then admitted to the fraud all on his own, see the request letter sent to the PA on 04/20 and reply received from mother on 05/02:

Dear Visa Officer,

I hope this week is serving you well.

This is in reference to my first-born son, PAUL ANGELO FLORES SAMPANG's temporary residence application.

“Please submit: Letter of acceptance from a DLI for your post-secondary studies in Canada.”

We would like to request, if possible, for an extension for the 30 days that was given to provide a Letter of acceptance from a DLI for our son's post-secondary studies in Canada.

Based on the above I am satisfied that A40 was correctly applied and no new evidence has been adduced in this instance to cause me too [*sic*] re-consider that decision. Letter prepared.

[11] On December 21, 2023, at the request of the Applicants and upon the consent of the Respondent, Associate Judge Trent Horne issued an Order consolidating all six applications for judicial review.

III. Issues and Standard of Review

[12] The Applicants' written submissions describe the following issues for the Court's determination:

- A. Are the Refusal Decisions unreasonable, because the PFL was not sufficiently specific as to the Officer's concerns, such that the Applicants did not know the case they had to meet and were deprived of a fair opportunity to respond to those concerns?

- B. Are the Reconsideration Decisions unreasonable, because the Officer relied therein on credibility findings without affording the Applicants requisite procedural fairness?

[13] As reflected in this articulation of the issues identified by the Applicants, their written submissions asserted that the reasonableness standard applies to the Court's determination of those issues. However, both issues raise considerations of procedural fairness, which are governed by a standard akin to correctness, requiring the Court to assess whether, in all the circumstances, the process followed by the administrative decision-maker was fair (*Canadian Pacific Railway Company v Canada (Attorney General)*, 2018 FCA 69 at para 54). At the hearing of this application, the Applicants' counsel revisited their submission on standard of review, adopting the position that the standard of correctness governs.

[14] The Applicants' counsel also confirmed at the hearing that their applications for judicial review are advancing solely procedural fairness arguments, not arguments related to the merits of the decisions that would be subject to the standard of reasonableness. Finally, the Applicants' counsel confirmed that these arguments are being advanced only on behalf of the Parents, not on behalf of the Principal Applicant. Counsel explained that the Applicants commenced all six applications for judicial review in order to obtain access to the broadest record, but that the Principal Applicant is no longer seeking to impugn the Officer's decisions as they relate to him.

[15] In analysing the procedural fairness arguments raised by the Applicants, I will reformulate below the articulation of the Applicants' issues, to accurately reflect above.

IV. Analysis

- A. *Was the PFL insufficiently specific as to the Officer's concerns, such that the Parents did not know the case they had to meet and were deprived of a fair opportunity to respond to those concerns?*

[16] The Applicants acknowledge that they received a PFL from IRCC and were therefore aware of the Officer's concerns that they had furnished non-genuine transcripts to obtain an LOA in support of their applications for study and work permits. However, they argue that the contents of the PFL were insufficient to alert the Parents to the source of the Officer's concerns, *i.e.*, the communications from the Principal Applicant stating that forged transcripts had been submitted and that this had been done upon the instruction of the Parents [the Confession Letters].

[17] The Applicants submit that the Parents were not aware of the Confession Letters, had not been aware of or complicit in the Principal Applicant's alteration of his transcripts, and therefore were not aware of the specifics of the Officer's concerns. They argue that, in the absence of a more specific PFL that identified those details, the Parents did not know the case they had to meet in responding to the PFL and were therefore deprived of procedural fairness in the process leading to the Refusal Decisions.

[18] The Respondent disagrees, arguing that the contents of the PFL were sufficient to place the Parents on notice of the nature of the Officer's concerns, related to the genuineness of the Principal Applicant's academic transcripts. The Respondent submits that the Officer's procedural

fairness obligations did not include a requirement to identify more explicitly the precise source of the concern.

[19] At the hearing of this application, the Court raised with counsel the question whether the asserted breach of procedural fairness was in any event remedied by the fact that, upon receiving the Refusal Decisions and the related GCMS notes, the Applicants learned of the source of the Officer's concerns and, with the benefit of that information, submitted a request for reconsideration of the Refusal Decisions and subsequently received the Reconsideration Decisions. The Court drew counsel's attention to the decision in *Weldesensbet v Canada (Citizenship and Immigration)*, 2022 FC 1174 [*Weldesensbet*], which had considered somewhat similar circumstances surrounding an allegedly procedurally unfair process followed by a reconsideration. The Court requested submissions on that authority and the principles canvassed therein, affording counsel an opportunity during the course of the hearing to review the authority and formulate submissions thereon.

[20] *Weldesensbet* involved an application for permanent residence on humanitarian and compassionate grounds, which an IRCC officer dismissed. After retaining new counsel, the applicant sought reconsideration of that decision, alleging that she was denied procedural fairness due to the negligent representation of her former representative. The officer reconsidered the decision but again denied the application. The applicant then sought judicial review of both the original decision and the reconsideration decision.

[21] In her judicial review application, the applicant in *Weldesensbet* again argued that she had been deprived of procedural fairness due to incompetent representation regarding the original decision. However, the Court found that the reconsideration had remedied the alleged breach of procedural fairness. The alleged breach by the former representative did not have a material effect, because the applicant was permitted to file new evidence on reconsideration. The Court found that the procedure as a whole satisfied the requirements of procedural fairness and that there was therefore no longer a live controversy between the parties in relation to the alleged breach (at paras 18-25).

[22] The Applicants argues that *Weldesensbet* is distinguishable because, unlike in the matter at hand, the applicant in *Weldesensbet* had a full understanding of the case it had to meet and, in connection with the reconsideration, an opportunity to submit additional evidence to meet that case. The Applicants contrast those circumstances with the matter at hand, emphasizing their position that the PFL did not identify the existence of the Confession Letters.

[23] The Respondent takes the position that *Weldesensbet* is on point and, regardless of whether the PFL was inadequate and deprived the Applicants of requisite procedural fairness in connection with the Refusal Decisions, that defect was cured by affording the Applicants the opportunity to file new evidence and submissions, after the Applicants received the GCMS notes that identified the particular concerns that led to the Refusal Decisions, and the Officer's subsequent consideration of that evidence and submissions in making the Reconsideration Decisions.

[24] I accept the Applicants' argument that the facts underlying *Weldesebet* are somewhat distinct from those in the matter at hand. In particular, the procedural fairness issue in *Weldesebet* concerned inadequate representation, not a concern that the applicant had not been alerted to the case she needed to meet. However, as explained below, I find no principled basis to distinguish the reasoning in *Weldesebet*.

[25] The Applicants assert that the PFL was deficient, in that it failed to alert the Parents to the Officer's specific concerns arising from the Confession Letters. However, in the Statutory Declaration sworn by Principal Applicant's mother on October 31, 2023, in support of the reconsideration request, she states that: (a) on September 2, 2023, she and her family received the Refusal Decisions; (b) on or around September 30, 2023, she received a copy of the related GCMS notes, at which point she discovered that the Principal Applicant had self-sabotaged his study permit application by using an altered transcript and later informing IRCC what he had done; (c) the Principal Applicant confessed to his actions when the Parents questioned him about the Officer's reasoning in the GCMS notes; and (d) the Parents were not aware of the Principal Applicant's actions until they received a copy of the GCMS notes.

[26] The Parents submitted this evidence in support of their reconsideration request, and it is clear from the Reconsideration Decisions that the Officer took that evidence into account, as the GCMS notes related to the Reconsideration Decisions reference the explanations in that evidence. While the Officer did not accept those explanations as a basis to alter the Refusal Decisions, it is clear that by the time the Reconsideration Decisions were made, the Parents were aware of the case they had to meet and had been provided an opportunity to do so. I therefore

find that the reasoning in *Weldesensbet* applies and that any previous breach of procedural fairness arising from the alleged deficiencies in the PFL had been remedied. The procedure as a whole satisfies the requirements of procedural fairness, and there is no basis for the Court to intervene.

B. *Were the Parents deprived of procedural fairness in connection with the Reconsideration Decisions, because the Officer relied therein on credibility findings without affording the Parents a fair opportunity to respond to those concerns?*

[27] The Applicants also raise procedural fairness concerns about the Reconsideration Decisions.

[28] The Applicants note that the Officer considered their submissions, summarized as stating “... that the reason for the misrep was the child did not want to travel so he scuppered the applications for all.” However, the GCMS notes state that the Officer was not satisfied that these submissions were accurate. The Officer concluded that the Parents could not have been completely unaware of the submission of the non-genuine documents and rejected the Parents’ assertion that the Principal Applicant was acting completely of his own volition. The Applicants argue that this analysis demonstrates the Officer making an adverse credibility finding and that, in such circumstances, procedural fairness requires credibility concerns to be put to an applicant for an opportunity to respond before such findings are made.

[29] The Respondent disputes this characterization of the Reconsideration Decisions, arguing that the Officer’s reasoning was based on the sufficiency of the Applicants’ evidence, such that no procedural fairness obligation arises.

[30] As with the first issue in this application, the Court raised with counsel at the hearing the question whether the procedural fairness principles upon which the Applicants relied were applicable, given the broader context in which the Applicants were aware that they were required to respond to the Officer's concerns that they (including the Parents) were complicit in a misrepresentation, through the submission of an LOA obtained through forged academic transcripts. I drew counsel's attention to this Court's decision in *Alalami v Canada (Citizenship and Immigration)*, 2018 FC 328 [*Alalami*], which had considered an allegedly procedurally unfair process in which a visa officer made a misrepresentation finding based on credibility concerns. As with *Weldesebet*, the Court requested submissions on *Alalami* and the reasoning therein, affording counsel an opportunity during the course of the hearing to review that authority and formulate submissions thereon.

[31] In *Alalami*, the applicant sought a temporary resident visa to visit Canada, and the officer sent him a procedural fairness letter, expressing concern that he had misrepresented his travel and immigration history. The applicant responded that he had made a mistake, having misread the relevant application form, following which the officer found him inadmissible for misrepresentation. The applicant argued that he was deprived of procedural fairness because the officer based the decision on a negative credibility determination without affording him an opportunity to respond to the credibility concerns.

[32] In that case, the parties agreed that the decision demonstrated that the officer did not believe the applicant's application, *i.e.*, that the officer's reasoning did involve a credibility

finding. However, this Court explained as follows why, in the circumstances of that case, no breach of procedural fairness arose (at paras 13-14):

13. However, I disagree with Mr. Alalami's position that the Officer was obliged to advise him that he disbelieved the explanation provided and to give him a further opportunity to comment. I accept that the principles of procedural fairness must be applied before findings of misrepresentation are made. However, after what appeared to be a misrepresentation in Mr. Alalami's application form was identified, he was sent the PFL, which explained the issue and afforded him an opportunity to respond. Mr. Alalami then provided his explanation. I do not consider the principles of procedural fairness to require the Officer to have advised Mr. Alalami that he did not accept the explanation and to have afforded him a further opportunity to comment before arriving at the Decision. The PFL was sufficient to put Mr. Alalami on notice of the issue, including the possibility that the resulting explanation would not be accepted.

14. Applying the standard of correctness, I find no error in the procedure followed in arriving at the Decision.

[33] The Applicants argue that *Alalami* is distinguishable, because there were no concerns in that case about the adequacy of the procedural fairness letter employed by the officer. In contrast, the Applicants emphasize their position that the PFL employed by the Officer in the matter at hand was insufficient and ultimately led to the Officer's credibility concern and resulting negative Reconsideration Decisions.

[34] The Respondent argues that *Alalami* is determinative of the procedural fairness issue the Applicants raise in connection with the Reconsideration Decisions in that, even if the relevant finding were to be characterized as one of credibility rather than sufficiency of evidence, the *Alalami* reasoning precludes a conclusion that the Applicants were deprived of procedural fairness.

[35] I take the Applicants' point that *Alalami* is not on all fours with the matter at hand. In *Alalami*, the Court's conclusion that the process was procedurally fair turned on the notice that was given to the applicant through the procedural fairness letter, the adequacy of which was not in dispute. In contrast, in the matter at hand, while (because of the application of the reasoning in *Weldesebet*), it has not been necessary for the Court to adjudicate the Applicants' argument surrounding the adequacy of the PFL, the Applicants do challenge that adequacy.

[36] However, in my view the logic of *Alalami* nevertheless applies. Regardless of the adequacy of the PFL, by the time of the Reconsideration Decisions, the Applicants (including the Parents) knew the case they had to meet, including the Officer's concern that the Parents were complicit in the forgery and misrepresentation. The Applicants responded to the effect that the Parents had no knowledge of the Principal Applicant's forgery. Even assuming the Officer's resulting analysis to have involved an adverse credibility finding, I do not consider the principles of procedural fairness to have required the Officer to advise the Applicants that he did not accept their explanation and afford them a further opportunity to comment before arriving at the Reconsideration Decisions.

[37] Again, I find no basis for the Court to intervene in this matter.

[38] Having considered the Applicants' arguments and finding, having regard to all the circumstances, that the process as a whole was fair, these applications for judicial review must be dismissed. Neither party proposed any question for certification for appeal, and none is stated.

JUDGMENT IN IMM-13835-23, IMM-13843-23, IMM-13840-23, IMM-15325-23, IMM-15309-23, and IMM-15307-23

THIS COURT'S JUDGMENT is that:

1. This application for judicial review is dismissed
2. No question is certified for appeal.

"Richard F. Southcott"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-1385-23

STYLE OF CAUSE: PAUL ANGELO SAMPANG v. THE MINISTER OF
CITIZENSHIP AND IMMIGRATION

DOCKET: IMM-13843-23

STYLE OF CAUSE: LEA MARIE SAMPANG v. THE MINISTER OF
CITIZENSHIP AND IMMIGRATION

DOCKET: IMM-13840-23-23

STYLE OF CAUSE: ANGELITO SAMPANG v. THE MINISTER OF
CITIZENSHIP AND IMMIGRATION

DOCKET: IMM-15325-23-23

STYLE OF CAUSE: PAUL ANGELO SAMPANG v. THE MINISTER OF
CITIZENSHIP AND IMMIGRATION

DOCKET: IMM-15309-23

STYLE OF CAUSE: LEA MARIE SAMPANG v. THE MINISTER OF
CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: TORONTO, ONTARIO

DATE OF HEARING: NOVEMBER 19, 2024

JUDGMENT AND REASONS: SOUTHCOTT J.

DATED: DECEMBER 4, 2024

APPEARANCES:

Lou Janssen Dangzalan

FOR THE APPLICANT

Kevin Spykerman

FOR THE RESPONDENT

SOLICITORS OF RECORD:

LDJ Law Professional Corporation
Toronto, Ontario

FOR THE APPLICANT

Attorney General of Canada
Toronto, Ontario

FOR THE RESPONDENT