Federal Court Cour fédérale

Date: 20250102

Docket: IMM-7016-23

Citation: 2025 FC 11

Ottawa, Ontario, January 2, 2025

PRESENT: Mr. Justice Norris

BETWEEN:

SADAM AHMED KHAN

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

[1] The applicant, a citizen of Pakistan and a resident of Thailand, has been recognized as a Convention refugee by the United Nations High Commissioner for Refugees. In December 2021, he was sponsored for permanent residence in Canada by a Group of Five under Part 8, Division 2 of the *Immigration and Refugee Protection Regulations*, SOR/2002-227 (*IRPR*). The sponsoring group consisted of the applicant's brother, his sister-in-law, and three friends.

[2] On May 25, 2023, a Migration Officer with Immigration, Refugees and Citizenship Canada (IRCC) refused the application because the sponsoring group had failed to establish that they had the financial resources to fulfil the settlement plan for the duration of the sponsorship undertaking, as required by paragraph 154(1)(a) of the *IRPR*.

[3] The applicant has applied for judicial review of this decision under subsection 72(1) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 (*IRPA*). He contends that the decision is unreasonable and that it was made in breach of the requirements of procedural fairness.

[4] As I will explain, I am satisfied that the decision is unreasonable because it contains a fundamental gap that leaves the officer's reasons for refusing the sponsorship application lacking in transparency and intelligibility. Since this is sufficient to require that the decision be set aside and for the matter to be reconsidered, it is not necessary to decide whether the requirements of procedural fairness were met.

[5] The parties agree, as do I, that the substance of the officer's decision should be reviewed on a reasonableness standard. A reasonable decision "is one that is based on an internally coherent and rational chain of analysis and that is justified in relation to the facts and law that constrain the decision maker" (*Canada (Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at para 85). A decision that displays these qualities is entitled to deference from the reviewing court (*ibid*.).

[6] For a decision to be reasonable, a reviewing court "must be able to trace the decision maker's reasoning without encountering any fatal flaws in its overarching logic, and it must be satisfied that there is a line of analysis within the reasons that could reasonably lead the tribunal from the evidence before it to the conclusion at which it arrived" (*Vavilov*, at para 102, internal quotation marks and citation omitted). On the other hand, "where reasons are provided but they fail to provide a transparent and intelligible justification [. . .], the decision will be unreasonable" (*Vavilov*, at para 136).

[7] As *Vavilov* states, among the circumstances where a decision will be found to be unreasonable is "if the reasons read in conjunction with the record do not make it possible to understand the decision maker's reasoning on a critical point" (at para 103). I am satisfied that this is the case here.

[8] According to IRCC guidelines, the sponsoring group had to establish that they had the financial resources to meet a minimum financial contribution of $16,500 to support the applicant after he arrived in Canada. In their application, the sponsoring group stated that the applicant's brother had committed $10,500 and two of the other sponsors had committed $3,000 each, for a total of $16,500. The contributing sponsors provided recent tax returns to establish their income. They also provided a statement from Scotiabank showing that, as of December 17, 2021, a savings account in the applicant's brother's name had a balance of $16,500.04. A transaction history for the account showed that these funds consisted of $10,500 deposited by the applicant's brother and $3,000 each from two of the other sponsors (plus interest of four cents).

[9] In the decision refusing the application, the officer explains that they were satisfied that the two sponsors who had committed to contributing $3,000 each could do so based on their reported incomes. The officer was not satisfied, however, that the applicant's brother could afford to contribute the $10,500 he had committed given his relatively modest reported income in 2020 (the most recent year available when the application was submitted) and his current family obligations. Even allowing for in-kind contributions equivalent to $1800, the officer was therefore not satisfied that the group met the sponsorship program's financial requirements.

[10] In making this determination, however, the officer does not consider the statement from Scotiabank showing the savings account balance of $16,500.04. In fact, the officer does not mention this bank balance anywhere in the decision. It is possible that the officer did not consider these funds because, as the respondent suggests, they were not being held in a trust account. The officer's reasons, however, shed no light on whether this was the reason. If this was why the officer did not consider these funds at all, the reasons should have said so. It is not for the respondent or the reviewing court to provide reasons that the administrative decision maker did not (*Vavilov*, at para 96).

[11] The funds in the bank account as of December 2021 (when the sponsorship application was submitted) were sufficient to meet the sponsors' financial obligations, as determined by IRCC guidelines. The sponsoring group explained in the application that, by providing the bank statement and documents showing the sources of the funds, they were demonstrating not only that the required funds would be available during the period of the sponsorship but also that they had already been set aside. If the officer had doubts that the funds would still be available to the

applicant when he arrived in Canada and, as a result of these doubts, had concluded that the bank balance should simply be ignored, those doubts should have been articulated in the decision. In the absence of any explanation for why the bank balance was simply ignored, there is a fundamental gap in the officer's reasoning, as articulated in the decision. Because of this gap, the officer's reasons do not "justify to the affected party, in a manner that is transparent and intelligible, the basis on which [the officer] arrived at a particular conclusion" (*Vavilov*, at para 96) – namely, that the sponsoring group had not established that they had sufficient financial resources for the application to be approved.

[12] Importantly, the program instructions concerning how one demonstrates sufficient financial means do not require opening a trust account; they simply suggest that doing so is one way to demonstrate that the necessary funds are available. Even though the contributing sponsors were relying on their personal income as the source of the funds, it was still incumbent on the officer to explain why the bank balance was disregarded entirely in concluding that the sponsors had not established that they met the financial requirements of the program. Of course, the whole problem could well have been avoided if, before rejecting the application, the officer had sent the sponsoring group a procedural fairness letter setting out any concerns the officer may have had about the bank account and giving the group an opportunity to address them. As I have said, however, it is not necessary to decide whether such a letter was required.

[13] I would note, finally, that in support of this application for judicial review, the applicant swore an affidavit on July 25, 2023, stating that the sponsorship funds of $16,500 "are still available" in his brother's bank account. Since this information post-dates the decision under

review and was not available to the officer when the decision was made, I have not considered it in concluding that the decision is unreasonable: see *Association of Universities and Colleges of Canada v Canadian Copyright Licensing Agency (Access Copyright)*, 2012 FCA 22 at paras 19-20, and *Bernard v Canada (Revenue Agency)*, 2015 FCA 263 at paras 18-25.

[14] For these reasons, the application for judicial review will be allowed. The Migration Officer's decision dated May 25, 2023, will be set aside and the matter will be remitted for reconsideration by a different decision maker.

[15] The parties did not suggest any serious questions of general importance for certification under paragraph 74(d) of the *IRPA*. I agree that no question arises.

JUDGMENT IN IMM-7016-23

THIS COURT'S JUDGMENT is that

1. The application for judicial review is allowed.
2. The decision of the Migration Officer dated May 25, 2023, is set aside and the matter is remitted for reconsideration by a different decision maker.
3. The style of cause is amended to reflect the applicant's name as "SADAM AHMED KHAN".
4. No question of general importance is stated.

"John Norris"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	IMM-7016-23
STYLE OF CAUSE:	SADAM AHMED KHAN v THE MINISTER OF CITIZENSHIP AND IMMIGRATION
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