

Federal Court



Cour fédérale

**Date: 20250110**

**Docket: IMM-9170-23**

**Citation: 2025 FC 61**

**Ottawa, Ontario, January 10, 2025**

**PRESENT: Madam Justice Sadrehashemi**

**BETWEEN:**

**MING YAN YEUNG**

**Applicant**

**and**

**MINISTER OF CITIZENSHIP AND  
IMMIGRATION**

**Respondent**

**JUDGMENT AND REASONS**

[1] The Applicant, Ming Yan Yeung, applied to study in a two-year diploma program in software development at Southern Alberta Institute of Technology (SAIT), in Alberta. Mr. Yeung was clear in his application that he decided to pursue this opportunity in order to eventually qualify for permanent residence under Stream A of Canada’s temporary public policy for Hong Kong residents who are currently in Canada (“Hong Kong Pathway Program”). An officer at Immigration, Refugees and Citizenship Canada (IRCC) refused the application in May

2023. The Officer was not satisfied that Mr. Yeung would leave Canada at the end of his authorized stay, finding that the purpose of his visit was not consistent with a temporary stay. Mr. Yeung challenges this refusal on judicial review.

[2] Mr. Yeung makes a procedural fairness argument in his written submissions. I do not find that there is merit to the procedural claim. There is no indication that the Officer made any credibility finding in the decision. The Officer was also not required to notify Mr. Yeung about their particular concerns with the application as these concerns arise directly from the legislative requirements (*Aghvamihamoli v. Canada (Citizenship and Immigration)*, 2023 FC 1613 at paras 19-21).

[3] Mr. Yeung's remaining arguments relate to the substance of the decision. The parties agree, as do I, that I ought to review the decision in relation to these arguments applying a reasonableness standard.

[4] Visa officers are responsible for considering a high volume of study permit applications. In evaluating the reasonableness of a decision, a reviewing court must consider the decision's institutional context (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [Vavilov] at paras 91 and 103). 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 (Citizenship and Immigration)*, 2020

FC 77 at para 17; *Samra v Canada (Citizenship and Immigration)*, 2020 FC 157 at para 23; and *Rodriguez Martinez v Canada (Citizenship and Immigration)*, 2020 FC 293 at paras 13-14).

[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].

[6] Mr. Yeung principally argues that in finding that he would not leave Canada by the end of his authorized stay, the Officer failed to appropriately consider the principle of dual intent in section 22(2) of IRPA – that applicants can both have the intention to apply for permanent residence while also seeking temporary residence in Canada.

[7] I do not agree. The Officer acknowledged that applicants seeking permanent residence may simultaneously be found to meet the requirements for temporary status, as long as they demonstrated that they would leave Canada by the end of their authorized stay. As noted by Justice Grant in *Iqbal v. Canada (Citizenship and Immigration)*, 2024 FC 1836 [*Iqbal*] at paragraph 19 the question of whether an applicant will leave by the end of their period of stay is “quite literally, an essential consideration under s. 22(2).” Further, the relevant IRCC guideline explains that “the applicant must be able to demonstrate that they maintain the capacity and willingness to leave Canada should their employment end or they fail to obtain permanent residence” (*Iqbal* at para 20).

[8] The Officer's key concern was the lack of evidence that the proposed study would be of any benefit to Mr. Yeung if he returned to Hong Kong. On judicial review, Mr. Yeung does not point to evidence or arguments that the Officer ignored or misconstrued but rather reargues the merits of his application.

[9] The Officer did not accept that Mr. Yeung demonstrated that he had a study plan that was consistent with his background or that he had provided a sufficient explanation as to how his path of study would be of use to him, other than providing a pathway to permanent residence. Further, the Officer found that, given the lack of benefits of the program and the severing of his ties to his long-established senior employment in Hong Kong, there was little evidence provided to demonstrate that Mr. Yeung would be motivated to return to Hong Kong if his various applications were unsuccessful. Mr. Yeung, on judicial review, like in his study permit application, emphasized that he would be successful on his post-graduate work permit and permanent residence application because he would meet the requirements.

[10] This Court recently considered a similar situation in *Chen v Canada (Citizenship and Immigration)*, 2024 FC 1813. Like the Court in *Chen*, I find the Officer reasonably determined there was very little in the application that specifically addressed how the proposed study would benefit Mr. Yeung upon his return to Hong Kong; instead, as noted by the Officer, the application spoke about the benefits of the program for Mr. Yeung's work in Canada.

[11] Overall, I find the Officer's decision to be transparent, justified, and intelligible. The decision is responsive to Mr. Yeung's lengthy submissions. I therefore see no basis to interfere with the decision. The parties did not pose a question for certification and I agree none arises.

**JUDGMENT in IMM-9170-23**

**THIS COURT'S JUDGMENT is that:**

1. The application for judicial review is dismissed; and
2. No serious question of general importance is certified.

"Lobat Sadrehashemi"

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Judge

**FEDERAL COURT**  
**SOLICITORS OF RECORD**

**DOCKET:** IMM-9170-23

**STYLE OF CAUSE:** MING YAN YEUNG v MINISTER OF CITIZENSHIP  
AND IMMIGRATION

**PLACE OF HEARING:** TORONTO, ONTARIO

**DATE OF HEARING:** JULY 25, 2024

**JUDGMENT AND REASONS:** SADREHASHEMI J.

**DATED:** JANUARY 10, 2025

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