

Federal Court



Cour fédérale

**Date: 20250207**

**Docket: IMM-10574-23**

**Citation: 2025 FC 247**

**Toronto, Ontario, February 7, 2025**

**PRESENT: The Honourable Mr. Justice Southcott**

**BETWEEN:**

**YOUNUS KHAN**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP AND  
IMMIGRATION**

**Respondent**

**JUDGMENT AND REASONS**

**I. Overview**

[1] This is an application for judicial review of a decision dated August 08, 2023, by an Immigration, Refugees and Citizenship Canada [IRCC] officer [the Officer], refusing the Applicant's temporary resident visa [TRV] application [the Decision].

[2] The Officer refused the Applicant because the Officer was not satisfied that the Applicant would leave Canada at the end of his authorized stay, as required by paragraph 179(b) of the *Immigration and Refugee Protection Regulations*, SOR/2002-227 [IRPR].

[3] As explained in further detail below, this application for judicial review is dismissed, because the Applicant's arguments do not undermine the reasonableness of the Decision or demonstrate that it was reached in a procedurally unfair manner.

## II. **Background**

[4] The Applicant is a Pakistani citizen currently residing in Thailand on a temporary work permit. The Applicant has resided in Thailand since 2018, working as a human resources manager.

[5] On or around March 12, 2023, the Applicant applied for a TRV to visit an individual whom he described as a friend, a Canadian citizen who resides in British Columbia [the Inviter], for a period of 10 days [the Application].

[6] IRCC initially refused the Application on April 4, 2023 [the April Decision]. The Applicant applied for judicial review of the April Decision, but in July 2023 the parties agreed to set aside the April Decision and have the matter re-determined by a different IRCC officer. IRCC provided the Applicant an opportunity to submit any new or additional documents to support the Application, and the Applicant's representative did so.

[7] On August 8, 2023, the Officer issued the Decision, again rejecting the Application, which is the subject of this application for judicial review.

### III. **Decision under Review**

[8] In the Decision, the Officer refused the Application, because the Officer was not satisfied the Applicant would leave Canada at the end of his authorized stay as required by paragraph 179(b) of the IRPR. The letter conveying the Decision states that the Officer based this conclusion on the Applicant's immigration status outside his country of nationality or habitual residence, the Applicant's assets and financial situation being insufficient to support his stated purpose of travel, and the Applicant's current employment situation failing to demonstrate that he is financially established in his country of residence.

[9] The Decision includes the Officer's corresponding notes in the Global Case Management System [GCMS] as follows:

...Applicant is a Pakistani national residing and working in Thailand on temporary status. Despite what his representative states, immigration status does not renew automatically in Thailand: an application to extend must be made. As a foreigner in Thailand, his status as a worker is directly tied to his employment; should anything happen to his position his work and stay permits would be automatically cancelled. While the applicant's employment has been renewed since 2018, it is not guaranteed that his employment or hit [*sic*] stay permit will be renewed when his employment contract terminates on 2024/07/30. I note the applicant's savings and income. Despite the representative's assertion that the applicant's salary is 'handsome' for Thailand, open-source information shows it is an average wage for white-collar work in the city of Bangkok, and actually somewhat low given the applicant's education and background. Updated bank statement shows approximately \$6,750 in savings; which would barely cover the cost of his trip should anything happen to his host. When considering the cost of living in Bangkok, and the balance

for the applicant's life savings, I'm not satisfied the applicant's proposed travel appears to be a reasonable expense. Applicant seeks to visit his Canadian citizen friend Sheila Loraine Bailey. Host states she has a platonic relationship with the applicant whom she first communicated with in 2015 while she was working at Trinity Western University. She states she has developed a close friendship built on mutual respect and trust, and that the pair make audio and video calls to each other to discuss lifestyles, positive thinking and careers. Messages provided are periodic in nature from 2021, with 2 screen shots of messages from January 2023. Messages are greetings, prayers and pleasantries and do not speak to the deep, meaningful friendship referenced in the submissions. Unclear why the host would spend a considerable portion of her savings/income to subsidize this acquaintance's travel to Canada. I note the representatives [*sic*] citation of *Sarah Janes Barril v Canada (Citizenship and Immigration)* and the statement that [*sic*] by Justice Aylen that an officer should consider the financial support of an applicant's family as being a positive factor. The applicant's host, however, is not family – she is a merely a friend, one whom it appears the applicant has never physically met. Representative states applicant has strong ties to Pakistan, including family and property located there, although evidence of property ownership is not on file. I have accorded the statement less weight considering the applicant has spent essentially the last 12 years residing outside of that country, based on the travel history provided; with only periodic visits since 2011/12. I note the applicant's declared relationship with his non-accompanying Thai girlfriend and her statement. His partner cannot be considered common-law as the pair have been residing together for less than one year. Proof of relationship on file are a number of photos taken at various locations. Only evidence these have been taken when/where they are listed are self-generated graphics provided by the applicant. I also note the lease provided by the applicant to demonstrate his residence in Thailand. It is unusual that this original lease has been issued in English rather than in Thai-language, which is not common practice and even more unusual given the applicant's girlfriend is a Thai national. Given the applicant's temporary residence status in Thailand; that his status is directly related to his employment which is set to end in less than a year, his assets and savings, and his unclear relationship with his host who has agreed to finance his travel and stay for an unclear reason, I am not satisfied the applicant would be a genuine temporary resident who would depart at the end of an authorized stay. Refused.

IV. **Issues and Standard of Review**

[10] The Applicant raises the following issues for the Court's determination:

A. Is the Decision reasonable?

B. Did the Officer breach procedural fairness in making the Decision?

[11] As is implicit in its articulation, the first issue set out above is subject to the reasonableness standard of review as explained by the Supreme Court of Canada in *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65. The second issue, involving procedural fairness, is subject to the standard of correctness, or akin to correctness. Put otherwise, the Court's role is to assess whether the process followed was fair, taking into account all applicable circumstances (*Canadian Pacific Railway Company v Canada (Attorney General)*, 2018 FCA 69 at para 54).

V. **Analysis**

A. *Is the Decision reasonable?*

[12] I will organize my analysis of the Applicant's arguments challenging the reasonableness of the Decision under the headings employed in his Memorandum of Argument.

(1) Status in Thailand

[13] The Applicant correctly identifies that the temporary nature of his immigration status in Thailand was a significant factor underlying the Decision. However, he challenges the reasonableness of the Officer's reasoning that, were his status in Thailand to change, he would

not be motivated to return to Pakistan, his country of citizenship. The Applicant submits that this reasoning represents mere speculation, of the sort that was found not to be reasonable in *Demyati v Canada (Citizenship and Immigration)*, 2018 FC 701 [*Demyati*] at paragraph 20.

[14] However, as the Respondent submits, the analysis in *Demyati* was a function of the particular record before the Court, which held that the conclusion, that the applicant in that case (a Syrian national with temporary resident status in the United Arab Emirates [UAE]) would not return to his country of origin if he were to lose his UAE status, was not justified by the decision-maker with the benefit of evidentiary support (at para 20). In contrast, in the case at hand the Officer noted the Applicant's assertions of strong ties to Pakistan but afforded this less weight because the Applicant had spent 12 years residing outside of Pakistan with only periodic visits since 2011/2012. The Officer's reasoning is intelligible and based on the evidentiary record.

[15] The Applicant also argues that analysis of this sort is unreasonable because it would lead to a vast majority of temporary resident visas being denied to applicants who are residing outside their country of citizenship. In my view, this argument is without merit, as each application must be assessed on its individual facts, as was the Application in the case at hand. I find nothing unreasonable in a visa officer taking into account the extent to which an applicant's current residence status may be precarious.

[16] The Applicant further submits that, based on the evidence before the Officer, the Officer should have arrived at a conclusion contrary to that in the Decision, because the Applicant has travel history to England, Switzerland, Germany, France, and Thailand, without breaching any

conditions of his stay in any of these countries. I accept that travel history can represent a positive indicator. However, it is not the Court's role to reweigh the evidence that was before the Officer, and I find no basis to conclude that the Officer overlooked this aspect of the Application.

(2) Salary of the Applicant

[17] The Applicant notes the Officer's rejection of the Applicant's representative's description of his salary as "handsome" for Thailand, based on the Officer's recourse to open-source information that is not identified in the Decision. The Applicant challenges the reasonableness of that conclusion and, in doing so, relies on information from the website of the Government of Thailand National Statistics Office [NSO] as to the average salary in Thailand.

[18] I note that the NSO website upon which the Applicant relies is identified in his Memorandum of Argument, both without any evidentiary support and without any indication that the information from that website was before the Officer. That said, the Respondent's counsel advised at the hearing of this application that he did not object to the Applicant's reliance on information on this website, because (as will be explained later in these Reasons) the Applicant also raised procedural fairness issues surrounding the Officer's treatment of the Applicant's salary and, in such circumstances, evidence that was not before the administrative decision-maker is admissible on judicial review (*Association of Universities and Colleges of Canada v Canadian Copyright Licensing Agency (Access Copyright)*, 2012 FCA 22 at paras 19–20).

[19] The Respondent's concession does not directly address the point that the Applicant has not introduced the evidence from the NSO website by way of affidavit in this application. Nor does it address the ability of the Applicant to rely on this evidence in support of a reasonableness argument, as distinct from his procedural fairness submissions. Nevertheless, in the absence of an objection from the Respondent, I will take the evidence into account.

[20] However, this evidence does not undermine the reasonableness of the Decision, as it speaks to the average salary in Thailand as a whole. In contrast, as the Respondent submits, the Officer's analysis was based on wage information for white-collar work in the city of Bangkok, from which the Officer concluded that the Applicant's salary was average for such work.

### (3) Purpose of Travel

[21] The Applicant takes issue with the Officer's concern about the purpose of the Applicant's intended travel. He submits that the Officer's concern is based on an unsupported assumption that it is not possible to develop a friendship of the sort that is asserted to exist between the Applicant and the Inviter, through Internet contact, resulting in a wish to make personal contact through overseas travel with the Inviter's financial support. In particular, relying on *Agidi v Canada (Citizenship and Immigration)*, 2013 FC 691 at paragraph 7, he argues that the Officer failed to appreciate that the Applicant was not required to establish a compelling purpose for travel to Canada.

[22] I find no merit to this argument. As the Respondent submits, the Officer did not conclude that the Applicant was required to establish a compelling reason to travel to Canada or that he

had failed to do so. Rather, the Officer assessed the evidence from the Applicant and the Inviter and found that it did not speak to a deep and meaningful friendship of the sort the Applicant had asserted.

(4) Officer's Treatment of Applicant's Case Law

[23] The Applicant's representative's submissions relied on *Barril v Canada (Citizenship and Immigration)*, 2022 FC 400 [*Barril*] at paragraph 20, as authority for his assertion that the financial support offered by the Inviter should be treated as a positive factor. The Officer distinguished this authority on the basis that it referred to financial support by an applicant's family. The Applicant argues that the Officer thereby erred by failing to recognize the broader principle of this authority, that support by anyone an applicant knows in Canada should be treated as a positive factor.

[24] Justice Mandy Aylen's analysis in paragraph 20 of *Barril* related to the ties of the applicant in that case to Canada and their country of residence. The Decision found *Barril* to offer the Applicant little assistance in the context of the Officer's conclusion, based on the available evidence, that it was unclear why the Inviter would devote considerable resources to subsidizing an acquaintance's travel to Canada. This aspect of the analysis is intelligible and withstands reasonableness review.

(5) Ties

[25] The Applicant takes issue with the Officer's analysis of his ties with various jurisdictions relevant to the Application. He argues that the Officer unreasonably analysed his ties to Pakistan.

However, these arguments have been addressed earlier in these Reasons. The Officer analysed the Applicant's ties based on the evidence, the Applicant has not established that evidence was overlooked, and it is not the Court's role to reweigh the evidence.

[26] The Applicant also argues that, given the Officer's concerns about the nature of his relationship with the Inviter, the Applicant has not been found to have significant ties to Canada that would support a conclusion that he is unlikely to depart at the end of his authorized stay. He submits that the Officer has failed to justify a conclusion that he has stronger ties to Canada than to either Thailand or Pakistan.

[27] I do not read the Officer's reasoning as based on a finding that the Applicant has stronger ties to Canada than to Thailand or Pakistan. Rather, the following sentence in the Decision best encapsulates the reasoning underlying the Decision:

... Given the applicant's temporary residence status in Thailand; that his status is directly related to his employment which is set to end in less than a year, his assets and savings, and his unclear relationship with his host who has agreed to finance his travel and stay for an unclear reason, I am not satisfied the applicant would be a genuine temporary resident who would depart at the end of an authorized stay. ...

[28] This reasoning represents a conclusion as to whether the Applicant has met his burden under paragraph 179(b) of the IRPR to establish that he would leave Canada at the end of his authorized stay, based on a global assessment of the factors that the Officer considered most relevant to that conclusion.

(6) Analysis of Benefits of Overstay

[29] The Applicant argues that, if he were motivated to overstay in any country, the United Kingdom [UK] would represent a better choice for him than Canada, because of his history of having lived and studied in the UK.

[30] As the Respondent submits, this argument asks the Court to reweigh the evidence before the Officer, which is not its role in judicial review.

B. *Did the Officer breach procedural fairness in making the Decision?*

[31] The Applicant raises three arguments in support of his position that the Officer breached procedural fairness.

(1) Relationship with the Inviter

[32] First, the Applicant argues that the Decision's treatment of the evidence surrounding his relationship with the Inviter demonstrates that the Officer doubted the nature of the relationship. He submits that the Officer's analysis involved a credibility finding and that the Officer was therefore obliged by principles of procedural fairness to afford the Applicant an opportunity to respond to that concern before making the Decision.

[33] As noted earlier in these Reasons, the Officer's conclusion, that it was unclear why the Inviter would spend considerable resources on an acquaintance's travel to Canada, was based on a conclusion that the evidence did not speak to the deep and meaningful friendship referenced in the submissions. I agree with the Respondent that this analysis was based on the sufficiency of the evidence, not a credibility finding, and that no procedural fairness obligation arose.

(2) Applicant's Lease

[34] In the GCMS notes, the Officer comments that it is unusual that the Applicant's lease in Thailand was issued in English rather than in the Thai language, as this is not common practice and is even more unusual given that the Applicant's girlfriend is a Thai national. The Applicant argues that this analysis represents a credibility finding, and that the Officer's duty of procedural fairness therefore entitled the Applicant to an opportunity to respond to this concern before the Decision was made.

[35] In relation to this argument, I need not address the parties' different positions as to whether this analysis relates to credibility or sufficiency of evidence. For ease of reference, I repeat the sentence that best encapsulates the reasoning underlying the Decision, which does not rely on the status of the Applicant's lease:

... Given the applicant's temporary residence status in Thailand; that his status is directly related to his employment which is set to end in less than a year, his assets and savings, and his unclear relationship with his host who has agreed to finance his travel and stay for an unclear reason, I am not satisfied the applicant would be a genuine temporary resident who would depart at the end of an authorized stay. ...

[36] I agree with the Respondent's position that the status of the Applicant's lease was not material to the Officer's reasoning.

(3) Salary of the Applicant

[37] At the hearing of this application for judicial review, the Applicant raised an argument that the Officer deprived him of requisite procedural fairness by relying on open-source

information surrounding Thai salaries without affording him an opportunity to address that information.

[38] The Court has found that a reference to online resources by an officer does not automatically trigger a duty to provide the applicant with the opportunity to respond (*Shah v Canada (Citizenship and Immigration)*, 2018 FC 537 [*Shah*] at para 34). In *Shah*, Justice Catherine Kane discussed a contextual approach to be applied when assessing whether reliance on online evidence triggers a procedural fairness duty (at paras 34–42).

[39] In the case at hand, it was the Applicant’s representative who raised the issue of the competitiveness of the Applicant’s salary. Moreover, as explained earlier in these Reasons, the salary information on that issue that the Applicant has now adduced in this application for judicial review does not contradict the Officer’s conclusions based on the open-source information referenced in the Decision. I find no breach of procedural fairness arising from this aspect of the Decision.

## VI. **Conclusions**

[40] Having rejected the Applicant’s arguments surrounding the reasonableness and fairness of the Decision, this application for judicial review must be dismissed.

[41] Neither party proposed any question for certification for appeal, and none is stated.

**JUDGMENT IN IMM-10574-23**

**THIS COURT'S JUDGMENT is that** this application is dismissed. No question is certified for appeal.

"Richard F. Southcott"

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Judge

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

**DOCKET:** IMM-10574-23

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