

Federal Court



Cour fédérale

Date: 20250210

Docket: IMM-13549-23

Citation: 2025 FC 261

Toronto, Ontario, February 10, 2025

PRESENT: Madam Justice Go

BETWEEN:

TOLUWALOPE OLUWABUKUNMI AJAYI

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

I. Overview

[1] The Applicant, Toluwalope Oluwabukunmi Ajayi, is a citizen of Nigeria who applied for a study permit to undertake a diploma at Conestoga College. An immigration officer [Officer] refused to grant the study permit, as the Officer was not satisfied that the Applicant will leave Canada at the end of her stay, and the Officer found the Applicant's assets and financial situation are insufficient to support the stated purpose of travel [Decision].

[2] The Applicant brings this application for judicial review on the grounds that the Decision was unreasonable and the Officer breached the Applicant's right to procedural fairness. For the reasons set out below, I dismiss the application.

II. Issues and Standard of Review

[3] The Applicant raises two main issues in this application:

- a. Was the Decision reasonable?
- b. Was there a breach of procedural fairness?

[4] The Respondent raises an issue with the Applicant filing new evidence that was not before the Officer. I will address this issue below.

[5] The standard of review of the merits of the Decision is reasonableness: *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [Vavilov] at paras 10, 25. The Court should assess whether the decision bears the requisite hallmarks of justification, transparency and intelligibility: *Vavilov* at para 99. The Applicant bears the onus of demonstrating that the decision was unreasonable: *Vavilov* at para 100.

[6] Questions of procedural fairness are reviewed on a standard akin to correctness where the Court is to examine whether the process followed was fair, having regard to all the circumstances: *Canadian Pacific Railway v Canada (Attorney General)*, 2018 FCA 69 at para 54.

III. Analysis

A. *Should the Court consider the Applicant's new evidence?*

[7] The Respondent argues that the Applicant attempts to raise evidence on judicial review that was not before the Officer. For example, the Applicant repeatedly emphasizes evidence of a tuition payment of \$9,000. However, according to the Officer's affidavit, which the Respondent filed with the Court, this document was not available for their consideration. The Applicant also appears to refer to her statement of purpose on numerous occasions, as well as the Applicant's father's bank statement, neither of which were before the Officer. The Respondent argues that an officer cannot be faulted for evidence that was not before them, citing *Evans v Canada (Public Safety and Emergency Preparedness)*, 2022 FC 1516 [*Evans*] at para 25.

[8] I agree with the Respondent. As noted by the Court in *Evans*, it is trite law that absent limited exceptions, it is only the evidentiary record that was before the administrative decision-maker that is admissible on judicial review: *Association of Universities and Colleges of Canada v Canadian Copyright Licensing Agency (Access Copyright)*, 2012 FCA 22 [*Access Copyright*] at paras 18-19.

[9] I note that while the Applicant stated in her affidavit in support of the judicial review application that all the documents submitted for her study permit application are attached to her affidavit and marked as "Exhibit A," many of the documents included in "Exhibit A" are not contained in the Certified Tribunal Record. Further, as the Respondent points out, the Officer swore an affidavit in which the Officer confirmed several documents located within "Exhibit A"

of the Applicant's affidavit were not in their possession and were not available for their consideration at the time they rendered the Decision.

[10] The Applicant makes no submissions on which of the exceptions for admitting new evidence as set out in *Access Copyright* may apply. At the hearing, counsel for the Applicant submitted that it made no sense for the Applicant not to have submitted the documents as described in her affidavit. I agree with the Respondent that counsel's assertion is purely speculative.

[11] In view of the above, I decline to admit the Applicant's new evidence.

B. *Was the Decision unreasonable?*

[12] The Applicant submits the Decision was unreasonable. The Applicant's submissions are somewhat disjointed and repetitive. From what I can gather, the Applicant's arguments may be summarized as follows:

- a. The Officer unreasonably refused the Applicant's application for a study permit on the grounds of personal assets and financial status. The Officer did not consider relevant evidence, including copies of her father's bank statements, a tuition payment made to Conestoga College confirming she had paid the tuition fee, and a letter from her father supporting her claim that she would have access to sufficient funds to cover her tuition and living expenses;
- b. The Officer failed to explain why the evidence provided was insufficient while the Applicant demonstrated that she had sufficient funds, citing *Ayeni v Canada (Citizenship and Immigration)*, 2019 FC 1202 at para 28; *Lakhanpal v Canada (Citizenship and Immigration)*, 2021 FC 694 at para 27;

- c. The Officer disregarded evidence of the Applicant's ties to her home country, including her family ties, citing *Rajasekharan v Canada (Citizenship and Immigration)*, 2023 FC 68; *Kavugho-Mission v Canada (Citizenship and Immigration)*, 2018 FC 597; *Guo v Canada (Citizenship and Immigration)*, 2001 FCT 1353; and *Zhang v Canada (Citizenship and Immigration)*, 2003 FC 1493;
- d. While the Officer was not required to refer to every detail, contradictory evidence should not be disregarded, and failure to consider relevant evidence is a reviewable error: *Penez v Canada (Citizenship and Immigration)*, 2017 FC 1001 at para 25. Further, the Officer did not provide sufficient reasons for why the Applicant's application was denied: *Asong Alem v Canada (Citizenship and Immigration)*, 2010 FC 148); and
- e. The Officer failed to consider many factors set out in the ministerial guideline.

[13] At the hearing, counsel for the Applicant went further and argued that the Officer provided "no reasons" for the refusal.

[14] I reject all of the Applicant's arguments.

[15] Contrary to counsel's assertion, the Officer did provide some reasons for the Decision, as found in the Global Case Management System notes. While the Officer's reasons are brief, they set out the Officer's concerns that the Applicant "does not have sufficient finances readily available to cover their tuition and living costs while studying in Canada." Moreover, the Officer's duty to provide reasons in the context of a visa decision is minimal: *Chaudhary v Canada (Citizenship and Immigration)*, 2024 FC 102 at paras 27-30.

[16] The jurisprudence also confirms that a visa officer is not required to mention every piece of evidence adduced, and is presumed to have considered the entirety of the evidence received in support of an application: *D'Almeida v Canada (Citizenship and Immigration)*, 2019 FC 308 at para 42; *Solopova v Canada (Citizenship and Immigration)*, 2016 FC 690 at para 28.

[17] As noted above, some of the documents upon which the Applicant is now relying were not before the Officer. To the extent that the Applicant is relying on these documents to support her argument that the Officer ignored evidence—such as the documents with regard to the payment of her tuition fee and her father's bank statements—this argument must fail.

[18] I am left to consider only the documents that were before the Officer, which include the following: the letter of acceptance from Conestoga College, the Applicant's IMM 1294 application for a study permit, a letter of recommendation, a letter of sponsorship, and three pages of bank statements showing either a fixed deposit or an account summary. While the Applicant generally refers to her father's financial documents and the letters of support in her submission, she fails to demonstrate how these documents render the Decision unreasonable.

[19] The Applicant's suggestion that the Officer was required to consider her family ties also has no merit. As the case law has shown, financial considerations on their own are sufficient to justify an officer's decision to refuse a study permit: *Aghvamiyamoli v Canada (Citizenship and Immigration)*, 2023 FC 1613 at para 36; *Mohammadi v Canada (Citizenship and Immigration)*, 2024 FC 598 at paras 14, 21.

[20] Finally, the Applicant's assertion, without more, that the Officer failed to consider any ministerial guideline is not sufficient to warrant setting aside the Decision.

C. *Was there a breach of procedural fairness?*

[21] The Applicant contends that the Officer breached her right to procedural fairness because they did not give her an opportunity to respond to their concerns, citing *Baker v Canada (Citizenship and Immigration)*, [1999] 2 SCR 817, 174 DLR (4th) 193.

[22] The Applicant's written submission was unclear about how her procedural fairness right was breached. At the hearing, the Applicant asserted that the fact that there were "no reasons" offered by the Officer constitutes a procedural fairness breach, citing *Chantale v Canada (Citizenship and Immigration)*, 2021 FC 544 [*Chantale*] at para 7.

[23] As I have already noted, the Officer did provide reasons, albeit not to the Applicant's liking. As the Court in *Chantale* confirmed, the adequacy of reasons does not constitute a basis for finding a breach of procedural fairness unless there are no reasons at all, which is not the case here.

[24] This Court has also confirmed, as the Respondent submits, that a visa officer is not under a duty to provide an opportunity to address a concern that arises from a regulatory requirement. Rather, an applicant bears the onus of demonstrating that they meet the criteria for the issuance of a visa, including that they will leave Canada at the end of their authorized stay: *Akhtar v Canada (Citizenship and Immigration)*, 2022 FC 595 at para 18; *Huang v Canada (Citizenship*

and Immigration), 2012 FC 145 at para 7; *Obeta v Canada (Citizenship and Immigration)*, 2012 FC 1542 at para 25.

[25] In view of all of the above, I find the Applicant fails to establish that the Decision was unreasonable and that there was a breach of procedural fairness.

IV. Conclusion

[26] The application for judicial review is dismissed.

[27] There is no question for certification.

JUDGMENT in IMM-13549-23

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is dismissed.
2. There is no question for certification.

"Avvy Yao-Yao Go"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-13549-23

STYLE OF CAUSE: TOLUWALOPE OLUWABUKUNMI AJAYI v THE
MINISTER OF CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: TORONTO, ONTARIO

DATE OF HEARING: FEBRUARY 5, 2025

JUDGMENT AND REASONS: GO J.

DATED: FEBRUARY 10, 2025

APPEARANCES:

Idowu Florence Adedoyin-
Thomas

FOR THE APPLICANT

Elijah Lo Re

FOR THE RESPONDENT

SOLICITORS OF RECORD:

Florence Thomas Law Firm
Waterloo, Ontario

FOR THE APPLICANT

Attorney General of Canada
Toronto, Ontario

FOR THE RESPONDENT