

Federal Court



Cour fédérale

Date: 20250624

Docket: IMM-12629-24

Citation: 2025 FC 1139

Toronto, Ontario, June 24, 2025

PRESENT: Mr. Justice Diner

BETWEEN:

AASHISH PAUDEL

Applicant

and

**THE MINISTER FOR IMMIGRATION,
REFUGEE AND CITIZENSHIP CANADA**

Respondent

JUDGMENT AND REASONS

[1] The Applicant, Aashish Paudel, seeks judicial review of a decision by an immigration officer [Officer] with Immigration, Refugees and Citizenship Canada rejecting his application for a study permit [Application]. The Officer was not satisfied that Mr. Paudel would leave Canada at the end of his stay as required under paragraph 216(1)(b) of the *Immigration and Refugee Protection Regulations*, SOR/2002-227 [IRPR]. For the reasons that follow, this application for judicial review is dismissed.

[2] By way of a brief background, Mr. Paudel is a citizen of Nepal. He applied for a study permit after being admitted to Matrix College in Montréal, Québec in Business Management. In the refusal letter, the Officer indicated that Mr. Paudel was unlikely to be able to successfully complete that post-secondary program in Canada, and the purpose of his visit was not consistent with a temporary stay given the details provided in his Application [Decision].

[3] Specifically, the Officer noted that Mr. Paudel completed his grade 10 in 2018 and grade 12 in 2022, noting that this was unusual – these grades are normally completed in 2 years, and Mr. Paudel took 4 years. The Officer also noted that he had poor grades. The Officer was not satisfied that Mr. Paudel would be able to successfully complete his post-secondary program in Canada.

[4] Mr. Paudel argues that the Decision is unreasonable because the Officer (1) exceeded their jurisdiction by assessing the likelihood of success in the program of study, which is not a requirement under the *Immigration and Refugee Protection Act*, SC 2001, c 27 [IRPA] or the IRPR; (2) made an error of fact, by stating that Mr. Paudel took four years to complete grades 10 and 12; and (3) failed to justify the conclusion that Mr. Paudel would not leave Canada at the end of his studies.

[5] The Respondent counters that the Officer reasonably denied the Application, and that the Decision was properly justified, based on the evidence presented.

[6] On a preliminary point, the Respondent also takes issue with Mr. Paudel's affidavit filed in support of this application for judicial review, contending that it contains new evidence that was not before the Officer and therefore cannot be considered by this Court on judicial review. In particular, the Respondent takes issue with paragraph 3, where Mr. Paudel provides an explanation for the gap between his grade 10 and 12 studies. The Respondent also objects to paragraph 25 of his memorandum, which refers to this evidence.

[7] Mr. Paudel counters that his materials are procedurally sound, in that paragraph 3 of his affidavit simply rectifies a mistake by the Officer, who did not take into consideration the completion of grade 11 with grades 10 and 12. Mr. Paudel further argues that the Certificate of completion of grade 12 was on the record and properly before the Officer, and indicated that he enrolled for grade 12 in 2020 and completed it in 2022.

[8] I agree with the Respondent on both the procedural and substantive issues raised. First, while Mr. Paudel may simply be attempting to offer an explanation for the gap in the years of study at paragraph 3 of his affidavit (albeit very briefly), there was nothing in the record allowing the Officer to establish the timeline as he proposes. Instead, the Certified Tribunal Record shows that Mr. Paudel only included a Certificate of completion for grade 10 in 2018 and a certificate of Completion for grade 12 in 2022 in his Application. No further explanation was made available to the Officer.

[9] I also find that the Decision was reasonable (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at para 23 [*Vavilov*]). Mr. Paudel had two main arguments

before the Court, namely that (1) the Officer should have only focused the analysis on grades 11 to 12 and did not; and (2) the Officer's conclusion that Mr. Paudel would not leave Canada at the end of his authorized stay was not properly justified; and (3) considering the likelihood of success in his program was *ultra vires* the IRPA and IRPR.

[10] First, the Officer did not make any false assumptions and did not misapprehend the evidence when concluding that it took four years for Mr. Paudel to complete grades 10 to 12, and drew reasonable conclusions based on the record.

[11] Second, no part of the Decision was *ultra vires*, as Mr. Paudel contends. It was open to the Officer to consider the likelihood of success in the proposed program. The documentation presented in support of the Application established a grade point average [GPA] for the relevant period of 2.49 for the year 2022 and 2.40 for the year 2018. It was reasonable for the Officer to conclude that these were poor results, and the law is clear that academic results may be taken into account (*Bougrine v Canada (Citizenship and Immigration)*, 2022 FC 528 at para 15; *Singh v Canada (Citizenship and Immigration)*, 2022 FC 1745 at para 15).

[12] Finally, the Applicant cited *Demyati v Canada (Citizenship and Immigration)*, 2018 FC 701 [*Demyati*] in support of his argument that it was unreasonable for the Officer to conclude that he would not leave Canada at the end of his authorized stay. However, in *Demyati*, the applicant had a proven history of studying abroad yet returning to his country of residence, which was not the case on these facts (see para 13).

[13] Ultimately, I agree with the Respondent that the Decision is transparent, intelligible and justifiable (*Vavilov* at para 15). Therefore, this application for judicial review is dismissed.

JUDGMENT in IMM-12629-24

THIS COURT’S JUDGMENT is that:

1. This application for judicial review is dismissed.
2. The parties submitted no question for certification, none arises.
3. No costs will issue.

“Alan S. Diner”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-12629-24

STYLE OF CAUSE: AASHISH PAUDEL V MIRCC

PLACE OF HEARING: OTTAWA, ONTARIO AND HELD BY
VIDEOCONFERENCE

DATE OF HEARING: JUNE 18, 2025

JUDGMENT AND REASONS: DINER J.

DATED: JUNE 24, 2025

APPEARANCES:

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