Federal Court Cour fédérale

Date: 20250909

Docket: IMM-13879-24

Citation: 2025 FC 1484

Toronto, Ontario, September 9, 2025

PRESENT: Madam Justice Go

BETWEEN:

Farhana AFROZE

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

I. Overview

[1] Ms. Farhana Afroze [Applicant] filed an application for permanent residence [PR] with Immigration, Refugees and Citizenship Canada [IRCC] as a member of the Quebec Investor Class.

[2] The Applicant submitted a business plan identical to the business plan submitted by her sister, whose PR application was approved, and who has a visa authorizing her to move to Canada as an investor residing in Quebec.

[3] An IRCC officer [Officer] denied the Applicant's PR application, finding that the Applicant did not intend to reside in Quebec.

[4] The Applicant seeks judicial review of the Decision. For the reasons set out below, I grant the application.

II. Issues and Standard of Review

[5] The Applicant argues the Officer erred in their assessment of the Applicant's intention to reside in Quebec on the following basis:

a. The Officer failed to explain why they refused the Applicant's application based on an insufficient business plan when her sister's application had been accepted based on the identical plan months before; and

b. The Officer's reasons failed to address the evidence and explain how they reached their conclusion.

[6] The parties agree that the standard of review of a decision's merits 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.

III. Analysis

[7] In addition to complying with the relevant legislative and regulatory requirements, a foreign national applying in the Quebec Investor class must, apart from having a Certificat de sélection du Québec, demonstrate that they intend to reside in Quebec.

[8] In the case at hand, following an examination of the Applicant's application and an interview with the Applicant and her spouse, the Officer was not satisfied that the Applicant intends to reside in Quebec. The Officer's reasons are found in the Global Case Management System [GCMS] notes which state as follows:

> I have reviewed applicant's responses at the interview and information on file. There is insufficient evidence of applicants' intent to reside in Quebec. Applicant has put in little effort to settling down in Quebec, including visiting the city. It's reasonable to expect someone who is intending to visit the city they are thinking for [*sic*] settling down in. However, applicant did not apply visitor visa even once to visit the province. Applicant has done very little research on her business, no ideas on the requirements and have left it all with her family friend and sister's in-law's family. I note that applicant's sister's application is approved but given applicant's vague responses at the interview, I have concerns with applicant's intent to reside in Quebec, if a visa is issued. I gave applicant an opportunity to respond to my concerns, and the answers as provided by applicant did not alleviate my concerns.

[9] The reasons indicate that the Officer placed much emphasis on the Applicant's failure to apply for a visitor visa to visit Quebec before finding the Applicant does not intend to reside in that province. In coming to this conclusion, I agree with the Applicant that the Officer erred in their assessment, for the following reasons.

[10] First, as the Court confirmed in *Dhaliwal v Canada (Citizenship and Immigration)*, 2016 FC 131 [*Dhaliwal*] at para 27, there is no requirement for any necessary steps to be taken to prove intention.

[11] In *Dhaliwal*, the applicant was living in Montreal on a study permit when she applied for permanent residence as a member of the federal skilled worker class, indicating an intention to live in Ontario. The applicant received a positive eligibility determination of her application on the basis of her work experience. The Officer denied the application finding that the applicant lacked the intention to reside outside of Quebec. The applicant sought judicial review of the officer's decision, arguing that she intended at all times to permanently reside in Ontario and was only in Quebec on a study permit to complete her PhD. The Court granted the application and provided the following analysis:

> [28] The Applicant, as a basis of comparison, provided an example of Ontario's provincial nominee program (PNP) application forms. Ontario happens to be one province that provides examples of the types of evidence that can satisfy a criterion common to all PNPs: the intention to live and work in the given province of destination. Applicants to the federal program at issue, the FSW, by contrast, are only required to fill out the General IMM0008 form, which simply asks, at Question 6, "Where do you intend to live in Canada? (a) Province/Territory; (b) City/Town". Neither that form nor any of the related legislation or policy guidelines require any supporting documentation to demonstrate intent.
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> [29] If there was a requirement to demonstrate compliance with subsection 75(1) of the Regulations by producing more than a simple statement of intent to permanently reside outside of Quebec as provided in Question 6 of the Generic IMM0008 form, that requirement would need to be stated somewhere explicitly, in order to provide notice to the applicant. Here, the Officer erred in imposing such a requirement.

[12] The Applicant submits, and I agree, the same reasoning applies here. There is no requirement that the Applicant take steps prior to the issuance of the visa. While the Applicant must demonstrate an intention, this can be demonstrated through ways other than applying for a visitor visa or in fact visiting the province prior to receiving her PR status. By focusing on the fact that the Applicant did not apply for a visitor visa to visit Quebec, the Officer was either imposing a requirement that did not exist, or equating the requirement of demonstrating an intention to reside with the requirement to visit the province in question.

[13] Second, having erroneously required the Applicant to demonstrate her intention through the requirement to obtain a visitor visa, the Officer further erred by failing to explain why the evidence submitted by the Applicant was insufficient to establish intention.

[14] As noted in *Dhaliwal*, at para 31, the assessment of intention is a highly subjective notion, and that the officer "may take into account all indicia, including past conduct, present circumstances, and future plans, as best as can be ascertained from the available evidence and context."

[15] In the case at bar, the Applicant provided evidence regarding her intention to move to Quebec. The Applicant's evidence includes two unsworn but signed statutory declarations, dated December 23, 2023 and May 25, 2024, respectively, as well as testimony the Applicant gave during the interview with the Officer.

[16] In the December 23, 2023 statutory declaration, the Applicant set out her interest to reside in Montreal, her younger sister's intention of settling in Montreal with her in-law's family, and the steps she would take if given a chance to settle down in Quebec. Among other things, the Applicant described her plan to purchase a house in Laselle, the reason why she chose Laselle, and her plan to enrol her two children in school. The Applicant also stated that she has initiated communication with the educational institute in Quebec, and listed the schools she wanted her children to enrol in. The Applicant further confirmed her enrolment with an online French language course. Finally, the Applicant submitted her business plan, some communications with her friends who are living in Quebec, and links to French language admission courses that her spouse and two children would enroll in once they arrive in Montreal.

[17] The Applicant's May 25, 2024 Statutory Declaration reiterated her intention to live in Montreal, and provided further updates about the steps she and her family have taken to actualize her intention. The Applicant also confirmed that her sister's PR application was approved by IRCC on February 7, 2024, and that her plan has changed since her younger sister now insists on the Applicant staying in the same area where the sister is planning to live. The Applicant further noted that her sister's sister-in-law has already booked a rental unit for the Applicant from September 2024 in the same area and that her sister is waiting for her so that they could fly to Montreal together. The Applicant also provided further details about her plan with respect to her children's schooling in Montreal, including where the children would be taking French lesson courses.

[18] In the GCMS notes, the Officer expressed the following concern about the Applicant's evidence, stating:

> I see that all your correspondences regarding housing search, school admissions, French learning are very recent, it appears that you only started looking into them after our request and interview letter were sent. You have not even applied for visitor visa to visit Quebec. This raises concern on your intent to reside in Quebec if visa is issued.
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> [Emphasis added]

[19] The Officer's above quoted statement does not appear to be accurate. Some of the email correspondences between the Applicant and the schools in Quebec were dated October 2, 2023, before the IRCC issued their November 29, 2023 letter asking the Applicant to outline all steps taken to prepare for relocation to Quebec, and before the May 6, 2024 letter inviting the Applicant to a personal interview. As well, the Applicant's December 23, 2023 statement outlined a number of steps the Applicant took in preparation for the relocation by then, about six months before the IRCC's letter notifying the Applicant of an interview request.

[20] At the hearing, the Respondent conceded that the Officer's statement was inaccurate but argued that this one error does not vitiate the Decision in its entirety.

[21] While I agree this error in and of itself is insufficient to render the Decision as a whole unreasonable, however, as noted above, the Officer is required to ascertain the Applicant's intent based on her past conduct and future plans "from the available evidence and context:" *Dhaliwal* at para 31. Here, the Applicant's search for schooling for her children, several months prior to the interview notice, was evidence both of past conduct and future plans regarding her intent to

reside in Quebec. As the Applicant submits and I agree, the Officer's error in this respect calls into question whether the Officer considered the relevant evidence.

[22] Moreover, during the interview, the Applicant stated that she intended to reside in Quebec. She noted that her sister has already gotten her visa in the same program, and her sister's in-law's family has lived in Quebec for 20 years. The Applicant also noted that her daughter wants to study at McGill University. After the Officer advised her of their concern about the Applicant's intent to reside in Quebec, the Applicant replied that she will reside in Quebec; there is no one in Canada other than her sister and her in-laws.

[23] In rejecting the Applicant's PR application, the Officer did not acknowledge the Applicant's stated intent to reside in Quebec, as indicated in her statutory declarations and in the Applicant's testimony during the interview.

[24] As the Court noted in *Do v Canada (Citizenship and Immigration)*, 2022 FC 927, at para 20: "[w]hile …. a visa officer need not accept an applicant's statements or explanations, a failure to consider or address those explanations on a matter of central importance is a sign of an unreasonable decision, even recognizing the attenuated requirement to give reasons on a visa determination: *Vavilov* at paras 125-128; *Patel v Canada (Citizenship and Immigration)*, 2020 FC 77 at paras 15-17."

[25] In this case the Applicant's intent to move to Quebec was a matter of central importance. While it was open to the Officer not to accept the Applicant's testimony and statements, the

Officer's failure to address the Applicant's evidence on this central issue renders the Decision unreasonable.

[26] The Respondent cites case law in which the Court upheld officer's decision finding an applicant did not have the intention to reside in Quebec: *Grewal v Canada (Citizenship and Immigration)*, 2017 FC 955 at para 17; *Qiao v Canada (Citizenship and Immigration)*, 2022 FC 247 at para 15; *Quan v Canada (Citizenship and Immigration)*, 2022 FC 576 at para 24; *Tran v Canada (Citizenship and Immigration)*, 2021 FC 721 at para 33; *Yaman v Canada (Citizenship and Immigration)*, 2021 FC 584 at para 29; *Rabbani v Canada (Citizenship and Immigration)*, 2020 FC 257 at para 43.

[27] While I acknowledge the Respondent's submission that these cases are cited for the law, I find these cases do not assist the Respondent, as they are distinguishable either on the facts and and/or the legal issues arising from the cases. In any event, several of the cases the Respondent cite confirms the Court's finding in *Dhaliwal* at para 31 that an officer may take into account all indicia "as can be ascertained from the available evidence and context." For the reasons already set out above, I find the Officer failed to do so in this case by ignoring available evidence the Applicant provided. As such, I find the Decision unreasonable on this basis. I need not address the Applicant's remaining arguments.

IV. Conclusion

[28] The application for judicial review is granted.

[29] There is no question for certification.

JUDGMENT in IMM-13879-24

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is granted and the matter sent back for redetermination by a different officer.
2. There is no question for certification.

"Avvy Yao-Yao Go"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

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