Federal Court  Cour fédérale

Date: 20251001

Docket: IMM-16889-24

Citation: 2025 FC 1613

Ottawa, Ontario, October 1, 2025

PRESENT: Madam Justice Conroy

BETWEEN:

FAHRAN RASHID KHAN

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

[1] Mr. Farhan Rashid Khan [Applicant] seeks judicial review of an immigration officer's [Officer] decision refusing his application for permanent residence under the Spouse or Common-Law Partner in Canada class [PR Application] under *Immigration and Refugee Protection Act*, SC 2001, c 27 [IRPA].

[2] His PR Application was refused because the Officer was not satisfied that the relationship between Mr. Khan and his spouse was genuine and not entered into primarily for the purpose of acquiring status under IRPA.

[3] For the reasons that follow, the judicial review is granted.

I. Background

[4] The Applicant is a citizen of Pakistan who arrived in Canada in 2011. He resides in Mississauga with his spouse whom he married on April 16, 2013. It is the second marriage for both spouses.

[5] The Applicant's immigration history includes a failed refugee claim in 2011 for which an Application for Leave for Judicial Review [ALJR] was refused in 2013.

[6] Since his 2011 marriage, the Applicant has applied for and been refused permanent residency under the family class three times.

[7] In December 2022, the Applicant and his wife (as his sponsor) submitted the PR Application that is the subject of this judicial review.

[8] The 2022 PR application attached, among other things, residential lease agreements for 2019 and 2020, copies of utility bills, joint bank account statements, an application for life insurance listing the Applicant's wife as a beneficiary, CRA Notices of Assessments. These documents reference both the Applicant and his wife and are addressed to their home in Mississauga. Also included were corporate filings for a company owned by the Applicant, showing the Applicant and his wife as directors and with the same address in Mississauga.

[9] On July 15, 2024, the Officer sent a Procedural Fairness Letter [PFL] to the Applicant sharing concerns about backdated residential leases and the religious marriage to his wife. The letter also requested proof of rent payments from 2019 to present, marriage photos and proof of "Rukhsati", a common cultural marriage practice among Pakistanis.

[10] With respect to the residential leases, the GCMS notes describe a standard form lease agreement from the Ontario Real Estate Association purportedly signed by the spouse and Applicant in 2019 and 2020. On the face of the standard form lease, it says "Form 400 - Revised 2021". The GMCS notes state: "based on the evidence provided and evidence in front of this officer, it is clear that PC and SPR have misrepresented and backdated the rental lease agreement to show proof of cohabitation."

[11] On July 18, 2024, the Applicant's former representative submitted a response to the PFL explaining, that the house the couple resides in is owned by the Applicant's brother and the rent is paid in cash. The Applicant acknowledged the error on the residential lease agreements, as he believed this was just a document to demonstrate that the couple was living together at the relevant time. The Applicant provided documents which he said showed proof of rent payments to his brother (although without any details of who received the money), other evidence of their rental at the location, reference letters confirming the couple's relationship and home address, and more photographs of the couple together.

[12] Regarding the request for further information on the Applicant's religious marriage to his sponsor, the Applicant advised that a Nikah ceremony had been held at a mosque and that there

was no need for a Rukshati in the circumstances of the couple's marriage as the wife was not leaving her parents home to move in with her husband.

II. Decision under review

[13] On September 5, 2024, the Applicant was informed that his PR Application was refused. The refusal letter stated that the Officer was not satisfied that the Applicant's marriage to his sponsor was genuine or that it was not entered into primarily for the purpose of acquiring permanent residence in Canada.

[14] Citing s.40(1)(a) of IRPA, the refusal letter also found that the Applicant misrepresented material facts that could have induced errors in the administration of the Act, referring to the backdated 2019 and 2020 lease agreements. The letter went on to advise that "due to the fact that you have misrepresented and provided fraudulent information's and documents, a referral has been made to the minister's delegate for review of A40(1)(a)."

[15] The Global Case Management System [GCMS] notes, from 17 July, 2024, (which form part of the reasons under review) read as follows:

> Conclusion:
>
> Applicant and spouse are unable to provide sufficient compelling documents to demonstrate that they reside together and share a mutual level of interdependency normally associated to a married couple. I have examined the length of time that the applicant has spent in Canada, the length of time the couple have known each other and his original purpose for coming here. I have examined the circumstances of their meeting and the written submissions regarding the relationship development. The documents submitted to assess this relationship are sparse, at best. … Documents provided in support this Fc app – more specifically the lease/rental agreement are found to be fraudulent and did not exist at the time it

> was signed. They were signed and dated to facilitate the Fc app processing to prove the PC and SPr are in a relationship and residing together.

The notes go on to state:

> An assessment of all evidence on file and interview, indicates that Mr. Khan, Farhan Rashid appears to be using all possible means to obtain status in Canada, and that this is the main and only reason why he married Ms. Firdous, Humaira." [emphasis added]

[16] The officer finds that on the "[b]alance of probabilities and the information provided, I am not satisfied that the PA and SPR are cohabitating in a genuine relationship. R117 not met."

[17] The notes then reference s. 4 and s. 124(a) of the *Immigration and Refugee Protection Regulations* SOR/2002-227. The latter requires the sponsor and the foreign national to cohabit in Canada. The notes conclude:

> Since the Client is not considered a spouse within the meaning of Section 4 of the Regulations, he does not meet the requirements of the class.
>
> FC application refused and PC reported for misrep under A40 and referred to the minister's delegate.

III. Was the Officer's Decision Unreasonable

[18] The parties agree that the standard of review is reasonableness (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [*Vavilov*] at para 16, 17 and 25. I must consider whether the "decision bears the hallmarks of reasonableness—justification, transparency and intelligibility" (*Vavilov* at para 99).

A. *Positions of the Parties*

[19] The Applicant submits that "although interdependency and the genuineness of the marriage are mentioned in the decision, it is uncontested that the primary concern regarding the Applicant's marriage and subsequent misrepresentation finding is that the couple reside together" (Applicant Memorandum at para 29).

[20] He says that the Officer's decision was unreasonable because it failed to take into account the evidence on file that contradicted the Officer's conclusion that the couple was not living together. For example, the Officer failed to consider the utility bills, joint bank account statements and a life insurance policy application with the wife as the beneficiary, that showed the couple shared the same home address.

[21] The Applicant argues that neither the GCMS notes nor the refusal letter reveal whether the Officer analyzed the evidence corroborating cohabitation, nor is it evident that the Officer actively considered this evidence in relation to the negative finding, which seems to have been based solely on the backdated lease agreements.

[22] The Applicant relies on a number of decisions which explain that intervention form this Court is warranted where a decision maker has failed to engage with evidence that directly contradicts a finding of fact central to the conclusion: *Thavaratnam v Canada (Citizenship and Immigration)*, 2022 FC 967 at para, 18-19; *Singh v Canada (Citizenship and Immigration)*, 2022 FC 1718 at para 16; *Aghaalikhani v Canada (Citizenship and Immigration)*, 2019 FC 1080 at para 24-25; *Nguyen v Canada (Citizenship and Immigration)*, 2024 FC 609 at paras 18-20.

[23] The Applicant asserts that while the GCMS notes summarize the evidence, the Officer fails to engage in any kind of analysis that results in a conclusion that can be understood by the Applicant and the Court. He argues that the rationale provided by the Officer was generic and there were indications that it was boilerplate (for example, the Officer's reference to considering "the evidence on file and interview", when there was no interview).

[24] The Applicant does not take issue with the Officer's conclusion that the 2019 and 2020 residential leases were backdated.

[25] The Respondent rejects the Applicant's characterization of the central issue as one of residency. The Minister argues that the Officer had valid concerns about the genuineness of the marriage. He submits that the reasons provided about the backdated lease agreements were not a mere fixation, as argued by the Applicant, but were an example of responsive justification.

[26] The Respondent submits that rather than ignoring the evidence, the Officer highlighted the deficiency of certain documents, such as the residential leases and the purported rent receipts. The Respondent argues that it was open to the officer to give more weight to the discrepancies than to the remaining documents provided: *Trong v Canada (MCI)*, 2017 FC 422 at para 32; *Kaur v Canada (MCI)*, 2010 FC 417 at para 27.

[27] The Respondent also underlines that significant deference is owed to immigration officers who assess the *bona fides* of a marriage: *Roberts v Canada (Citizenship and Immigration)*, 2025 FC 364 at para 13.

B. *Analysis*

[28] The Officer's reasons on the backdated lease agreements were reasonable to support the conclusion on misrepresentation. It is noted that the Applicant did not contest the Officer's conclusion that that 2019 and 2020 lease agreements were fraudulent.

[29] However, where the reasons fall short is in their failure to explain why the Officer doubted the *bona fides* of the marriage. After carefully reviewing the Officer's reasons, the Court is left to speculate as to the reasons the Officer reached the conclusion they did on the genuineness of the marriage and whether it was entered into primarily for the purpose of acquiring status under IRPA.

[30] It may have been open to the Officer to find that the fraudulent leases undermined the Applicant's credibility to the extent that it tainted the credibility of the other information provided, but there is no such statement in the reasons. It is not the Court's role to fill in the gaps in the reasons.

[31] Despite the Applicant counsel's able submissions, it is not apparent to me that the Officer's primary concern was residency. While the Officer concludes that the lease agreements are fraudulent and the evidence on payment of rent problematic, there is no finding on whether the couple resides together. The Officer's conclusions that mention cohabitation do so with reference to the nature of the relationship or the *bona fides* of the marriage.

[32] As noted, the Officer does not tie any of the evidence to their conclusion that the marriage was not genuine.

[33] I agree with the Applicant, that apart from the analysis of the fraudulent lease agreements, the Officer's rationale is generic and conclusory. While the GCMS notes list the evidence provided and summarize the Applicant's immigration history, the officer does not connect the listed evidence with their conclusions.

[34] I accept that visa officers are not required to provide lengthy reasons: *Afuah v Canada (Citizenship and Immigration)*, 2021 FC 596 [*Afuah*] at para 9, and the authorities cited therein. Nonetheless, "they must be sufficient to understand the reasons an application was refused and allow the Court to find they provide the justification, transparency, and intelligibility required of a reasonable decision" (*Afuah* at para 10).

[35] It was not enough to base a conclusion on "an assessment of all the evidence" as the officer here did when he found that the Applicant "appears to be using all possible means to obtain status in Canada and that is main and only reason why he married [his wife]."

[36] As explained by Justice McHaffie, "even where the obligation to give reasons is minimal, the Court cannot be left to speculate as to the reasons for a decision, or attempt to fill in those reasons on behalf of a decision-maker where they are not clear from the decision read in light of the record" (*Afuah* at para 17).

[37] I am mindful that significant deference is owed to factual findings by immigration officers who assess the *bona fides* of a marriage: *Roberts v Canada (Citizenship and Immigration)*, 2025 FC 364 at para 13. But this deference does not forestall Court intervention where the reasons fail to meet the minimum standard to show justification, transparency, and intelligibility.

IV. Conclusion

[38] I conclude that the decision is unreasonable. The judicial review is therefore granted, the Officer's decision is set aside, and the application for permanent residency will be remitted to a different visa officer for redetermination.

I want to thank both legal counsel for their strong written and oral submissions on this matter.

JUDGMENT IN IMM-16889-24

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is granted.
2. The decision of the Officer dated September 5, 2024, to refuse the application for permanent residency, is set aside and the matter is remitted to different decision-maker to be redetermined.
3. No question of general importance is certified.

"Meaghan M. Conroy"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

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APPEARANCES:

Sean Alexander Yauk	FOR THE APPLICANT
Eli Lo Re	FOR THE RESPONDENT

SOLICITORS OF RECORD:

Zarei Law Toronto, Ontario	FOR THE APPLICANT
Attorney General of Canada Toronto, Ontario	FOR THE RESPONDENT