Federal Court  Cour fédérale

Date: 20251006

Docket: IMM-18900-24

Citation: 2025 FC 1643

Toronto, Ontario, October 6, 2025

PRESENT: The Honourable Justice Battista

BETWEEN:

MUHAMMAD SHAFIQ

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

I. Overview

[1] The Applicant applies for judicial review of his refused application for permanent residence in Canada on humanitarian and compassionate (H&C) grounds. His challenge focuses on the findings of an Immigration, Refugees and Citizenship Canada officer (Officer) related to his establishment in Canada.

[2] The Officer's reasons contain statements which appear to contradict jurisprudential principles regarding the reasonable exercise of discretion in H&C applications. However, when

the decision is read holistically in light of the evidence and the submissions, these statements were not central to the outcome. For the reasons below, the decision is reasonable, and the application is dismissed.

II. Background

[3] The Applicant is a Pakistani citizen who has been living in Canada since 2018. He and his former partner Saira fled to Canada and made refugee claims, however, after arriving in Canada, the couple separated and Saira removed the Applicant from her refugee claim. Saira's refugee claim was subsequently approved, and the Applicant's claim was denied.

[4] During his time in Canada, the Applicant has remained employed on work permits, the most recent of which expired in February of 2022. His wife, Uzma, and his three sons all remain in Pakistan.

[5] In June 2023, the Applicant submitted an H&C application for permanent residence under section 25 of the *Immigration and Refugee Protection Act*, SC 2001, c 27 (*IRPA*). The Applicant based the application on three grounds:

- his establishment in Canada and the hardship he would face if he was forced to leave;
- the best interests of the Applicant's children in Pakistan who are supported by him financially; and

- country conditions in Pakistan which would result in difficulties for him to obtain employment given his age.

[6] The H&C application was refused on September 25, 2024. The Officer found that the Applicant would not face hardship beyond the normal and foreseeable consequences of removal, that he had immediate family in Pakistan to assist in his re-establishment, and that he could still maintain contact with his friends and community members in Canada. The Officer further found that, at least since September 23, 2022, the Applicant had been living and working in Canada without status, and minimal weight was given to his establishment in Canada after that date.

III. Issue and standard of review

[7] The review of this decision is based on the reasonableness standard of review set out in *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 (*Vavilov*), affirmed in *Mason v Canada (Citizenship and Immigration)*, 2023 SCC 21. A reasonable decision must bear the hallmarks of justification, transparency and intelligibility (*Vavilov* at para 99). It must be internally coherent and respectful of the relevant factual and legal constraints (*Vavilov* at paras 102-107).

IV. Analysis

[8] The Applicant raises five ways in which the Officer unreasonably dealt with the Applicant's evidence of Canadian establishment. However, in my view, the Officer's reasons were transparent, intelligible and justified, and the outcome was reasonable.

A. *The Officer did not require a standard of exceptional establishment*

[9] The Applicant argues that the Officer unreasonably imposed a standard of "exceptional establishment" in Canada to be met for H&C relief. In support of this submission, he points to the Officer's finding that based on the Applicant's six years in Canada "it is expected that he would have achieved a level of establishment during this time".

[10] The Applicant also points to a number of decisions of this Court finding that a standard of exceptionality is inappropriate for the assessment of establishment evidence (*Cheng v Canada (Citizenship and Immigration)*, 2024 FC 560 at para 21; *Baco v Canada (Citizenship and Immigration)*, 2017 FC 694 at para 18; *Ndlovu v Canada (Immigration, Refugees and Citizenship)*, 2017 FC 878 at para 15; *Qasim v Canada (Citizenship and Immigration)*, 2024 FC 1587 at paras 20-21).

[11] While the Officer did not refer to a standard of exceptionality explicitly, I agree with the Applicant that the Officer's use of an "expected" standard of establishment lacks transparency. It implies a baseline measurement of establishment without disclosing the contents or origin of the standard.

[12] However, this was not a seminal finding regarding the Applicant's establishment. The crux of the analysis was that his re-establishment in Pakistan would be achieved based on his family members, his secondary education, and his employment experience notwithstanding his Canadian establishment. The reasonableness of this focus is addressed in response to the Applicant's second challenge to the decision.

B. *The Officer reasonably assessed the hardship from the disruption of establishment*

[13] The Applicant argues that the Officer unreasonably failed to explain why he would not face hardship due to the disruption of his establishment in Canada. The Applicant identifies several authorities from this Court in which an officer's neglect to address hardship from disrupted establishment was found to be unreasonable (*Joseph v Canada (Citizenship and Immigration)*, 2013 FC 993 (*Joseph 2013*); *Trach v Canada (Citizenship and Immigration)*, 2015 FC 282 (*Trach*); *Jaramillo Zaragoza v Canada (Citizenship and Immigration)*, 2020 FC 879 (*Jaramillo Zaragoza*)). The Officer did in fact note, although without elaboration, that the difficulties the Applicant would face in being required to leave from Canada did not warrant H&C relief.

[14] The factual contexts in the Applicant's identified cases are distinct from the present evidentiary record. The establishment evidence in the cited cases was voluminous and of a cumulative nature. The applicants in the cited cases had spent a decade or more in Canada, had close family who are Canadian citizens, and had successful employment (*Joseph* 2013 at para 29; *Trach* at paras 2, 32), or had arrived as children in Canada and grew up here (*Jaramillo Zaragoza* at paras 4, 42).

[15] Further, the Officer addressed the establishment evidence primarily by focusing on its low impact on the Applicant's re-establishment in Pakistan. This was responsive to the way the establishment evidence was framed in evidence from the Applicant and submissions from his previous representative. No evidence was before the Officer regarding the emotional or psychological impact of establishment disruption on the Applicant, and the logistical impact was

addressed by the Officer's finding regarding re-establishment in Pakistan. The Officer's reasons were justified in relation to the evidence and submissions.

C. *The Officer did not err in their assessment of the Applicant's relationships*

[16] The Applicant alleges unreasonableness in the Officer's failure to address the hardship of separation from his friends and community in Canada, suggesting instead that these relationships could be maintained by alternative methods of communication. The Applicant raises jurisprudence which finds this line of reasoning to be flawed, given the substantial difference between living daily life in relationships compared to occasional visits or remote communications (*Epstein v Canada (Citizenship and Immigration)*, 2015 FC 1201 (*Epstein*) at para 16; *Igreja Ferreira de Campos v Canada (Citizenship and Immigration)*, 2024 FC 1193 (*Igreja Ferreira de Campos*) at paras 26-28).

[17] The Officer's reasons were reasonably responsive to the evidence and the submissions. Emotional or psychological hardship resulting from the Applicant's separation from his Canadian friends and community was not suggested in his written statement, in his previous representative's submissions, or in the letters of support from his friends. The Applicant's friends spoke predominantly of the Applicant's character and hard work in Canada.

D. *The Officer did not fail to explain why establishment was not sufficient*

[18] The Applicant argues that the Officer did not provide a reasonable explanation of the finding that his establishment was not sufficient. In effect, the Applicant argues that the reasons were not responsive to the evidence.

[19] However, the Officer's reasons are transparent, intelligible and justified: the Officer comprehensively identified the varied evidence advanced by the Applicant and concluded that the degree of establishment would not give rise to problems with his re-establishment in Pakistan. This was reasonable based on the evidentiary record.

E. *The Officer did not err in assigning minimal weight to establishment obtained while the Applicant was without lawful status*

[20] The Applicant argues that the Officer erred in discounting establishment evidence after September 2022 when the Applicant was out of status and working without authorization. According to the Applicant, there is no evidence the Applicant was not compliant with efforts to remove him because there were no such efforts, and accordingly his only breach of immigration law was working without a work permit.

[21] The Applicant distinguishes his case from jurisprudence used by the Officer to give "minimal consideration" to the Applicant's establishment while he was in non-compliance with immigration law (*Joseph v Canada (Citizenship and Immigration)*, 2015 FC 904 (*Joseph 2015*)). According to the Applicant, the circumstances in *Joseph 2015* involved a more serious breach of remaining in Canada illegally for over ten years. In addition, the Applicant argues that it is unreasonable to wholly discount any part of establishment evidence based on non-compliance.

[22] I agree that the Officer's comments about the Applicant's non-compliance are troubling. The Officer pulled quotes from *Joseph 2015* out of context and in a manner that could lead to the impression that the Officer considered it forbidden to consider the Applicant's establishment evidence during the period of his non-compliance.

[23] If this was in fact the Officer's approach, it would support the allegation of unreasonableness because the obstacle giving rise to the need for relief—non-compliance—would be the reason for denying relief designed to get around the obstacle. This represents the logical fallacy of circular reasoning and defeats the purpose of H&C applications (*Vavilov* at para 104; *Shah v Canada (Immigration, Refugees and Citizenship)*, 2024 FC 398 at para 44).

[24] In my view, the comments cited by the Officer from *Joseph 2015* were not intended to be broad pronouncements designed to confine the broad discretion conferred on an officer's assessment under section 25 of the *IRPA* (*Kanthasamy v Canada (Citizenship and Immigration)*, 2015 SCC 61 at paras 31-32). The context of the comments reveals that they were tied to the facts and reasons under review in the decision. As Justice Brown stated in *Joseph 2015*: "Each case must be examined on its own and in terms of its unique circumstances. In some cases, the fact of illegal status will not be a great obstacle to H&C relief, although it may be a relevant consideration" (*Joseph 2015* at para 30).

[25] However, the Officer's application of *Joseph 2015* was not determinative; in fact, there was little unique establishment evidence after September 2022 aside from the passage of additional time. As stated by the Respondent, jurisprudence from the Court finds the disregard of immigration laws to be a reasonable factor in assessing establishment where it is not a determinative factor (*Giles Mendoza v Canada (Citizenship and Immigration)*, 2025 FC 192 at para 40; *Lin v Canada (Citizenship and Immigration)*, 2021 FC 1452 at para 46; *Shackleford v Canada (Citizenship and Immigration)*, 2019 FC 1313 at para 24). In the present decision, the Officer's comments on the Applicant's non-compliance are an unhelpful distraction, but they do not render the decision unreasonable.

V. Conclusion

[26] The Officer's reasons were not expressed optimally, but when read holistically, they were responsive to the Applicant's submissions and evidence regarding his establishment in Canada and complied with the relevant legal constraints on the exercise of discretion under section 25 of the *IRPA*. Any shortcomings are not sufficiently serious to set the decision aside (*Vavilov* at para 100).

JUDGMENT in IMM-18900-24

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is dismissed.

2. There is no question for certification and no order regarding costs.

"Michael Battista"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

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APPEARANCES:

Lorne Waldman	FOR THE APPLICANT
Sarah Merredew	FOR THE RESPONDENT

SOLICITORS OF RECORD:

Waldman and Associates Toronto, Ontario	FOR THE APPLICANT
Attorney General of Canada Toronto, Ontario	FOR THE RESPONDENT