

Federal Court



Cour fédérale

Date: 20251117

Docket: IMM-17499-24

Citation: 2025 FC 1831

Ottawa, Ontario, November 17, 2025

PRESENT: The Honourable Mr. Justice Thorne

BETWEEN:

JASSA SINGH GILL

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

I. Overview

[1] A Senior Immigration Officer [Officer] denied Mr. Jassa Singh Gill's [the Applicant] application for a recognition of criminal rehabilitation, such that his inadmissibility for serious criminality under paragraph 36(1)(b) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [Act] would be overcome [Decision]. The Applicant seeks judicial review of this Decision on the grounds that it was unreasonable, and that he suffered a breach of procedural fairness.

[2] Having considered the record before the Court, including the parties' submissions, I find that the Applicant has established that the Decision is unreasonable. Accordingly, this application for judicial review is granted.

II. Background

[3] On March 15, 2015, the Applicant, a citizen of India, and his friends attempted to travel from Thailand to Australia using a forged Australian visa stamp. As a result, the Applicant was convicted of counterfeiting and using a counterfeit visa in Thailand under section 269/13 of the Thai *Penal Code*, B.E. 2499 (1956) (equivalent to section 367 of the Canadian *Criminal Code*, RSC 1985, c C-46) and sentenced to one year of imprisonment, after which he was deported from Thailand to India in July 2016.

[4] On January 7, 2020, the Applicant applied for a work permit to join his spouse who was studying in Canada, but in doing so failed to disclose either his criminal conviction or subsequent deportation from Thailand in his application. The work permit application was accordingly refused, and the Applicant was found inadmissible for misrepresentation, until March 2025.

[5] In November 2021, the Applicant applied to be considered individually rehabilitated in Canada. Such rehabilitation overcomes or "removes the grounds of criminal inadmissibility", as under paragraph 36(3)(c) of the Act, persons who are permanent residents or foreign nationals are not inadmissible if they can satisfy the Minister that "they have been rehabilitated" or if they are a member of a prescribed class that is "deemed to be rehabilitated". In particular, a person who is inadmissible for serious criminality under paragraph 36(1)(b) of the Act may apply for

rehabilitation five years “after the completion of an imposed sentence” and if they “have not been convicted of a subsequent offence other than an offence designated as a contravention under the *Contraventions Act* or an offence under the *Young Offenders Act*” pursuant to paragraph 17(a) of the Regulations. In addition, a person is not a member of a prescribed class deemed rehabilitated unless they meet requirements under subsection 18(2) of the Regulations. As this subsection does not apply to the Applicant, he therefore remains inadmissible for serious criminality even after March 2025, unless he meets the requirements of paragraph 36(3)(c).

[6] In his written statement in support of his application, with respect to his Thai criminal conviction of 2015 for attempting to travel to Australia on a forged visa stamp, the Applicant stated: “I blame myself and no one else for making the terrible mistake. I myself and my family have suffered a lot due to my foolish act.” In relation to his failure to disclose his criminal conviction or subsequent deportation from Thailand in his Canadian work permit application in 2020, the Applicant stated that: “I disclosed my complete history of Thailand imprisonment to my agent but without me know, [sic] he did not disclose this information in my Work Permit application. He might know that I am not eligible but hide [sic] this fact from me just for the sake of earning money”. In his conclusion, the Applicant also stated that “Unfortunately, I have been the victim of bad company and bad agents but despite all this, I have been a law-abiding citizen of my country”.

[7] On May 3, 2022, the Applicant received a letter from Immigration, Refugees and Citizenship Canada [IRCC] stating that he was inadmissible for serious criminality under paragraph 36(1)(b) of the Act, but that allowed him to provide submissions in this regard and to

attempt to establish his rehabilitation. In July 2022, the Applicant submitted the required documents to the IRCC.

[8] On August 30, 2023, the Applicant oddly received from IRCC an identical letter to the May 3, 2022 letter. He again submitted a response, this time on September 20, 2023.

[9] Included in the Applicant's submissions were a Police Clearance Certificate from India, bank statements and a licence from the Punjab State Agriculture Marketing Board to establish his legitimate sources of income and positive establishment in India, along with several letters that demonstrated his strong integration within his community. These documents demonstrated that he had a strong connection to his family, maintained consistent employment, and had a pattern of financial stability and self-support. In his personal statement accompanying his request for rehabilitation, the Applicant also expressed remorse, and asserted that he took full responsibility and that he had vowed to himself to never repeat such "foolish mistakes in the future".

[10] On September 19, 2024, the Officer refused the Applicant's application for rehabilitation on the basis that he had not satisfactorily demonstrated his rehabilitation.

[11] The Officer's Decision referenced the following findings, that are recorded in the Global Case Management System [GCMS] notes pertaining to the Applicant's file:

Applicant downplays his responsibility in his criminal conviction and subsequent refusal for misrepresentation stating that he has been the victim of bad company with regards to his Thailand conviction and bad agents with regards to his 2020 work permit application. I note that in 2020 at no time did he declare that an agent assisted him with his spousal work permit application during

his interview and there is no agent associated to his work permit application.

[...]

I have carefully assessed this application for rehabilitation. I have evaluated the available documentation, the information provided by the applicant, the overall comportment of the applicant, and the applicant's personal, professional, family and social circumstances. I have considered if the offence was an isolated event, out of character for the individual, and not indicative of a pattern of behaviour.

Based on specific evidence submitted for this rehabilitation application, and having carefully reviewed the Rehabilitation application, I have significant doubts as to the applicant's understanding of the need for full openness and truthfulness or his taking responsibility for incidents he had with the law. I am not satisfied that the applicant is rehabilitated and will not reoffend.

III. Issues and Standard of Review

[12] The issues at play in this matter are whether the decision under review was reasonable, and whether the Officer breached the Applicant's right to procedural fairness.

[13] The role of a reviewing court is to examine the decision maker's reasoning and determine whether the decision is based on an "internally coherent and rational chain of analysis" and is "justified in relation to the facts and law that constrain the decision maker" (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at para 85 [Vavilov]; *Mason v Canada (Citizenship and Immigration)*, 2023 SCC 21 at para 64). Although the party challenging the decision bears the onus of demonstrating that the decision is unreasonable (*Vavilov* at para 100), the reviewing court must ask "whether the decision bears the hallmarks of reasonableness—justification, transparency and intelligibility" (*Vavilov* at para 99). A decision may be

unreasonable if the decision maker misapprehended the evidence before it (*Vavilov* at paras 125-126; *Mason* at para 73). Moreover, reasonableness review is not a “rubber-stamping” exercise, it is a robust form of review (*Vavilov* at para 13; *Mason* at para 63).

[14] On the issue of procedural fairness, the role of a reviewing court is to determine whether “the applicant knew the case to meet and had a full and fair chance to respond” (*Canadian Pacific Railway Company v Canada (Attorney General)*, 2018 FCA 69 at paras 55-56 [*Canadian Pacific Railway*]). The Court thus conducts a “reviewing exercise [...] ‘best reflected in the correctness standard’ even though, strictly speaking, no standard of review is being applied” (*Canadian Pacific Railway* at para 54).

IV. Analysis

[15] Upon review of the record and consideration of the submissions of the parties in this matter, I find that the Decision was not reasonable. I note that, given this finding, it is not necessary to also consider the Applicant’s claim of procedural unfairness.

[16] With respect to the reasonableness of the Decision, the Applicant submits that the Officer made an error of fact when they stated that: “I note that in 2020 at no time did he declare that an agent assisted him with his spousal work permit application during his interview”. The Applicant noted that, to the contrary, during his interview when questioned about the arrest and deportation in Thailand and why he did not disclose his conviction in his work permit application, he had specifically said: “My agent would know”. Consequently, the Applicant asserts that the Officer

misapprehended evidence that is in direct contradiction with their finding and, as a result, the Decision is unreasonable.

[17] I do not find this error sufficient to render the Decision unreasonable. For a decision to be unreasonable because of an erroneous factual finding, the error must be material to the outcome (*Vavilov* at paras 85, 88-90, 125-128). In this case, while the Applicant is correct that the Officer made a misstatement, I'm not satisfied that the Officer's factual mistake has any impact on the outcome. The fact of whether the Applicant disclosed that he had an agent or not during the interview is largely immaterial. The relevant fact on which the Officer relied was that, in his view, the Applicant blamed the "bad agents" for his failure to disclose the issue on his work application form. Moreover, as was noted by the Respondent in the hearing, while the Officer may have been wrong in asserting that the Applicant did not disclose the use of an agent during his interview, the Officer was accurate in stating that the Applicant had still failed to disclose the use of an agent on his application form, as he ought to have done. Consequently, the error is not fundamental but rather peripheral and I find it insufficient to cause the Court to lose confidence in the outcome (*Vavilov* at 100) of the Decision.

[18] I cannot say the same in relation to the other error identified by the Applicant, however. Here, the Applicant submits that the positive factors and indicators that were provided to show that he was rehabilitated and unlikely to reoffend were evidently not considered by the Officer. These include evidence of his establishment in India, including with respect to his employment, his assets including property, evidence of his savings and agricultural income, his income tax statements, his recent police report history, and his various letters of support, along with his

expressions of remorse and discussion of the consequences that he and his family had suffered. The Applicant notes that, collectively, all of this evidence establishes that there has been no further criminal activity on his part and also reaffirms his remorse, economic wherewithal and financial and personal stability.

[19] On this issue, I note that the Officer's reasons baldly state only that "I have evaluated the available documentation, the information provided by the applicant, the overall comportment of the applicant, and the applicant's personal, professional, family and social circumstances. I have considered if the offence was an isolated event, out of character for the individual, and not indicative of a pattern of behaviour." However, no reference is made to any of the specific evidence provided by the Applicant in the Decision.

[20] I note that an officer is generally presumed to have considered all the evidence, and that they may assess and evaluate the evidence before them (*Simpson v Canada (Attorney General)*, 2012 FCA 82 at para 10). Moreover, an administrative decision maker is not required to make an explicit finding on each constituent element leading to their final conclusion (*Vavilov* at paras 84 and 91 citing *Newfoundland and Labrador Nurses' Union v Newfoundland and Labrador (Treasury Board)*, 2011 SCC 62 at para 16).

[21] In this case, the Officer stated that they had considered the documentation and vaguely referred to the Applicant's materials, including those concerning "the overall comportment of the applicant, and the applicant's personal, professional, family and social circumstances". Consequently, the Respondent asserts that the Applicant is merely criticizing the weight that the

Officer gave to one or many of the pieces of evidence. I also note that “the Court will consider putting aside this presumption only when the probative value of the evidence that is not expressly discussed is such that it should have been addressed” (*Lee Villeneuve v Canada (Attorney General)*, 2013 FC 498 at para 51, citing *Cepeda-Gutierrez v Canada (Minister of Citizenship and Immigration)*, 1998 CanLII 8667 (FC) at paras 14-17 [*Cepeda-Gutierrez*]).

[22] This is true, however contradictory evidence should not be ignored, particularly when the evidence relates to one of the central points upon which the decision maker relies to reach their conclusions. Although reviewing courts should refrain from putting a decision maker’s reasons under a microscope, the decision maker in question cannot act “without regard to the evidence” (*Vavilov* at para 126; *Cepeda-Gutierrez* at paras 16-17; *Lapaix v Canada (Citizenship and Immigration)*, 2025 FC 111 at para 78 [*Lapaix*]). When a decision maker’s reasons do not so much as mention the evidence that contradicts its conclusions, the Court may infer that they did not review the contradictory evidence when reaching their finding of fact, and may intervene (*Siddiqui v Canada (Citizenship and Immigration)*, 2025 FC 305 at para 7 citing *Kheradpazhooh v Canada (Citizenship and Immigration)*, 2018 FC 1097 at para 18).

[23] That is the case in this matter. Though it was the prerogative of the Officer to examine and weigh the evidence, and to draw their conclusions from it, they could not omit to engage with, or outright reject “the constellation of evidence” that undermined their conclusion without providing transparent or intelligible reasons for doing so (see *Singh v Canada (Citizenship and Immigration)*, 2025 FC 1442 at para 6; *Banovic v Canada (Citizenship and Immigration)*, 2024 FC 1990 at para 66; *Sangha v Canada (Citizenship and Immigration)*, 2021 FC 760 at para 35).

[24] Here, nothing in the Officer's reasons indicates any actual consideration of the evidence provided with respect to establishing that the Applicant was rehabilitated. The GCMS notes vaguely state only that the Officer "evaluated the available documentation, the information provided ... and the applicant's personal, professional, family and social circumstances", without further explanation or even indication of what specific documentation this refers to. More importantly, while the evidence submitted was obliquely referred to by the Officer in this way, there are no reasons explaining why the evidence was insufficient to assist the Applicant in discharging his burden to demonstrate that he was rehabilitated. In other words, the Officer had to go beyond a mere, bald reference to the existing evidence and provide at least some cursory explanation as to why that contradicting evidence had no positive impact on the outcome. (*Cepeda-Gutierrez* at para 17; *Malicia v Canada (Minister of Citizenship and Immigration)*, 2003 FCT 170 at paras 20-23; *Kok v Canada (Minister of Citizenship and Immigration)*, 2005 FC 77 at para 46).

[25] This was simply not done in this matter. Take, for example, the Officer's central finding that they had significant doubts as to the Applicant's "taking responsibility for incidents he had with the law". In this respect, the Decision makes no mention of the Applicant's direct expressions of remorse, or the other documentary evidence indicating that he has had no other issues with the law in the last decade, or which discussed the hardship that the visa incident had caused him and his family. This is not to say that the Officer could not have decided that such evidence was insufficient, and that in spite of it, they were doubtful of the Applicant's acceptance of responsibility, for whatever reasons. They could well have done so. However,

making no reference at all to such clearly contradictory evidence calls into question whether that information was in any way countenanced.

[26] This is particularly so, given that in this matter the Officer's sweeping declarations of having considered all of the evidence are called into question by his evident misunderstanding as to whether the Applicant had ever stated that he had used an agent. As previously noted, in itself this error was not a particularly fundamental one, but given that the Officer's Decision discusses essentially none of the evidence which he declared had been considered, the notion that the only factual point which the Officer chose to raise then turned out to be incorrect does not bolster faith in the assertion that all of the evidence was indeed carefully considered.

[27] In any event, for these reasons, I agree with the Applicant that the Officer's Decision did not demonstrate regard to the evidence, and lacked the requisite hallmarks of justification, transparency and intelligibility (*Vavilov* at para 99). As such, I find it to be unreasonable.

V. Conclusion

[28] Accordingly, the Decision is set aside and the matter is returned for redetermination.

[29] The parties proposed no question for certification, and I agree that none arises.

JUDGMENT in IMM-17499-24

THIS COURT'S JUDGMENT is that:

1. The judicial review application is granted.
2. The decision of the Officer dated September 19, 2024, is set aside and the matter is returned for redetermination by a different immigration officer.
3. No question of general importance is certified.

"Darren R. Thorne"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

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STYLE OF CAUSE: JASSA SINGH GILL v THE MINISTER OF
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