

Federal Court



Cour fédérale

Date: 20190222

Docket: IMM-3310-18

Citation: 2019 FC 218

Toronto, Ontario, February 22, 2019

PRESENT: Mr. Justice Grammond

BETWEEN:

**LUCIANO ANDRÉ CAIANDA
ALDINA CELESTE RESCOVA
RAPHAEL ARTHUR RESCOVA CAIANDA
LUCIANO JUNIO RESCOVA CAIANDA
EDVANIA KATIANA RESCOVA CAIANDA**

Applicants

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

(Delivered from the Bench at Toronto, Ontario, on February 21, 2019)

[1] Mr. Caianda seeks judicial review of a decision made by the visa officer at the Canadian High Commission in Pretoria, denying his application for a study permit to study English at

St John College for one year and then enrol in a two-year program in Electronics Engineering Technology at New Brunswick Community College. The stated grounds for the refusal are that:

Proposed course of study does not appear to be a logical progression from [Mr. Caianda's] completed credential and work experience and it does not appear reasonable why [he] would pursue such a course of study in Canada at such great expense.

[2] The officer also noted that ESL programs were available elsewhere at a lower cost. He concluded that he was not satisfied that Mr. Caianda was a bona fide student.

[3] This decision must be quashed, as it is unreasonable on at least two grounds.

[4] First, Mr. Caianda explained, in his application, why he wants to study electronics engineering at this stage in his life. Mr. Cainada is now 43 years old. Ten or fifteen years ago, while living in Portugal, he began engineering studies, but was forced to withdraw as he was unable to combine work, studies and the demands of a young family. Now that he has accumulated some wealth and that his children are older, he wants to pursue this old dream. I fail to see how the officer could reasonably say that this is not a logical progression.

[5] Second, it is unreasonable to rely on the cost of post-secondary education in Canada to reach the conclusion that Mr. Caianda is not a bona fide student. There is no doubt that the cost of education is a matter of public debate. Visa officers, however, should not have suspicions merely because a particular individual puts a high value on higher education. There are many valid reasons for choosing to study in Canada in spite of the comparatively higher cost. And in this case, the evidence shows that Mr. Caianda can afford the proposed course of study.

[6] Given my conclusions, it is not necessary to address Mr. Caianda's allegation of breach of procedural fairness.

JUDGMENT in IMM-3310-18

THIS COURT'S JUDGMENT is that the application for judicial review is granted and the matter is sent back to a different visa officer for reconsideration. No question is certified.

"Sébastien Grammond"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-3310-18

STYLE OF CAUSE: LUCIANO ANDRÉ CAIANDA, ALDINA CELESTE RESCOVA, RAPHAEL ARTHUR RESCOVA CAIANDA, LUCIANO JUNIO RESCOVA CAIANDA, EDVANIA KATIANA RESCOVA CAIANDA V THE MINISTER OF CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: TORONTO, ONTARIO

DATE OF HEARING: FEBRUARY 21, 2019

JUDGMENT AND REASONS: GRAMMOND J.

DATED: FEBRUARY 22, 2019

APPEARANCES:

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