

Federal Court



Cour fédérale

**Date: 20230713**

**Docket: IMM-8753-22**

**Citation: 2023 FC 963**

**Ottawa, Ontario, July 13, 2023**

**PRESENT: The Honourable Mr. Justice Manson**

**BETWEEN:**

**AZUBUIKE CELESTINE OHALETA**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP AND  
IMMIGRATION**

**Respondent**

**JUDGMENT AND REASONS**

**I. Introduction**

[1] This is an application for judicial review of a decision of a visa officer (the “Officer”), dated July 18, 2022, denying the Applicant’s study permit application (the “Decision”). The Officer was not satisfied that the Applicant would leave Canada at the end of his proposed stay as required by paragraph 216(1)(b) of the *Immigration and Refugee Protection Regulations*, SOR/2002-227 [IRPR].

## II. Background

[2] The Applicant, Azubuiké Celestine Ohaleta, is a 47-year-old Nigerian citizen. The Applicant submitted an application in March 2022 for a study permit to enable him to pursue a two-year Master of Arts in Theological Studies with the Graduate School for Theology and Ministry at the Canadian Mennonite University in Manitoba.

[3] The Applicant has previously completed a Bachelor of Theology degree as well as a post-graduate degree in education from universities in Nigeria. He has been working as a pastor at a church in Port Harcourt, Nigeria since 2007.

[4] The Applicant provided a study plan as part of his application. The Applicant indicated that obtaining his desire to pursue a theology degree would allow him to gain a greater knowledge of theology and learn the necessary leadership and organizational skills to run a church. The Applicant indicated that upon graduation he planned to return to Nigeria and continue his work as a pastor.

## III. Decision under Review

[5] The Officer refused the Applicant's study permit application. The Officer indicated the following reasons for the refusal:

- A. The Applicant did not have sufficient funds to support the proposed study plan. The application indicated that the Applicant had approximately \$13,000 in savings. The

Applicant provided an employment letter but no proof of income and indicated that a portion of his studies would be funded by a fellow church member. The Applicant had at the time paid only a marginal amount of tuition.

- B. The Applicant's study plan did not appear reasonable given the Applicant's age and career path.

[6] The Decision was communicated to the Applicant through letter dated July 18, 2022.

#### IV. Issue

[7] The sole issue in this application is whether the Officer erred in concluding that the Applicant would not leave Canada at the end of his stay because of insufficient funding and the unreasonableness of the Applicant's study plan.

#### V. Standard of Review

[8] The standard of review is reasonableness (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at para 25 [*Vavilov*]).

#### VI. Analysis

[9] Under paragraph 216(1)(b) of the *IRPR* an officer is to only issue a study permit to a foreign national if it is established that the foreign national will leave Canada at the end of the

period authorized for their stay. Section 220 of the *IRPR* provides that an officer shall not issue a study permit to a foreign national unless they have sufficient financial resources, without working in Canada, to pay tuition fees, transportation costs and living expenses.

[10] Here, the Applicant argues that the Officer was unreasonable to conclude that the Applicant lacked sufficient financial resources to afford his proposed studies. As well, the Applicant claims that the Officer's assessment of the merits of his study plan was unreasonable.

[11] I agree with the Applicant. The Officer's decision on both fronts is unreasonable. The Officer concluded that the Applicant could not afford his studies and his stay in Canada based on an unreasonable assessment of the evidence before him. The Officer assumed that the Applicant had just \$13,000 in savings, while the evidence and submissions before the Officer indicate that the Applicant had approximately the equivalent of \$12,447 in a local Nigerian savings account, approximately the equivalent \$11,146 CAD in a US dollar denominated savings account, and approximately \$10,000 in a GIC account.

[12] It was unreasonable for the Officer to state that the Applicant had provided evidence of only \$13,000 in savings without explaining why the Applicant could not use the funds ostensibly available in these other savings accounts or from his sponsor to pay for his studies and his stay.

[13] It was also unreasonable for the Officer to find that the Applicant's proposed course of study was unreasonable given the Applicant's "age" and "career path". The Applicant is a 47-year-old pastor, and the proposed degree in theology is directly related to the Applicant's

vocation as a pastor at his church. As well, the Applicant's age of 47 years in no way suggests any cognitive issue on the Applicant's ability to study and pursue the study plan. There is nothing about the proposed study plan and the Applicant's motivation that appears anomalous and the Officer fails to explain *why* the proposed studies are unreasonable. A suggestion of redundancy in the study plan owing to the Applicant's pre-existing experience is not reasonable, given the lack of any analysis in the reasons on this front – there is a lack of transparency as required under *Vavilov*.

VII. Conclusion

[14] The application is allowed.

**JUDGMENT in IMM-8753-22**

**THIS COURT'S JUDGMENT is that:**

1. The application is allowed and the matter is remitted to a different officer for reconsideration.
2. There is no question for certification.

"Michael D. Manson"

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Judge

**FEDERAL COURT**  
**SOLICITORS OF RECORD**

**DOCKET:** IMM-8753-22

**STYLE OF CAUSE:** AZUBUIKE CELESTINE OHALETA v MINISTER OF  
CITIZENSHIP AND IMMIGRATION

**PLACE OF HEARING:** HELD BY VIDEOCONFERENCE

**DATE OF HEARING:** JULY 6, 2023

**JUDGMENT AND REASONS:** MANSON J.

**DATED:** JULY 13, 2023

**APPEARANCES:**

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