

Federal Court



Cour fédérale

**Date: 20240717**

**Docket: IMM-7238-23**

**Citation: 2024 FC 1120**

**Saskatoon, Saskatchewan, July 17, 2024**

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

**BETWEEN:**

**TAIWO MOJISOLA OGUNPAIMO**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP AND  
IMMIGRATION**

**Respondent**

**JUDGMENT AND REASONS**

[1] Concerned that the Applicant, a citizen of Nigeria, had relied on fraudulent bank statements in applying for a study permit, the Immigration Officer [Officer] issued a procedural fairness letter [PFL]. In the PFL the Officer states, “I have concerns that you have provided a fraudulent bank statement from Access Bank in your application for a study permit, which if undetected could have induced an error in the administration of The Act”.

[2] The Applicant replied to the PFL explaining that the bank statements in question were not fraudulent; rather, they were generated from her account with the use of a mobile application. The Applicant also attached stamped Access Bank statements, a letter of reference from Access Bank confirming the Applicant as the account holder, and screen captures of WhatsApp conversations regarding the Access Bank account and transactions within it.

[3] In a decision dated April 12, 2023, the study permit was denied and the Applicant was found to be inadmissible to Canada for misrepresentation. The Applicant applies under subsection 72(1) of the *Immigration and Refugee Protection Act*, SC 2001, c 27, for judicial review of the April 12, 2023 decision.

[4] The decision is to be reviewed on the standard of reasonableness. A reasonable decision is justified, transparent and intelligible, reflecting “an internally coherent and rational chain of analysis” and “is justified in relation to the facts and the law that constrain the decision maker” (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at paras 85, 99). A decision which leads to a finding of misrepresentation must be reasonable and justified by the evidence on the record (*Kong v Canada (Citizenship and Immigration)*, 2017 FC 1183 at paras 37, 39).

[5] In finding that the Applicant’s response to the PFL did not alleviate the identified concerns, the Officer states that there was “no explanation offered as to why a fraudulent bank statement was submitted.” This statement is not reflective of the facts that were before the Officer. The Applicant’s response to the PFL first denied the assertion that the original records

were fraudulent and then provided an explanation of how the original bank statements were generated.

[6] The Global Case Management System notes disclose that the Officer was aware of the Applicant's PFL response and the Officer benefits from the presumption that all evidence has been considered. However, the Officer's statement that no explanation for the allegedly fraudulent documents was provided in the response to the PFL letter is clearly incorrect and rebuts that presumption in this case.

[7] A finding of misrepresentation is a serious matter that is to be supported by clear and convincing evidence (*Vahora v Canada (Citizenship and Immigration)*, 2022 FC 778 at para 29; *Xu v Canada (Citizenship and Immigration)*, 2011 FC 784 at para 16). Further, where additional information is requested by way of a procedural fairness letter, the Officer is under an obligation to assess the information provided in the response (*Singh v Canada (Citizenship and Immigration)*, 2021 FC 828 at para 19).

[8] The Officer's failure to provide some justification for concluding that the PFL response did not alleviate the Officer's concerns, coupled with the unjustified conclusion that the banking documents were fraudulent without grappling, even briefly, with the Applicant's denial and explanation, renders the decision unreasonable. The Application is granted.

[9] The Parties have not identified a question for certification and none arises.

**JUDGMENT IN IMM-7238-23**

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

1. The Application is granted.
2. The matter is returned for redetermination by a different decision maker.
3. No question is certified.

"Patrick Gleeson"

---

Judge

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

**DOCKET:** IMM-7238-23

**STYLE OF CAUSE:** TAIWO MOJISOLA OGUNPAIMO v THE MINISTER  
OF CITIZENSHIP AND IMMIGRATION

**PLACE OF HEARING:** HELD BY VIDEOCONFERENCE

**DATE OF HEARING:** JULY 3, 2024

**JUDGMENT AND REASONS:** GLEESON J.

**DATED:** JULY 17, 2024

**APPEARANCES:**

Veena Gupta FOR THE APPLICANT

Alethea Song FOR THE RESPONDENT

**SOLICITORS OF RECORD:**

Nanda & Associates Lawyers PC FOR THE APPLICANT  
Barristers and Solicitors  
Mississauga, Ontario

Attorney General of Canada FOR THE RESPONDENT  
Toronto, Ontario