Federal Court Cour fédérale

Date: 20240801

Docket: IMM-6408-23

Citation: 2024 FC 1221

Vancouver, British Columbia, August 1, 2024

PRESENT: Mr. Justice Norris

BETWEEN:

FATEMEH REZAYE YAZDI AND
MAHOORA PADEKAN

Applicants

and

THE MINISTER OF CITIZENSHIP AND
IMMIGRATION

Respondent

JUDGMENT AND REASONS

[1] Fatemeh Rezaye Yazdi is a 29-year-old citizen of Iran. She wishes to attend Trent University to obtain a post-graduate certificate in Human Resources, Marketing, and Entrepreneurship. This is a two-year program of full-time studies. After being offered admission to the program, Ms. Yazdi applied for a study permit for herself as well as a visitor visa for her then four-year-old daughter, Mahoora Padekan, who would be accompanying her to Canada.

[2] A visa officer with Immigration, Refugees and Citizenship Canada refused the study permit application in a decision dated March 28, 2023, because Ms. Yazdi had not established that she will leave Canada by the end of the period authorized for her stay, as required by paragraph 216(1)(b) of the *Immigration and Refugee Protection Regulations*, SOR/2002-227 (*IRPR*). The visitor visa application for Ms. Yazdi's daughter, which was wholly dependent on the success of Ms. Yazdi's application, was also rejected.

[3] The applicants have applied for judicial review of the negative study permit decision under subsection 72(1) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 (*IRPA*). They submit that the decision is unreasonable.

[4] As I will explain, the applicants have not persuaded me that there is any basis to interfere with the officer's decision.

[5] The parties agree, as do I, that the officer's decision is to be reviewed on a reasonableness standard. A reasonable decision "is one that is based on an internally coherent and rational chain of analysis and that is justified in relation to the facts and law that constrain the decision maker" (*Canada (Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at para 85). A decision will be unreasonable when the reasons "fail to provide a transparent and intelligible justification" for the result (*Vavilov*, at para 136). To set aside the decision on the basis that it is unreasonable, the reviewing court must be satisfied that "there are sufficiently serious shortcomings in the decision such that it cannot be said to exhibit the requisite degree of justification, intelligibility and transparency" (*Vavilov*, at para 100).

[6] In *Nesarzadeh v Canada (Citizenship and Immigration)*, 2023 FC 568 at paras 5-9, Justice Pentney provided a helpful summary of the key principles that guide judicial review of study permit decisions under a reasonableness standard. Drawing on this summary and other relevant jurisprudence, I would state these principles as follows:

- A reasonable decision must explain the result, in view of the law and the key facts.

- *Vavilov* seeks to reinforce a "culture of justification" requiring the decision maker to provide a logical explanation for the result and to be responsive to the parties' submissions.

- The reviewing court must take the administrative context in which the decision was made into account. Visa officers face a deluge of applications, and their reasons do not need to be lengthy or detailed.

- Visa officers are presumed to have considered all the information submitted in support of the application and it is not necessary to mention everything the officer considered in making the decision. Nevertheless, the reasons must set out the key elements of the officer's line of analysis and be responsive to the central aspects of the application.

- The onus is on an applicant to satisfy the visa officer that they meet the legal requirements for obtaining a study permit, including that they will leave Canada at the end of their authorized stay.

- Visa officers must consider the "push" and "pull" factors that, on the one hand, could lead an applicant to overstay their visa and remain in Canada, or that would, on the other hand, encourage them to return to their home country when required to. An officer's

> assessment of the factors at play in a given case is entitled to deference from a reviewing court. It is not the role of the reviewing court to substitute its assessment for that of the officer.

[7] In the present case, the decision letter states that the study permit application was refused because Ms. Yazdi had not satisfied the officer that she will leave Canada at the end of her authorized stay. The letter gives two reasons for this: first, the purpose of Ms. Yazdi's visit to Canada is not consistent with a temporary stay given the details she provided in her application; and second, Ms. Yazdi does not have significant family ties outside Canada.

[8] The basis for these determinations is explained in the officer's Global Case Management System (GCMS) notes. Regarding the purpose of the visit, the officer found that Ms. Yazdi had not provided a sufficient explanation for why she wished to undertake the proposed course of study. The officer stated: "It is not clear why the PA [Principal Applicant, Ms. Yazdi] with law background and having career in a law firm wants to study Human Resources, Marketing and Entrepreneur certification course." Regarding family ties outside Canada, the officer noted that, with Ms. Yazdi's daughter accompanying her to Canada, her ties to her home country would be weakened and, as a result, her motivation to return will diminish. Weighing these factors, the officer was not satisfied that Ms. Yazdi will depart Canada at the end of her authorized stay.

[9] As a preliminary matter, the respondent objects to the Court considering certain information contained in two affidavits Ms. Yazdi swore in support of the present application for judicial review. Specifically, the respondent submits that information in paragraphs 7 and 8 of

the affidavit sworn on July 5, 2023, and information in paragraphs 4, 7, 14 and 15 of the affidavit sworn on June 17, 2024, should not be considered because it is new information that was not before the officer when the decision under review was made.

[10] The applicants submit that some of the paragraphs to which objection is taken simply recast information provided in the original study plan. However, they also concede that, to the extent that the affidavits contain new information that was not before the officer, that information should not be considered on review and, accordingly, they do not rely on it.

[11] The respondent's objection and the applicants' concession are both well founded. As a general rule, only material that was before the original decision maker may be considered on an application for judicial review (*Association of Universities and Colleges of Canada v Canadian Copyright Licensing Agency (Access Copyright)*, 2012 FCA 22 at paras 17-20; *Bernard v Canada (Revenue Agency)*, 2015 FCA 263 at paras 13-28; *Sharma v Canada (Attorney General)*, 2018 FCA 48 at paras 7-9; and *Andrews v Public Service Alliance of Canada*, 2022 FCA 159 at para 18). In several respects, Ms. Yazdi's affidavits provide new information that supplements the information in the original study plan, the deficiency of which was a key concern for the officer. Critically, the new information seeks to bolster the connection between Ms. Yazdi's legal studies and work experience, her proposed course of studies, and her career plans, something the officer had found wanting in the study plan. None of the recognized exceptions to the general rule apply to the new information in Ms. Yazdi's affidavits. For these reasons, I will not consider the new information when assessing the reasonableness of the officer's decision.

[12] Turning to the officer's decision, the applicants submit that the officer's assessments of the study plan and of their ties to Iran are unreasonable. I do not agree.

[13] Looking first at the study plan, in my view, the officer reasonably concluded that Ms. Yazdi had failed to demonstrate why she wished to undertake the proposed course of studies at Trent University. While the officer's reasons are brief, the basis of the officer's concerns is readily apparent when the GCMS notes are read in light of the study plan (*c.f. Vavilov*, at para 94). As noted above, the officer found that it was not clear why Ms. Yazdi, who has a degree in law and experience working at a law firm, wants to study Human Resources, Marketing and Entrepreneurship at Trent University. Ms. Yazdi's explanation of why she had chosen this program and how she would benefit from it is vague at best. The study plan does not go beyond general statements such as "I intend to develop a career in business with successful business companies, for which I need to acquire the necessary skills from a university with international repute and high quality" and "[m]y new education will help me to acquire skills to build the foundational tools needed to start a business or be innovative with already established companies."

[14] The onus was on the applicants to satisfy the officer that the study plan is reasonable (*Mehrjoo v Canada (Citizenship and Immigration)*, 2023 FC 886 at para 12). It was not unreasonable for the officer to conclude that Ms. Yazdi had not demonstrated that the proposed course of study made sense given her previous education and work experience as well as the vague generalities in her study plan (*Amirhesari v Canada (Citizenship and Immigration)*, 2024 FC 436 at para 4; *Rezaali v Canada (Citizenship and Immigration)*, 2023 FC 269 at

paras 29-31). Contrary to the applicants' submission, the officer did not erroneously assume the role of career counsellor (*Moosavi v Canada (Citizenship and Immigration)*, 2023 FC 1037 at para 24).

[15] Turning to the applicants' family ties to Iran, the officer's determination in this regard is also reasonable. It was open to the officer to find that, since her young daughter would be travelling with her to Canada, Ms. Yazdi's ties to Iran would be weaker than if this were not the case and, as a result, that her motivation to return would also be diminished. This is a relevant factor that the officer was entitled to consider (*Bahrami v Canada (Citizenship and Immigration)*, 2024 FC 957 at para 4).

[16] That being said, the reasonableness of the statement in the decision letter that Ms. Yazdi "do[es] not have significant family ties outside Canada" is doubtful given the information before the officer that her husband and other close family members would be remaining in Iran. Nevertheless, I am satisfied that the officer's actual finding (as set out in the GCMS notes) is more nuanced than this and is reasonably supported by the record.

[17] Finally, even though the family ties factor on its own may not be a sufficient reason to refuse a study permit application (*Bahrami*, at para 4), it was not the only reason the application was refused. As discussed above, the decision is also reasonably supported by the finding that the study plan was insufficient.

[18] In sum, the GCMS notes set out the key elements of the officer's line of analysis and were responsive to the central aspects of the application, including the requirements under the *IRPA* and the *IRPR*. While brief, the officer's reasons for refusing the study permit application are transparent, intelligible, and justified. The applicants have not established any basis for interfering with the decision. The application for judicial review must, therefore, be dismissed.

[19] The parties did not propose any serious questions of general importance for certification under paragraph 74(d) of the *IRPA*. I agree that no question arises.

JUDGMENT IN IMM-6408-23

THIS COURT'S JUDGMENT is that

1. The application for judicial review is dismissed.

2. No question of general importance is stated.

"John Norris"

Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	IMM-6408-23
STYLE OF CAUSE:	FATEMEH REZAYE YAZDI ET AL v THE MINISTER OF CITIZENSHIP AND IMMIGRATION
PLACE OF HEARING:	VANCOUVER, BRITISH COLUMBIA
DATE OF HEARING:	JULY 30, 2024
JUDGMENT AND REASONS:	NORRIS J.
DATED:	AUGUST 1, 2024

APPEARANCES:

Haidah Amirzadeh	FOR THE APPLICANTS
Suzy Flader	FOR THE RESPONDENT

SOLICITORS OF RECORD:

Amirzadeh Law Saskatoon, Saskatchewan	FOR THE APPLICANTS
Attorney General of Canada Vancouver, British Columbia	FOR THE RESPONDENT