

Federal Court



Cour fédérale

Date: 20241007

Docket: IMM-5087-23

Citation: 2024 FC 1578

Ottawa, Ontario, October 7, 2024

PRESENT: The Honourable Mr. Justice Gleeson

BETWEEN:

**MOHAMMAD SAYYAH
AND MAHBOUBEH SANATI
AND NIKA SAYYAH**

Applicants

and

**THE MINISTER OF CITIZENSHIP
AND IMMIGRATION**

Respondent

JUDGMENT AND REASONS

[1] The Applicants are a family and citizens of Iran. The Principal Applicant [PA], having been accepted into a two-year full-time Electrical Computer Engineering program, applied for a study permit. His spouse applied for a work permit and his dependent daughter applied for a Temporary Resident Visa to allow them to accompany the PA. An Officer with Immigration, Refugees and Citizenship Canada [the Officer] denied all three applications.

[2] The Officer refused the PA's study permit application on the basis that: (1) the Officer was not satisfied that the PA would leave Canada at the end of his stay, (2) the PA does not have significant family ties outside of Canada, and (3) the purpose of the PA's stay is not consistent with a temporary stay. The Officer's GCMS notes state the following:

I have reviewed the application. I have considered the following factors in my decision. I note that the intended travel to Canada involves the applicant's immediate family members, thus weakening the applicant's ties to Iran as well as diminishing their motivation to return. Applicant has a letter of support from their employer and guarantee of continued employment upon return. Although the letter states continued employer support it does not articulate in detail the necessity of the international education. The letter from the employer is generic in its details and lists a series of tasks that were performed by the applicant along with positive character attributes. The employer's letter acknowledges the benefits of international education to their business and having skilled staff, however, there is a lack of detail on the potential employment contract. Reviewing the previous stated education and considering the full/time employment in Computerize automation, it confirms the applicant's expertise in their declared occupation, additionally, the provided description of tasks performed by the applicant (outlined in their submitted study plan) indicates they already possess the skills necessary for their vocation and questions the intended purpose of applying to the DLI program. I am not satisfied with the proposed studies as the applicant has already achieved the benefits of this program through their previous work experiences. It is not evident why applicant would study this program at such great expense considering applicant already possesses the same level of qualifications. Weighing the factors in this application. I am not satisfied that the applicant will depart Canada at the end of the period authorized for their stay. For the reasons above, I have refused this application.

[3] Having refused the PA's application, the Officer also refused the accompanying applications of the PA's spouse and child.

[4] The Applicants seek judicial review of the Officer's refusal pursuant to subsection 72(1) of the *Immigration and Refugee Protection Act*, SC 2001, c 27. They submit the Officer ignored critical evidence thereby rendering the decision unreasonable.

[5] Applying the standard of reasonableness in reviewing the Officer's decision, I am persuaded that the decision does not reflect the hallmarks of a reasonable decision, – justification, transparency and intelligibility (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at paras 85 and 99).

[6] In considering the PA's ties to Iran, the Officer notes that travel to Canada accompanied by immediate family members weakens ties to Iran and in turn the motivation to return. It was not unreasonable for the Officer to consider and weigh the circumstances of the PA's immediate family members. However, the Officer could not reasonably do so and then conclude the PA would not depart Canada without also considering and weighing the evidence of the Applicants' continuing ties to Iran. This included evidence that family members, including parents and siblings of the PA and his spouse, remained in Iran; evidence relating to property that the PA and his spouse possess in Iran; and evidence related to employment commitments in Iran.

[7] Similarly, the Officer's finding that it "is not evident why applicant [*sic*] would study this program at such great expense considering applicant [*sic*] already possesses the same level of qualifications" is unreasonable. This is because the Officer fails to grapple with the obvious explanation: the PA had received an offer from his employer in Iran offering a significant salary increase upon his completion of the program. The Officer describes the employer's letter as

generic and faults the employer for failing to articulate “in detail” why an international education is necessary. It was not unreasonable for the Officer to highlight these matters, but they are collateral to the question of why the PA would undertake studies. Importantly, the Officer did not address the employment offer, which speaks to this question directly.

[8] Having concluded that the Officer unreasonably refused the PA’s application, I find the refusal of the PA’s family members’ applications was also unreasonable.

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

JUDGMENT IN IMM-5087-23

THIS COURT'S JUDGMENT is that:

1. The application is granted.
2. The matters are returned for redetermination by a different decision-maker.
3. No question is certified.

"Patrick Gleeson"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-5087-23

STYLE OF CAUSE: MOHAMMAD SAYYAH AND MAHBOUBEH
SANATI AND NIKA SAYYAH v THE MINISTER OF
CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: HELD BY VIDEOCONFERENCE

DATE OF HEARING: APRIL 23, 2024

JUDGMENT AND REASONS: GLEESON J.

DATED: OCTOBER 7, 2024

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