Federal Court  Cour fédérale

Date: 20201023

Docket: T-1358-19

Citation: 2020 FC 998

Ottawa, Ontario, October 23, 2020

PRESENT: The Honourable Mr. Justice Roy

BETWEEN:

SIMON PAUL NJAGI

Applicant

and

ATTORNEY GENERAL OF CANADA

Respondent

JUDGMENT AND REASONS

[1] The applicant, Mr. Simon Paul Njagi, is a litigant in person who seeks the judicial review, pursuant to sections 18 and 18.1 of the *Federal Courts Act*, RSC 1985, c F-7, of a decision of the Social Security Tribunal Appeal Division ("SST-AD") refusing to grant him leave to appeal a decision of the Social Security Tribunal General Division ("SST-GD"). The SST-AD held that it did not have the authority to grant the applicant a time extension to file an appeal, finding that it had been five years since the decision of the SST-GD had been deemed communicated to him, which is well beyond the strict one year time limit for the granting of time

extensions set by subsection 57(2) of the *Department of Employment and Social Development Act* (SC 2005, c. 34) ("the *Act*"). For the reasons that follow, the application for judicial review is dismissed.

I. Facts

[2] The applicant submitted an application for Employment Insurance ("EI") benefits on January 29, 2012 after losing his job at Northern Industrial Carriers Ltd. He received EI benefits for 17 weeks, from January 22 to July 7, 2012. On this application, his address was listed as Apt. 430, 17011 67 Avenue, Edmonton, Alberta, T5T 6Y6. In the nine electronic claimants reports he submitted, the applicant declared that he received no earnings and reported "No" to the question "Have you moved, changed your mailing address or changed the banking information you provided for Direct Deposit purposes?"

[3] Following an investigation, the Canada Employment Insurance Commission ("the Commission") found that the applicant had been working at Westcan Bulk Transport and was receiving wages, while also receiving full EI benefits, from February 13th to June 3rd, 2012, giving rise to an overpayment debt and a penalty for having intentionally made 10 false declarations. The Commission accordingly communicated this decision in a letter dated May 22, 2013 and issued a Notice of Debt Details to the applicant online on May 25, 2013, establishing an overpayment debt of $7125.00 and a penalty of $3563.00.

[4] On June 3, 2013, the applicant sent a request to the Commission, asking it to reconsider its determination of the overpayment debt and the penalty. In this letter, the applicant explains

that he did not make any misrepresentations, stating that he had disclosed to a customer service agent over the phone on February 14, 2012 that he had been working throughout the benefits period and that she told him she would note it in the system.

[5] On September 17, 2013, the Commission responded to the applicant's reconsideration request. It increased the debt. The further investigation into the applicant's payroll at Westcan Bulk Transport determined that he had received more wages than previously known to the Commission, increasing the overpayment debt from $7125 to $8941. On October 16, 2013, the applicant filed an appeal from the Commission's 17 September 2013 reconsideration to the SST-GD.

[6] The SST-GD scheduled a hearing for January 9, 2014, but the Notice of Hearing sent to advise the applicant was returned unclaimed. After contacting the applicant and learning that he had moved, the SST-GD scheduled a new hearing for January 23. However, this hearing was adjourned to give the applicant further time to respond to additional documents submitted by the Commission. A new Notice of Hearing was sent on January 24, 2014 for a hearing to take place on February 12, 2014.

[7] On 11 February, 2014, after receiving a phone call regarding his upcoming hearing, the applicant informed the SST-GD in an email message that he had moved and requested that all correspondence regarding his hearing be resent to his new address at 21220, 59 avenue Edmonton, AB, T6M 0H5, as he has not received any correspondence.

[8] A new Notice of Hearing was subsequently sent March 3, 2014, via regular mail and this mail was neither returned or marked undeliverable by Canada Post.

[9] On March 25, 2014, the SST-GD held the hearing in absence of the applicant and dismissed his appeal the following day. On March 27, 2014, the SST-GD mailed its decision to dismiss the applicant's appeal to the applicant at 21220 59 Avenue, Edmonton, AB T6M 0H5, as written on the Notice of Decision, dated March 27, 2014, that accompanied the SST-GD decision.

[10] On June 19, 2019, the applicant filed an application for leave to appeal to the SST-AD, requesting leave to appeal the SST-GD decision rendered 26 March 2014. In this application, he explains that he had changed his address so he had not received the SST-GD decision, nor any other correspondence regarding the hearing (Respondent's Record ("RR"), page 43). He also explained that he had not been able to attend the hearing by videoconference before the SST-GD on March 25th, 2013 because he had been involved in a motor vehicle accident on December 8th, 2013, for which he had to undergo surgery the day of the hearing (RR, page 42).

[11] On July 3, 2019, the member of the SST-AD assigned to the applicant's case wrote to the applicant requesting additional information regarding when he received the SST-GD decision, when he moved from the address the SST-GD had on file and requested details regarding an interaction the applicant alleges to have had with a representative at a Service Canada Centre regarding his appeal (RR pages 36-37). The applicant responded to this in an email message on July 5, 2019, explaining that he did not receive any formal correspondence from the SST-GD

and that he had moved out of his former home on January 10, 2014 and did not receive any forwarded mail (RR, page 35):

> […] Further to your email dated July 3, 2019, I want to state I NEVER received any FORMAL correspondence from the General Division decision…
>
> I moved out of 21220, 59 Avenue NW Edmonton Alberta in [*sic*] January 10th 2014 and I didn't receive any forwarding mail from the new occupant of the house […]
>
> (RR, page 35)

[12] On August 15, 2019, the SST-AD dismissed the applicant's application for leave to appeal, stating that his application is five years late and that it accordingly cannot grant an extension, as this is prohibited by the SST-AD's regulations (SST-AD decision, paras 18-19).

II. Jurisdiction

[13] The Federal Court has jurisdiction to hear the present matter. Judicial review of time extension decisions made by the SST-AD under subsection 57(2) of the *Act* is listed at subsection 28 (g) of the *Federal Courts Act* as an express instance where the Federal Court, and not the Federal Court of Appeal, is the appropriate forum. As the present case constitutes a judicial review request of an SST-AD decision made pursuant to subsection 57(2) of the *Act*, the Federal Court is the right forum to hear the application.

III. Standard of Review

[14] On questions of procedural fairness, the standard of review is that of correctness. This is settled jurisprudence, with multiple decisions of the Supreme Court confirming this to be the

case (see, for example, *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [*Vavilov*] at para 23, *Mission Institution v Khela*, 2014 SCC 24 at para 79; *Canada (Citizenship and Immigration) v Khosa*, 2009 SCC 12 at para 43; *Dunsmuir v New Brunswick*, 2008 SCC 9 [*Dunsmuir*] at para 129). This is coherent with the jurisprudence on the standard of review for procedural fairness arising from the SST-AD, which determines that it is to be reviewed on a correctness standard (see, for example, *Papouchine v Canada (Attorney General)*, 2018 FC 1138 at para 19, citing *Parchment v Canada (Attorney General)*, 2017 FC 354 at para 16).

[15] Correctness is a non-deferential approach to judicial review (*Dunsmuir* at para 50). Accordingly, a court may undertake its own analysis of a given issue and come to the conclusion it sees fit before comparing this determination with that of the decision under review (*Ibid*).

[16] For those issues not arising from a concern of procedural fairness, the appropriate standard of review of decisions arising from the SST-AD is reasonableness.

[17] The applicant has not made any submissions on the standard of review, but the respondent submits that the standard of review ought to be reasonableness, citing *Andrews v Canada (Attorney General)*, 2018 FC 606 [*Andrews*] at para 17 to this effect (Respondent's Memorandum of Fact and Law ("RM"), para 21). Justice Gleeson writes at para 17:

> [17] A decision of the SST-AD denying leave is to be reviewed against a standard of reasonableness (*Griffin v Canada (AG)*, 2016 FC 874 at paras 13-14; *Marcia v Canada (AG)*, 2016 FC 1367 at para 23). The SST-AD is owed deference in respect of its findings of fact, mixed fact and law, and in the interpretation of its home statute (*Dunsmuir v New Brunswick*, 2008 SCC 9 at para 51

> [*Dunsmuir*]; *Canada (AG) v Hoffman*, 2015 FC 1348 at para 33)
> […]

[18] The respondent's submission that reasonableness is the standard of review should be accepted. *Andrews* continues to be recognized as sound authority determining reasonableness as the standard of review for SST-AD decisions denying leave (see, for example, *Marcoux v Canada (Attorney General)*, 2020 FC 609 at para 10; *Maung v Canada (Attorney General)*, 2020 FC 74 at para 26; *Kean v Canada (Attorney General)*, 2020 FC 423 at para 16; *Mora v Canada (Attorney General),* 2020 FC 140 at para 10). Moreover, it aligns with the presumption of reasonableness as the standard of review as established by the Supreme Court in *Vavilov* at para 16. Reasonableness thus ought to be the standard of review in assessing the SST-AD's determination to deny the applicant leave to appeal.

[19] Reasonableness uses "judicial restraint" as a starting point, emphasizing respect for administrative decision-makers' distinct roles (*Vavilov* at para 13). In assessing a decision on the reasonableness standard, the court is primarily concerned with a decision's justification to ensure that the "legality, rationality and fairness of the administrative process" is upheld (*Vavilov* at para 13). Accordingly,

> [15] In conducting a reasonableness review, a court must consider the outcome of the administrative decision in light of its underlying rationale in order to ensure that the decision as a whole is transparent, intelligible and justified. […]
>
> (*Vavilov* at para 15)

[20] The reasons forwarded by a decision-maker are key in conducting a reasonableness assessment. If the court's starting point is judicial restraint, then the court must focus on the

decision itself, seeking to understand the decision-maker's reasoning process and the outcome to see if it is reasonable as a whole (*Vavilov* at paras 83, 99). A decision will fail to be reasonable if the reasoning process lacks internal coherence or if the decision is untenable given the relevant legislative framework and factual constraints before the decision-maker (*Vavilov* at para 101). The Federal Court of Appeal reminds us recently in *Beddows v. Canada (Attorney General)*, 2020 FCA 166 that we are not holding the decision-maker's reasons to a standard of perfection:

> [25] […] Reasons for decisions in the administrative justice context need not be perfect; as long as they allow the reviewing court to understand why the decision-maker made its decision and permit it to determine whether the conclusion is within the range of acceptable outcomes, the court will normally refrain from interfering with the decision (*Vavilov* at para. 91, quoting from *Newfoundland and Labrador Nurses' Union v. Newfoundland and Labrador (Treasury Board)*, 2011 SCC 62, [2011] 3 S.C.R. 708 at para. 16) […]

IV. Analysis

A. *Did the SST-AD violate procedural fairness?*

[21] The applicant alleges that there was a lack of procedural fairness and judicial independence before the SST-GD and the SST-AD (Applicant's Memorandum of Fact and Law ("AM"), paras 7, 8 and 13). There appears to be some confusion as to which decision he is appealing from, as he often makes reference to the unfairness of the decision made by the SST-GD (AM, paras 8, 13). No particulars are raised in support of these allegations, save that his struggles with identity theft were not considered by the SST-GD (AM, paras 12, 15).

[22] The respondent submits that the applicant is alluding to a reasonable apprehension of bias on the part of the decision-maker and states that, if there is such bias, the onus is on the applicant to demonstrate it (RM, para 30). The Attorney General cites *Alexander v Canada (AG)*, 2011 FC

1278 [*Alexander*] at para 65 in support of this, which states that "[t]he onus of showing a reasonable apprehension of bias lies with the person alleging it and depends entirely on the facts." The respondent submits that the applicant has not forwarded any facts that could support this allegation regarding the SST-AD, or the SST-GD, and that if he is making the allegation in regards to the SST-GD it is irrelevant, given that it is the decision of the SST-AD that is under review (RM, para 30).

[23] In my view, there is no indication in the Certified Tribunal Record ("CTR") or the facts raised by the applicant that supports an allegation that procedural fairness was violated by the SST-AD. The problems with the applicant's allegations are twofold. First, the applicant seems to be referring to the decision-making process of the SST-GD, which is not the decision under review. Secondly, and equally fatal, is that the applicant does not forward any specific information to support his claim of a violation of procedural fairness or of a reasonable apprehension of bias, whatever the allegation may be.

[24] The applicant, in making such allegations, has the burden of proving it; such is the nature of his position as an applicant (see also, for example, on the question of reasonable apprehension of bias, *Alexander* (*supra*) at para 65 and *Agnaou v Canada (Attorney General)*, 2014 FC 850 at para 45). The Supreme Court in F.H. v McDougall, 2008 SCC 53, [2008] 3 SCR 41 explains that evidence in civil cases must be assessed on a balance of probabilities (para 45) and must be "sufficiently, clear, convincing, and cogent to satisfy the balance of probabilities test" (para 46). This standard of proof was confirmed in *Canada (Attorney General) v Fairmont Hotels Inc.*, 2016 SCC 56, [2016] 2 SCR 720, at para 36 and has therefore been adopted by the Federal Court (*Tatuyou, LLC v H2Ocean Inc*., 2020 FC 865 at para 12; *Lv v Canada (Citizenship and Immigration)*, 2018 FC 935 at para 41; *Letnes v Canada (Attorney General)*, 2020 FC 636 at

para 38). It cannot be said that the applicant has met this threshold, as the applicant has not advanced any facts, exhibits, or argumentation that would allow the court to find a violation of procedural fairness or a reasonable apprehension of bias on the part of the SST-AD. His allegations are general in nature, stating that natural justice requires judicial independence (AM, para 7) and that there was a failure to observe natural justice and procedural fairness (AM, para 13). Moreover, the applicant's claims regarding the SST-GD's failure to consider his allegations of identity theft, assuming that they are relevant, which has not been shown, are unfounded insofar as they are treated by the SST-GD decision at para 42. Accordingly, there was no violation of procedural fairness in the form of reasonable apprehension of bias or otherwise, as there is nothing to substantiate this claim.

B. *Was the SST-AD reasonable in dismissing the applicant's application for leave to appeal?*

[25] The applicant submits that he never received the decision from the SST-GD (Applicant's Memorandum of Fact and Law ("AM"), para 5), nor did he receive the Notice of Hearing because he had moved to a new address (AM, para 9), although the address at which he was then residing is not provided or even alleged in his memorandum of fact and law. At the hearing, the applicant plead that he was not aware of the legal delays within which he had to file his application and that, despite numerous interactions with Service Canada agents since 2015, he only finally discovered which procedure he had to undertake to contest the SST-GD decision in 2019.

[26] Moreover, he submits that either the SST-AD or the SST-GD erred insofar as they failed to consider his allegations concerning identity theft (AM, paras 11-13). The applicant claims that he legally changed his name and was issued a new Social Insurance Number in May of 2011 as a

response to identity theft and appears to be alleging that the false reports the Commission accused the applicant of making electronically, leading to an overpayment of EI benefits, were in fact made by another person who stole his identity. However, the debt which is claimed arises from EI benefits received from February to June 2012 and the documentation associated with these EI benefits, such as his initial application submitted January 29th, 2012 and his subsequent bi-weekly electronic claimant's reports, all carry the applicant's current legal name, Simon Paul Njagi. Multiple documents included in the record evidence conversations between the applicant and Service Canada agents from 2012 into 2013 where the applicant discusses his completion of these reports and fails to allege that anyone else was submitting them fraudulently on this behalf. For example, in a report from Service Canada agent Zahid Iqbal completed October 24, 2012, the applicant admits to completing these reports himself: "[a]nswering my question claimant stated he was doing his bi-weekly reports […]" (RR, page 162). Importantly, the applicant has not submitted any documentation that could support an allegation that someone else had been fraudulently claiming his EI benefits or that he never received these benefits in the first place, as alleged at paragraph 14 of his Memorandum of Fact and Law. Failure to consider this consequently cannot be a reviewable ground of error raised against the SST-AD's decision.

[27] The respondent explains that the *Act* strictly prevents the SST-AD from granting the applicant an extension because it had been over one year since the SST-GD decision had been communicated to him (RM, para 27). Subsection 57(2) of the *Act* prohibits time extensions beyond the statutory 30 days to appeal decisions of the SST-GD if they are brought more than one year after a party has knowledge of said decision. Subsection 19(1)(a) of the *Social Security Tribunal Regulations*, SOR/2013-60 [the *Regulations*] determines that he is presumed to have received the decision 10 days after it was mailed by ordinary mail and that the SST-AD

highlighted factual inconsistencies in the file that prevented it from finding the applicant had rebut this presumption (RM, paras 24-25). The respondent takes note that the applicant submitted his application for leave to appeal over five years after the SST-GD decision was deemed communicated to him (RM, para 26). At any rate, argues the respondent, the applicant failed to provide Employment and Social Development Canada with a new address, as is required of him by section 6 of the *Regulations* (RM, paras 23-24). Accordingly, the respondent submits that the SST-AD acted appropriately within the factual and legal constraints before it, meeting the threshold of reasonableness (RM, para 27).

[28] The burden is on the applicant to show that the impugned decision is not reasonable (*Vavilov*, para 100), the Court having to show due judicial restraint. In my view, the SST-AD was reasonable, based on the record, in determining that the applicant was too late in filing his application for leave to appeal to qualify for a time extension. Subsection 57(1)(a) of the *Act* sets the time to ask for leave to appeal from the SST-AD for decisions rendered by the EI section of the SST-GD at 30 days. The SST-AD has discretion to grant a party further time under subsection 57(2) of the *Act*, but this discretion is limited to the request being made within a year after the day on which the SST-GD decision was communicated to the party.

57 (1) An application for leave to appeal must be made to the Appeal Division in the prescribed form and manner and within,	**57 (1)** La demande de permission d'en appeler est présentée à la division d'appel selon les modalités prévues par règlement et dans le délai suivant :
(a) in the case of a decision made by the Employment Insurance Section, 30 days after the day on which it is communicated to the appellant; and	**a)** dans le cas d'une décision rendue par la section de l'assurance-emploi, dans les trente jours suivant la date où l'appelant reçoit communication de la décision;

(b) in the case of a decision made by the Income Security Section, 90 days after the day on which the decision is communicated to the appellant.	**b)** dans le cas d'une décision rendue par la section de la sécurité du revenu, dans les quatre-vingt-dix jours suivant la date où l'appelant reçoit communication de la décision.
(2) The Appeal Division may allow further time within which an application for leave to appeal is to be made, but in no case may an application be made more than one year after the day on which the decision is communicated to the appellant.	**(2)** La division d'appel peut proroger d'au plus un an le délai pour présenter la demande de permission d'en appeler.

[Emphasis added.]

In this case, the applicant was deemed to have received the SST-GD decision on April 7th, 2014, 10 days after it was mailed to the applicant at 21220, 59 Avenue Edmonton, AB T6M 0H5 on March 27th, 2014, as dictated by subsection 19(1)(a) of the *Regulations*. However, he only applied for leave to appeal from the SST-GD's March 25, 2014 decision on June 19, 2019 - over five years after the decision was deemed communicated. The SST-AD took note of this at paragraph 10 of its decision and explained plainly and in a logically coherent fashion that subsection 57(2) of the *Act* prohibits it from granting an extension for the filing of the application for leave, stating at paragraph 18 that "section 57(2) of the DESD Act makes very clear that I can only extend the time for filing an application to the Appeal Division when the application is less than a year late."

[29] It appears that the only way the applicant could have been successful in appealing a decision of the SST-GD to the SST-AD five years after it was rendered would be by rebutting the presumption established by subsection 19(1)(a) of the *Regulations* that this decision was

communicated to him ten days after it was sent by ordinary mail to 21220, 59 Avenue Edmonton, AB T6M 0H5. This was not achieved.

[30] The SST-AD was reasonable in its assessment of the facts before it to determine that this presumption was not rebutted. At paragraph 12 of the decision, the SST-AD responds to the applicant's assertion that he had moved out, on January 10, 2014, from the address to which the SST-GD decision was sent on March 27, 2014, and that he consequently did not receive any mail. The SST-AD explains that the applicant wrote to the SST-GD on February 11, 2014 confirming that his address was the one to which the SST-GD decision was sent: 21220, 59 Avenue Edmonton, AB T6M 0H5 (SST-AD decision, para 12; see also the February 11, 2014 note itself at RR, page 66).

[31] Importantly, section 6 of the *Regulations* establishes that it is the applicant's responsibility to inform Employment and Social Development Canada of any change of address promptly and the SST-AD makes note of this at paragraph 12. Looking at the CTR itself, there is no indication that the applicant submitted a different address than the 59 Avenue residence to the SST-GD in its pre-hearing communications, nor did he do so in the following months. The applicant provided his address in his initial EI application as 430-17011 67 Ave NW Edmonton, Alberta, T5T 6Y6 (RR, page 101). In each bi-weekly electronic claimant report he submitted from 25 February 2012 to 15 June 2012, he indicated that his address remained unchanged (RR pages 116-156). The only address change the applicant communicates prior to that stated in his application for leave to appeal submitted June 19, 2019 is that stated in the February 11, 2014 email, that is the 59 Avenue address. The applicant sent this email after January 10, 2014, the date on which he now claims he moved out of the 59 Avenue address. The applicant has presented an inconsistent account of when he resided at the address to which the SST-GD

decision was sent, with the applicant claiming to have been living at the 59 Avenue residence on February 11, 2014, and then subsequently stating on June 19, 2019 that he had moved away from the 59 Avenue residence on January 10, 2014. This misaligned chronology is a reasonable basis on which to conclude that the applicant failed to discharge his burden of rebutting the presumption that the SST-GD decision was not communicated to him. The SST-AD concludes at paragraph 16 of its decision that "there is a lack of credible evidence to displace the presumption that the Claimant received the General Division decision on April 7, 2014." The analysis of the applicant's lateness in applying for leave to appeal is consequently internally coherent and rational, charting the legal presumption of the decision's delivery as dictated by subsection 19(1)(a) of the *Regulations* and applying it to the facts as revealed by the CTR. The presumption not being displaced, this triggers an appropriate application of subsection 57(2) of the *Act* to deny the applicant a time extension to file an appeal before the SST-AD.

[32] Furthermore, it is clear that he has had some knowledge of the decision rendered against him well before he filed his leave to appeal with the SST-AD in June 2019. The applicant had numerous communications with the SST-GD in early 2014 regarding his hearing date, with the hearing rescheduled three times between the initial date set for January 9, 2014 and the eventual hearing held on March 25, 2014. It would be reasonable to conclude that the applicant was aware that a decision by the SST-GD regarding his overpayment debt was imminent. Beyond this, the applicant admitted at the hearing that he became aware of the overpayment debt in 2015, prompting him to begin his calls and visits to Service Canada. The applicant's email to the SST-AD sent July 5, 2019 confirms this. In it, he writes

> …I came to know I owe Employment and Social Development Canada when they sent me a Statement of Account owing. …

> I have been to Service Canada **PHYSICALLY** since September 2015 asking for reconsideration. …
>
> [Emphasis in original]

It light of the above, it seems highly unlikely that the applicant had not been aware since at least 2015 that the SST-GD had rendered a decision confirming his overpayment debt.

[33] All of the SST-AD's findings align logically to form a reasonable decision. The standard of reasonableness requires the SST-AD decision be "transparent, intelligible and justified" (*Vavilov*, para 15) and must be "justified in relation to the relevant factual and legal constraints that bear on the decision" (*Vavilov*, para 99). The applicant did not show that the decision under review does not meet this threshold in canvassing the applicable legal constraints under the *Act* and the *Regulations.* The decision justifies to the applicant why it was unable to grant leave pursuant to the relevant law in plain language. It lays out the key provisions of legislation, namely the strict time limit of one year during which a party may be granted a time extension to request leave to appeal as per subsection 57(2) of the *Act*, the presumption that the applicant had received the SST-GD decision as per subsection 19(1)(a) of the *Regulations*, and the applicant's requirement to have informed Employment and Social Development Canada of his new address as per section 6 of the *Regulations*. The SST-AD notes that the applicant, in his letter to the SST-AD on July 10, 2019, communicated a claim that he had moved out of the 59 Avenue address on January 10, 2014; however, contemporaneously with the events around the SST-GD decision of March 26, 2014, he had advised in an email sent February 11, 2014 that his current address was that to which SST-GD decision was mailed to, namely, 21220, 59 Avenue NW Edmonton, AB T6M 0H5 (see the July 10, 2019 letter at RR, page 35 and the February 11, 2014 note at RR, page 66). The SST-AD was entitled to consider this misalignment and, in the absence of other

evidence, conclude as it did. It thus engaged with the applicant's arguments in its reasons in such a way that, as per *Vavilov*, accounts for the "essential element[s] of the decision" (para 98), meeting the jurisprudential threshold of justification, transparency, and intelligibility.

V. Conclusion

[34] The decision of the SST-AD accordingly provides an internally coherent, intelligible, and transparent analysis as to why the applicant's request must fail. It justifies itself in relation to the legal framework and the factual constraints in a way that meets the threshold of reasonableness, as dictated by the Supreme Court in *Vavilov*. As such, this Court finds no reason to intervene.

[35] As a result, the judicial review application is dismissed. Neither party sought costs and none are awarded.

JUDGMENT in T-1358-19

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is dismissed.

2. No costs are awarded.

"Yvan Roy"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	T-1358-19
STYLE OF CAUSE:	SIMON PAUL NJAGI v ATTORNEY GENERAL OF CANADA
PLACE OF HEARING:	BY VIDEOCONFERENCE BETWEEN OTTAWA (ONTARIO) AND EDMONTON (ALBERTA)
DATE OF HEARING:	OCTOBER 7, 2020
JUDGMENT AND REASONS:	ROY J.
DATED:	OCTOBER 23, 2020

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