

Federal Court



Cour fédérale

Date: 20210720

Docket: IMM-1372-21

Citation: 2021 FC 771

Vancouver, British Columbia, July 20, 2021

PRESENT: The Honourable Mr. Justice Manson

BETWEEN:

AMIRHOMAYOUN KARIMI

Applicant

and

**THE MINISTER OF IMMIGRATION,
REFUGEES AND CITIZENSHIP**

Respondent

ORDER AND REASONS

[1] **UPON MOTION** in writing dated July 7, 2021 on behalf of the Respondent pursuant to Rule 369 of the *Federal Courts Rules* for an Order pursuant to sections 18 and 18.1 of the *Federal Courts Act*, that:

- a) the application for judicial review is allowed;

- b) the decision dated January 27, 2021 to refuse the Applicant's application for a study permit is set aside;
- c) the Applicant's application for a study permit is sent back for redetermination by a different visa officer;
- d) the Respondent will provide the Applicant the opportunity to provide additional material in support of his application for a study permit; and
- e) the parties will bear their own costs of this proceeding;

[2] **AND UPON** reading the motion records filed on behalf of the parties;

[3] **AND UPON** reading the written representations in reply filed on behalf of the Respondent, as well as correspondence dated July 19, 2021 on behalf of the Applicant;

[4] The Respondent's motion shall be granted for reasons that follow:

[5] On December 9, 2020, as part of his application for a study permit, the applicant included a letter from Behtavan Physiotherapy Clinic that certified that the clinic officials would employ him after his graduation in kinesiology.

[6] On January 27, 2021, a visa officer refused the applicant's application for a study permit. The visa officer concluded that the applicant had not established that he would leave Canada when required. The visa officer based the refusal, in part, on the applicant's limited employment prospects in Iran.

[7] In finding that the applicant had limited employment prospects in Iran, the visa officer did not address the letter from Behtavan Physiotherapy Clinic that appeared to guarantee him employment in his field. In failing to address the letter, the officer based the decision on an erroneous finding of fact that the officer made without regard for the material before the officer.

[8] There is no basis for an oral hearing given the disposition of this proceeding. The Applicant has not satisfied the Court that an oral hearing is justified and this matter is fairly disposed of without the delay and expense of an oral hearing (*Jones v Canada (MCI)* 2006 FCA 279 at para 13).

[9] Moreover, the redetermination by a different officer will be based on an independent review of the Applicant's study permit application and any new submissions to reach an independent decision.

[10] It is in the interests of justice to grant the motion (*Buneci v Canada (MCI)* 2019 FC 34).

ORDER in IMM-1372-21

THIS COURT ORDERS that:

1. The motion is granted.
2. The application for judicial review is allowed.
3. The decision dated January 27, 2021 to refuse the Applicant's application for a study permit is set aside.
4. The Applicant's application for a study permit is sent back for redetermination by a different visa officer.
5. The Respondent will provide the Applicant the opportunity to provide additional material in support of his application for a study permit.
6. The parties will bear their own costs of this proceeding.

"Michael D. Manson"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-1372-21

STYLE OF CAUSE: AMIRHOMAYOUN KARIMI v THE MINISTER OF
IMMIGRATION, REFUGEES AND CITIZENSHIP

**MOTIONS IN WRITING CONSIDERED AT VANCOUVER, BRITISH COLUMBIA
PURSUANT TO RULE 369 OF THE *FEDERAL COURTS RULES***

ORDER AND REASONS: MANSON J.

DATED: JULY 20, 2021

WRITTEN SUBMISSIONS BY:

Samin Mortazavi FOR THE APPLICANT

François Paradis FOR THE RESPONDENT

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