

Federal Court



Cour fédérale

Date: 20221214

Docket: IMM-8338-21

Citation: 2022 FC 1730

Ottawa, Ontario, December 14, 2022

PRESENT: Mr. Justice McHaffie

BETWEEN:

SERGEY CHUVASHOV

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

I. Overview

[1] Sergey Chuvashov, who lives in his native Russia, sought a Canadian temporary resident visa (TRV) to visit his brother, a Canadian citizen. A visa officer was not satisfied Mr. Chuvashov would leave Canada at the end of his stay, given his limited family and financial ties in Russia. Mr. Chuvashov claims this decision was unreasonable and asks the Court to set it aside.

[2] I conclude the visa officer's decision, read in the context of the submissions and evidence filed on the visa application, was reasonable. Contrary to Mr. Chuvashov's submissions, the visa officer's reasons, while brief, adequately and reasonably explain the basis for the decision and respond to the submissions made in the application. While Mr. Chuvashov's arguments to this Court stressed the importance of his patronage family in Russia and his income from Russian disability benefits, these arguments effectively ask this Court to substitute its assessment for that of the officer, which is not the Court's role on judicial review.

[3] The application for judicial review is therefore dismissed.

II. Issue and Standard of Review

[4] Mr. Chuvashov raises the following issue on this application:

Was the officer's decision to refuse the TRV unreasonable as it pertained to his financial and family ties to Russia?

[5] As the parties agree, the officer's decision is reviewable on the reasonableness standard: *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at paras 16–17, 23–25; *Azizulla v Canada (Citizenship and Immigration)*, 2021 FC 1226 at para 8. The Court's role in applying that standard is to assess the outcome of the decision in light of its underlying rationale, to ensure the decision as a whole is transparent, intelligible, and justified: *Vavilov* at paras 15, 99. It is not to undertake its own assessment of the underlying application, reassess and reweigh the evidence, and reach its own decision: *Vavilov* at paras 83, 125–129. Rather, it must assess whether the applicant has shown that the decision has sufficiently serious shortcomings

that it cannot be said to exhibit the requisite degree of justification, intelligibility, and transparency: *Vavilov* at para 100.

[6] In his application for leave and judicial review, Mr. Chuvashov also requested a brief extension of time to file the application. The Minister did not oppose this request. The order granting leave to commence this application for judicial review did not expressly grant the requested extension. While the granting of an extension of time cannot be automatically inferred from the granting of leave, in the circumstances, I conclude it was implicit in the order granting leave that the extension of time was granted: *Deng Estate v Canada (Public Safety and Emergency Preparedness)*, 2009 FCA 59 at para 16, citing *Canada (Minister of Human Resources Development) v Eason*, 2005 FC 1698 at para 20; *Obasuyi v Canada (Citizenship and Immigration)*, 2022 FC 508 at para 21, citing *Ogiemwonyi v Canada (Citizenship and Immigration)*, 2021 FC 346 at para 14. Nonetheless, following the approach in *Obasuyi* and *Ogiemwonyi*, in case I am mistaken, I will grant the extension of time to file the application for leave and judicial review *nunc pro tunc*.

III. Analysis

A. *Mr. Chuvashov's application for a temporary resident visa*

[7] In September 2021, Mr. Chuvashov applied for a TRV to visit his older brother and his brother's family in Toronto. The brother has two young daughters, and it was hoped that Mr. Chuvashov could meet his nieces, attend their baptism in the Orthodox Church, act as their godfather, and celebrate Christmas as a family.

[8] Mr. Chuvashov's application highlighted the reasons for the proposed visit. It also described Mr. Chuvashov's personal and family situation. Mr. Chuvashov was diagnosed at an early age with childhood-onset schizophrenia and has significant developmental disabilities. His parents and his older brother cared for him until his parents' deaths in 2003 and 2007. His brother, ten years his elder, then took on the responsibilities for his care. However, after his brother got married in 2014, he and his wife decided to move to Canada.

[9] The brother notes in a letter supporting the TRV application that there was "no reason" to consider Mr. Chuvashov immigrating to Canada with them since he is monitored by health departments in Russia, has multiple living benefits and a disability pension, and is attached to Russia. Instead, arrangements were made for Mr. Chuvashov to live with a "patronage family," a family within the Orthodox Christian community that would welcome him and provide support, family, and care. Mr. Chuvashov moved to a village to be with the patronage family, and has lived with them for a number of years.

[10] In addition to the letter from his brother, Mr. Chuvashov's TRV application was supported by a submission letter from an immigration consultant, and support letters from the patronage family, the archpriest of the village, and a mental health centre in Moscow. These documents described Mr. Chuvashov's background, his condition, his close relationship with the patronage family, and his receipt of a disability pension and benefits. They also underscored that Mr. Chuvashov's condition was stable and posed no risk to Canadians.

B. *The officer's decision to refuse the temporary resident visa*

[11] An officer in the visa section of the Embassy of Canada in Warsaw, Poland, reviewed and determined Mr. Chuvashov's request on September 15, 2021. As is typical, the officer's reasons for refusing Mr. Chuvashov's request for a TRV are reflected in a letter to Mr. Chuvashov advising him of the refusal, and in notes entered into the Global Case Management System (GCMS). The letter advised, in point form, that the officer was not satisfied Mr. Chuvashov would leave Canada at the end of his stay based on (a) his family ties in Canada and Russia; (b) the purpose of his visit; (c) the limited employment prospects in Russia; (d) his current employment situation; and (e) his personal assets and financial status.

[12] Despite these various concerns, the GCMS notes do not refer to any issues with the purpose of the visit, or Mr. Chuvashov's current or prospective employment. Rather, the GCMS notes raise concerns only about his "very limited financial and family ties to Russia." The notes read as follows, with the abbreviation "pa" being used for "principal applicant" to refer to Mr. Chuvashov:

Submissions reviewed. Pa wishes to visit his brother in Canada for a period of over 2 months. Pa has been diagnosed with schizophrenia when he was a child and has been pronounced disabled. Pa was under the care of his parents and the host (while host was still residing in Russia). Parents died in the meantime and host became his only caregiver and family member. Subsequently, host married and left for Canada where he is living with spouse and 2 children. Submissions state that prior to leaving, host found a family with the help of the church, with whom pa now resides. Submissions state that pa has integrated with this family and with the community and local church. Submissions also state that host visits pa every year. They also state that host would like pa to get to know his children and to be their godfather as well, but that he is afraid to bring them over to Russia given the pandemic.

Submissions also state that pa inherited an apt from his parents and is collecting rental income from this source. I have reviewed the entire information provided in the submissions. I note that the pa has very limited financial and family ties to Russia. The rental income is likely to continue even without pa[']s presence in the country. I note that pa has apparently integrated with the family he is staying with, however, the host remains his closest family member; I have therefore concluded that the pa has stronger personal ties in Canada than he does in Russia. Given the foregoing, I am not satisfied that pa would leave Canada upon expiry of any status granted to him and therefore have decided to refuse this application.

[Emphasis added]

C. *The subsequent reconsideration request and refusal*

[13] This application for judicial review pertains only to the September 15, 2021, refusal of the TRV application, as counsel confirmed at the hearing of the application. The reasonableness of that decision must be assessed on its own merits and without reference to any new information tendered subsequently, including that put forward in an affidavit by Mr. Chuvashov's brother which was filed in support of this application: *Association of Universities and Colleges of Canada v Canadian Copyright Licensing Agency (Access Copyright)*, 2012 FCA 22 at paras 19–20.

[14] However, for completeness, I note the affidavit of Mr. Chuvashov's brother shows that after Mr. Chuvashov's TRV application was refused, his immigration consultant sent a letter dated October 15, 2021, requesting reconsideration and making various submissions on the concerns identified in the decision letter. On November 16, 2021, Mr. Chuvashov was sent a further letter, again stating that the application was refused, on overlapping but somewhat different grounds. The GCMS notes with respect to this further decision are not in the record. In

any event, as noted, they are irrelevant to the Court's assessment of the reasonableness of the September 15, 2021, decision.

D. *The officer's decision was reasonable*

[15] In assessing the reasonableness of a visa decision, the Court must consider the administrative context in which it was made: *Vavilov* at para 91. This includes the circumscribed impact of a visa refusal, and the need for visa officers to process applications quickly and efficiently given the high volume of applications received: *Quraishi v Canada (Citizenship and Immigration)*, 2021 FC 1145 at para 14. As a result, visa officers are not obliged to give extensive reasons for their decisions. Nonetheless, however brief, an officer's reasons must still be responsive and justified, showing that the officer reasonably considered the evidence and submissions put forward and reached a justified conclusion: *Quraishi* at para 15, citing *Ekpenyong v Canada (Immigration, Refugees and Citizenship)*, 2019 FC 1245 at para 13 and *Singh v Canada (Citizenship and Immigration)*, 2012 FC 526 at para 56.

[16] I agree with Mr. Chuvashov that although other issues were raised in the decision letter, the officer's GCMS notes reveal there were two areas of concern that led to the refusal of his TRV application: (1) his financial ties to Russia; and (2) his family ties to Russia and Canada. Mr. Chuvashov argues that the officer's treatment of each of these was unreasonable. For the following reasons, I am not persuaded.

(1) Financial ties to Russia

[17] The officer found that Mr. Chuvashov had “very limited financial [...] ties to Russia.” In particular, the officer referred to the apartment he had inherited from his parents, which yields rental income. The officer noted that that income was likely to continue even if Mr. Chuvashov was not in Russia.

[18] Mr. Chuvashov argues the officer’s analysis of this issue was unreasonable for two related reasons. First, the officer did not refer to the disability pension and benefits he receives in Russia or to the financial benefit of room and board with his patronage family. Second, the officer did not consider that this evidence shows financial stability and motivation to remain in Russia, and that there can be no motivation for him to remain in Canada for financial reasons related to employment in light of his disability.

[19] I do not agree. The officer was not required to refer to each element of Mr. Chuvashov’s financial situation in coming to the general conclusion that he had very limited financial ties to Russia. While there was evidence of a disability pension and benefits, this evidence was reasonably viewed in the circumstances, even when combined with the rental income, as a limited financial tie. Put another way, the evidence of a disability pension was not evidence that contradicted the officer’s conclusion that may therefore have required discussion. It was simply one of Mr. Chuvashov’s financial ties to Russia, which the officer assessed and concluded were limited.

[20] It is also worth noting that the pension was not a central aspect of Mr. Chuvashov's submissions in support of his application. His brother briefly identified Mr. Chuvashov's "disability pension at a good level" as a reason he did not immigrate to Canada with him; his consultant referred to them as partial evidence of the fact that he is "financially stable." There were no further submissions with respect to the pension, how it constituted a significant financial tie to Russia, or how it otherwise supported the TRV application. In this context, I cannot view the existence of the pension as a central aspect of the application that required specific comment to meet the requirements of responsiveness: *Vavilov* at paras 127–128.

[21] In this regard, I agree with the Minister that the situation is different from that in *Rodriguez Martinez*, a decision that Mr. Chuvashov relies on: *Rodriguez Martinez v Canada (Citizenship and Immigration)*, 2020 FC 293. In that case, the officer referred to a lack of "strong socio economic ties" with Cuba without referring to material contradictory evidence regarding financial ties in the form of real estate, and social ties in the form of close family members, which were central issues that needed to be addressed: *Rodriguez Martinez* at paras 15–16. That was not the case here.

[22] Nor can I accept Mr. Chuvashov's argument that the lack of financial motivation for him to remain in Canada renders the decision unreasonable. The officer did not conclude that Mr. Chuvashov would be financially motivated to come to Canada. Rather, their concern was related to the absence of financial ties to Russia that might counterbalance other factors, notably the family ties in Canada. This was a reasonable factor to consider, and the officer's conclusion

that Mr. Chuvashov had limited financial ties to Russia was reasonable on the evidence before them and in the administrative context of the decision.

(2) Family ties to Russia and Canada

[23] The officer recognized that Mr. Chuvashov was integrated with the patronage family he lived with. Nonetheless, the officer noted that his brother remained his closest family member and concluded he had stronger personal ties in Canada than in Russia. Mr. Chuvashov submits that this finding is not consistent with the evidence, and that his patronage family can be considered his “de facto” family. He refers to the patronage family’s statement that Mr. Chuvashov is “an inseparable part of our family,” to the importance of his daily routines, and to his current home being his “comfort zone.” He submits the officer did not engage with this evidence regarding his relationship with the patronage family, particularly in the context of his disability.

[24] I cannot agree. Neither the evidence presented nor the submissions made in support of the TRV application suggested that Mr. Chuvashov’s bond with his patronage family was stronger than his bond with his brother. The officer recognized Mr. Chuvashov had integrated with his patronage family as well as the local community and church. While there is evidently a very strong bond between Mr. Chuvashov and his patronage family, the evidence also showed a very strong bond between Mr. Chuvashov and his brother. Recognizing that it is not the Court’s role to interfere with the officer’s assessment of the evidence unless it is unreasonable, I conclude it was open to the officer to conclude that given his brother’s presence in Canada, Mr. Chuvashov “has stronger personal ties in Canada than he does in Russia.” Having reached this conclusion, it

was then open to the officer to consider the various factors that might draw Mr. Chuvashov to Russia and Canada respectively, and conclude they were not satisfied he would leave at the conclusion of his stay.

[25] Mr. Chuvashov submits that the officer's reasons were "brief and perfunctory" and failed to take the substantial evidence into consideration. I disagree. While brief, the officer's reasons are not perfunctory. Rather, they show the officer considered Mr. Chuvashov's situation, considered the main evidence put forward in support of his application, and concluded that despite Mr. Chuvashov submissions, they were not satisfied on the evidence that Mr. Chuvashov would leave Canada at the end of his permitted stay. Given the administrative context, these reasons show the requisite transparency, intelligibility, and justification required of a reasonable decision.

IV. Conclusion

[26] The application for judicial review is therefore dismissed.

[27] Neither party proposed a question for certification and I agree that none arises in the matter.

[28] Finally, in the interests of consistency and in accordance with subsection 4(1) of the *Immigration and Refugee Protection Act*, SC 2001, c 27, and subsection 5(2) of the *Federal Courts Citizenship, Immigration and Refugee Protection Rules*, SOR/93-22, the style of cause is amended to name the respondent as the Minister of Citizenship and Immigration.

JUDGMENT IN IMM-8338-21

THIS COURT'S JUDGMENT is that

1. The applicant's request for an extension of time to November 17, 2021, to file this application for leave and judicial review is granted, *nunc pro tunc*.
2. The application for judicial review is dismissed.
3. The style of cause is amended to name the respondent as the Minister of Citizenship and Immigration.

“Nicholas McHaffie”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-8338-21

STYLE OF CAUSE: SERGEY CHUVASHOV v THE MINISTER OF
CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: HELD BY VIDEOCONFERENCE

DATE OF HEARING: SEPTEMBER 28, 2022

JUDGMENT AND REASONS: MCHAFFIE J.

DATED: DECEMBER 14, 2022

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