

Federal Court



Cour fédérale

Date: 20230403

Docket: IMM-1763-22

Citation: 2023 FC 468

Ottawa, Ontario, April 3, 2023

PRESENT: The Hon Mr. Justice Henry S. Brown

BETWEEN:

NARGES KHADEMI

Applicant

and

**THE MINISTER OF CITIZENSHIP
AND IMMIGRATION**

Respondent

JUDGMENT AND REASONS

I. Nature of the matter

[1] This is an application for judicial review of a decision by an Immigration Officer in Ottawa, dated January 12, 2022, which refused the underlying application for a study permit based on a finding that the Applicant would not leave Canada at the end of her stay due to family ties in Canada and in her country of residence, and the purpose of her visit.

[2] The study visa, was applied for in December, 2021, would have allowed the Applicant, an Iranian student, to take Ontario Grade 12 in person at an accredited Ontario institution. She had at that time completed only three Ontario Grade 12 courses online.

[3] Notwithstanding the refusal of her study visa request, and to her credit the Applicant continued to pursue her online studies.

[4] By the time this matter came up for a hearing in March 2023, the Applicant had successfully completed Ontario Grade 12 through online learning. She is now exploring further in person studies in Canada at the college or university level.

[5] The Respondent asked that I find the application moot, because there was no point in ordering reconsideration in that the Applicant no longer needs to complete Ontario Grade 12 and she may re-apply for a study visa based on her updated situation. I reserved on that request and heard the Respondent's submissions on the merits. The Applicant replied, and judgment was reserved on the merits as well.

[6] Given the Applicant's successful completion of Ontario Grade 12, in my view the case is moot. I have considered the reasons why a court may hear a case notwithstanding it is moot, as set out in *Borowski v Canada (Attorney General)*, [1989] 1 S.C.R. 342, but find none apply here.

[7] I agree there is no point ordering re-consideration on the existing record because the study plan is now out of date.

[8] In finding mootness, the Court makes no determination on whether the Decision is reasonable or unreasonable. It is noteworthy however that the Court granted leave to this self-represented Applicant to proceed with her application for judicial review. Therefore, no adverse or negative inference nor prejudice to the Applicant may be drawn or result from the Court's determination. I say this because the Court does not wish a finding of mootness to prejudice the Applicant; the only reason the Applicant's case is moot is because she continued with her studies, to her credit. To that end, I will also Order a copy of this Decision to be attached to the Respondent's GCMS file on this Applicant, to ensure any subsequent Officer will see and consider the Court's Judgment and Reasons.

II. Conclusion

[9] Given the application for judicial review is moot it will be dismissed.

III. Certified Question

[10] Neither party proposed a question of general importance, and none arises.

JUDGMENT in IMM-1763-22

THIS COURT'S JUDGMENT is that:

1. The style of cause is amended with immediate effect to show the Applicant
NARGES KHADEMI.
2. Because of the Applicant's success in continuing her studies and obtaining her
Grade 12 certificate, this Application is moot.
3. The Court makes no determination on whether the Decision is reasonable or
unreasonable, noting however that the Court granted this self-represented
Applicant leave to proceed with her application for judicial review.
4. No adverse or negative inference nor prejudice may be drawn or result against the
Applicant from the Court's determination in this case; the only reason the
Applicant's case is moot is because she successfully continued her studies, to her
credit.
5. The Respondent shall attach a copy of these Judgment and Reasons to the
Respondent's GCMS file on this Applicant, and ensure any subsequent Officer
will see and consider the Court's Judgment and Reasons.

"Henry S. Brown"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-1763-22

STYLE OF CAUSE: NARGES KHADEMI v THE MINISTER OF
CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: HELD BY WAY OF VIDEOCONFERENCE

DATE OF HEARING: MARCH 16, 2023

JUDGMENT AND REASONS: BROWN J.

DATED: APRIL 3, 2023

APPEARANCES:

Khademi Narges

FOR THE APPLICANT
(ON HER OWN BEHALF)

Zofia Rogowska

FOR THE RESPONDENT

SOLICITORS OF RECORD:

Attorney General of Canada
Toronto, Ontario

FOR THE RESPONDENT