

Federal Court



Cour fédérale

Date: 20230406

Docket: IMM-6107-22

Citation: 2023 FC 499

Ottawa, Ontario, April 6, 2023

PRESENT: The Honourable Mr. Justice Fothergill

BETWEEN:

**SHAGHAYEGH SHAHREZAEI
HAMIDREZA SAVEH**

Applicants

and

**THE MINISTER OF CITIZENSHIP
AND IMMIGRATION**

Respondent

JUDGMENT AND REASONS

[1] Shaghayegh Shahrezaei and her husband Hamidreza Saveh are citizens of Iran. Ms. Shahrezaei seeks judicial review of a decision by a visa officer [Officer] to refuse her request for a study permit to pursue a Computer Systems Technician diploma at Seneca College. The Officer also refused a related application for a work permit by Mr. Saveh, who hoped to accompany his wife to Canada.

[2] The Officer was not satisfied that Ms. Shahrezaei would leave Canada at the end of her authorized stay. The Officer's primary preoccupations were the purpose of Ms. Shahrezaei's visit and her lack of significant family ties outside of Canada.

[3] Ms. Shahrezaei is 30 years old. She and her husband have no children. The couple's parents reside in Iran. Ms. Shahrezaei's sister resides in the United States of America.

[4] Both Ms. Shahrezaei and her husband hold Bachelor's degrees in Computer Software Engineering from an Iranian university. Between 2015 and 2020, Ms. Shahrezaei worked as a WordPress web designer at an Information Technology [IT] business she started with her husband called Pardazesh Hoorad Padra [Shabakesabz]. Shabakesabz suspended operations in 2020. Since then, Ms. Shahrezaei has been employed as a Computer Network Technician by Arya Pardazeshgar Rayaneh [Arya].

[5] In March 2022, Ms. Shahrezaei was accepted into a two-year Computer Systems Technician diploma program offered by Seneca College. The estimated tuition for the first year of the program was \$16,113.79, with living expenses of \$14,364. Ms. Shahrezaei prepaid a tuition deposit of \$8,578.55. She also provided evidence of \$50,300 in available funds, title deeds for her parent's real estate holdings in Iran, and a car worth \$24,000.

[6] Ms. Shahrezaei said the following regarding the purpose of her proposed course of study:

Seneca college has an established track record of success. Being a part of this amazing study environment will propel me closer to my professional goals. In the process, I will be able to acquire the

necessary experience and skills to allow myself deeper access to the IT industry. Once I complete this program, I will return to Iran and explore the career opportunities here. Arya offered me a lucrative opportunity as a computer network manager that is contingent on me graduating from the CSN program at Seneca college.

Personally, I cannot stop thinking about retrieving Shabakesabz again. The degree obtained from Seneca college will infuse tremendous value to my profile. This will help me revive Shabakesabz and allow it to transcend from its competitors in the market and only then will I be able to realize my career goals.

[7] A letter from Arya confirmed that the company would hire Ms. Shahrezaei “full-time for higher salary and allowances and job promotion” following the completion of her diploma.

[8] Ms. Shahrezaei also stated she would return to Iran at the end of her studies because her parents and those of her husband will remain in that country. She said she had a “very close relationship” with them, and felt a strong conviction to help them as much as she could. Mr. Saveh was said to have an “important family responsibility” to take care of several familial agricultural properties in Iran.

[9] The Officer’s decision is subject to review by this Court against the standard of reasonableness (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [Vavilov] at para 10). The Court will intervene only where “there are sufficiently serious shortcomings in the decision such that it cannot be said to exhibit the requisite degree of justification, intelligibility and transparency” (*Vavilov* at para 100).

[10] The criteria of “justification, intelligibility and transparency” are met if the reasons allow the Court to understand why the decision was made, and determine whether the decision falls within the range of acceptable outcomes defensible in respect of the facts and law (*Vavilov* at paras 85-86, citing *Dunsmuir v New Brunswick*, 2008 SCC 9 at para 47).

[11] The Officer’s notes in the Global Case Management System [GCMS] form a part of the decision under review (*Ebrahimshani v Canada (Citizenship and Immigration)*, 2020 FC 89 at para 5). The Officer’s GCMS notes read in relevant part:

[...] The applicant is 29 applying for a Computer Systems Technician diploma from Seneca College. I note that, the applicant obtained a Bachelor of Computer Software Engineering in 2015. No indication of further formal education since then. The applicant has been employed as a Network Technician since 2020. Recent education transcripts and diplomas not provided. Client Explanation letter reviewed. The applicant does not demonstrate to my satisfaction reasons for which such an educational program would be of benefit. The study plan does not appear reasonable given the applicant’s employment and education history. I note that: - the client has previous studies at a higher academic level than the proposed studies in Canada - the client’s proposed studies are not reasonable given their career path - the client’s proposed studies are repetitive and are not reasonable given their career path Insufficient explanation has been given on how the sought educational program would be of benefit or how chosen course will improve job prospects back home. I fail to see how the proposed program adequately demonstrates a logical progression of studies/career. It is unclear why the applicant would choose to study if already employed in relevant field and what advantages will be gained by the applicant from the chosen program of study. I am not satisfied that the applicant would leave Canada at the end of their stay as a temporary resident, I note that: - the applicant is married or has dependents or states to have close family ties in their home country, but is not sufficiently established. Additionally, the ties to Iran weaken with the intended travel to Canada involving their immediate family, as the motivation to return will diminish with the applicant’s immediate family members residing with them in Canada. The applicant has not

demonstrated sufficiently strong ties to their country of residence. The purpose of visit does not appear reasonable given the applicant's socio-economic situation and therefore I am not satisfied that the applicant would leave Canada at the end of the period of authorized stay. [...].

[12] Ms. Shahrezaei challenges the Officer's assessment of: (a) her socio-economic situation, (b) the purpose of her visit and (c) her ties to Iran.

[13] Ms. Shahrezaei submitted evidence of the couple's financial situation, including bank account statements, a receipt for a tuition deposit, title deeds for Ms. Shahrezaei's parents' properties in Iran, and a car. In *Iyiola v Canada (Citizenship and Immigration)*, 2020 FC 324, Justice Janet Fuhrer held that the payment of tuition fees was reasonably indicative of a genuine intention to study, and a factor that ought to be considered or mentioned (at para 19).

[14] While the Officer's GCMS notes indicate that "positive factors" were considered, it is unclear how these were weighed or which, if any, were found to be deficient (*Kheradpazhooh v Canada (Citizenship and Immigration)*, 2018 FC 1097 at para 18). The Officer failed to explain or justify how the conclusion with respect to Ms. Shahrezaei's socio-economic situation was reached (*Najmi v Canada (Citizenship and Immigration)*, 2023 FC 132 at para 16).

[15] With respect to the purpose of Ms. Shahrezaei's visit, it is unclear why the Officer concluded that her study plan was unreasonable. The Officer considered her Bachelor's degree to be at a "higher academic level" than her proposed course of study. However, her degree and proposed diploma concerned related but separate disciplines. The degree was in computer

software engineering, while the proposed course of studies was in the more pragmatic field of IT support (see *Monteza v Canada (Citizenship and Immigration)*, 2022 FC 530 at para 13).

[16] In her study plan, Ms. Shahrezaei noted there were no comparable programs in Iran; Canada is a pioneer in the IT industry; the program offered “modern labs and technology”; practical co-op experience was available; and the diploma would improve her career prospects in Iran. The letter from Arya, which was not mentioned in the Officer’s decision, confirmed she would be eligible for promotion upon the completion of her studies in Canada.

[17] A visa officer is presumed to have considered all the evidence presented, unless the contrary is shown, and is not required to refer to each piece of evidence (*Solopova v Canada (Citizenship and Immigration)*, 2016 FC 690 at para 28). There must nevertheless be a rational and intelligible chain of analysis underlying the Officer’s conclusions (*Vavilov* at paras 85-86). While it appears Ms. Shahrezaei’s study plan was considered, the Officer’s reasons were not responsive to its contents. Ms. Shahrezaei’s study plan explained her motivation for pursuing a Computer Systems Technician diploma at Seneca College, why this would be a logical progression in her education, and how it would benefit her career. The Officer’s failure to engage with the particulars of the study plan renders the decision unreasonable.

[18] With respect to her ties to Iran, Ms. Shahrezaei acknowledges that it was reasonable for the Officer to consider that her husband would accompany her to Canada. However, she argues that the Officer neglected to weigh this against the evidence of her establishment in Iran. As

Justice Cecily Strickland held in *Vahdati v Canada (Citizenship and Immigration)*, 2022 FC

1083 [*Vahdati*] at para 10:

In my view, while it may be relevant to consider that the Spouse intends to accompany the Applicant to Canada (*Balepo v Canada (Citizenship and Immigration)*, 2016 FC 268 at paras 15-16), and, even if it is reasonable to infer from this that the Applicant's family ties to Iran may be weakened, the problem in this case is that the Visa Officer ended their analysis there. The Visa Officer did not weigh this against: (1) the fact that all of the other members of the Applicant's and her Spouse's families will remain in Iran; (2) the fact that the Applicants have no family members in Canada; or (3) the other evidence in the record relevant to establishment such as the letter from the Applicant's employer. I agree with the Applicant that in this case the Visa Officer seems to have simply applied a broad generalization in reaching their finding as to a lack of establishment.

[19] The Minister responds that the Officer's decision was reasonable because: Ms.

Shahrezaei's sister resides in the USA; her prospective promotion with Arya was "vague"; it was unclear when she or her husband would inherit properties in Iran; and there was no evidence suggesting that either of the couple's parents were financially reliant on them. While these may be valid considerations, none of them were reflected in the Officer's GCMS notes. The Officer's conclusion was neither intelligible nor justified (*Vahdati* at paras 8-12).

[20] The application for judicial review is therefore allowed. None of the parties proposed that a question be certified for appeal.

JUDGMENT

THIS COURT'S JUDGMENT is that the application for judicial review is allowed,
and the matter is remitted to a different visa officer for redetermination.

“Simon Fothergill”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-6107-22

STYLE OF CAUSE: SHAGHAYEGH SHAHREZAEI AND HAMIDREZA
SAVEH v THE MINISTER OF CITIZENSHIP AND
IMMIGRATION

PLACE OF HEARING: VANCOUVER, BRITISH COLUMBIA

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JUDGMENT AND REASONS: FOTHERGILL J.

DATED: APRIL 6, 2023

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