

Federal Court



Cour fédérale

Date: 20230818

Docket: IMM-4119-22

Citation: 2023 FC 1118

Calgary, Alberta, August 18, 2023

PRESENT: Mr. Justice Diner

BETWEEN:

VALERIE SAGIBO

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

I. Background

[1] Ms. Sagibo seeks judicial review pursuant to s. 72(1) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 of a decision by a visa officer [Officer] to deny her study permit application. I granted the judicial review from the bench, with these reasons to follow.

[2] As a 28-year-old Filipino national, Ms. Sagibo applied to study at the Southern Alberta Institute of Technology [SAIT], where she was accepted into a 2-year Business Administration diploma program.

[3] The Officer refused her work permit application, being unsatisfied that she (i) would leave Canada at the end of her stay, and (ii) was not a *bona fide* student [Decision]. The Officer justified finding (ii) of the Decision, on the basis that the course content and level of the proposed studies appeared to overlap or fall below the studies Ms. Sagibo had already completed. The Officer found that as a result, the proposed SAIT program did not adequately demonstrate a logical progression of studies. The Officer further noted that it was unclear how the studies would be of benefit and “outweigh” her business degree from and prior work experience in the Philippines.

[4] Ms. Sagibo argues that the Decision was unreasonable because the Officer ignored evidence and provided an unsupported rationale in finding that the proposed studies would not “outweigh” her education and work experience. She points to her detailed Study Plan, which explained the benefit of her studies and how they would allow her to achieve her objective of becoming an Operations Manager.

[5] Ms. Sagibo relies on the recent decision in *Monteza v Canada (Citizenship and Immigration)*, 2022 FC 530 [*Monteza*] to argue that it was inappropriate for the Officer to act as a “career counselor” by insisting that her proposed Study Plan would not likely lead to career advancements (*Monteza* at paras 19-20).

[6] The Minister distinguishes *Monteza* from this case on the basis that the visa officer made unreasonable conclusions about Ms. Monteza's career path and employment prospects, which the Minister claims the Officer did not do in this case.

II. Analysis

[7] I am unpersuaded by the Minister's position. Contrary to the findings in *Monteza* at paragraphs 17 and 20, the Officer made explicit findings about Ms. Sagibo's career choice, being "unable to assess a clear career path for the applicant which [*sic*] such an education program and how it would benefit the applicant given he/she already has achieved a combination of studies and work", despite a study plan which was anything but "vague and general".

[8] As for *Balepo v Canada (Citizenship and Immigration)*, 2017 FC 1104 upon which the Minister relies, that case is clearly distinct from the one at bar: Mr. Balepo was given ample opportunity to provide a justification for his prospective course in his visa office interview. Here, Ms. Sagibo was never given that opportunity (which is not to say that interviews are required of study permit applicants). In addition, this Officer failed to address Ms. Sagibo's written explanations as to how SAIT would complement her existing knowledge and experience. Other marked differences include Mr. Balepo's older age, the long interruption in his studies, the fact that he appeared to have changed careers, credibility issues with his testimony before the visa officer, his family ties in Canada, and weak ties to his country of origin.

[9] The Officer in this case, by contrast, raised none of these concerns that had been raised in *Balepo*. And I find none of them were present. Ms. Sagibo was still young, and in addition to not

having any family ties in Canada, her Filipino husband and son were not included in her application.

[10] Ultimately, the Officer failed to address Ms. Sagibo's two key Study Plan assertions, namely that (i) her instructors in the Philippines lacked workplace experience in the field of business; and (ii) international credentials and experience are valued by businesses in the Philippines in her desired field (Operations Managers), which she aspired to advance to from her current position as an administrative assistant.

[11] In light of Ms. Sagibo's detailed explanation in her cover letter that the proposed studies at SAIT would be complementary to her acquired degree and work experience, and would advance her goal of becoming an Operations Manager, the Officer's conclusions were unjustified and unsupported by the relevant jurisprudence.

[12] Indeed, as held in *Penez v Canada (Citizenship and Immigration)*, 2017 FC 1001 at para 20 [*Penez*], “[i]t is in fact the very opposite situation (i.e., applicants intending to study in areas totally disconnected from their background and experience) that typically prompt visa officers to question the true intent behind a study permit application.” There, similar to here, the visa officer denied Ms. Penez's study permit application on the basis that she was seeking to come to Canada to obtain a diploma in a field she already knew, which the Court determined was unreasonable (*Penez* at para 21).

[13] During the hearing, the Minister particularly emphasized the issue surrounding the overlap of courses between Ms. Sagibo's prior education and the diploma she is seeking to pursue at SAIT, although the Officer provided little to no analysis on this same issue.

[14] In any case, if one undertakes a deeper comparison of the two programs, it is clear that SAIT offers distinct courses and the possibility to pursue a specialization through a major in the second year of the program. This is unlike the general nature of the Business Administration degree she pursued in the Philippines, which the evidence from World Education Services demonstrates is equivalent to a three-year bachelor degree. Again, the Officer offered no comment on this credential assessment, in relation to the SAIT program.

I. Conclusion

[15] The Officer's Decision cannot be reconciled with the evidence presented by Ms. Sagibo and was thus unreasonable. The Judicial Review is allowed.

JUDGMENT in file IMM-4119-22

THIS COURT'S JUDGMENT is that:

1. The judicial review is allowed.
2. There is no award as to costs.

"Alan S. Diner"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-4119-22

STYLE OF CAUSE: VALERIE SAGIBO v THE MINISTER OF
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PLACE OF HEARING: CALGARY, ALBERTA

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