

Federal Court



Cour fédérale

Date: 20231208

Docket: IMM-1022-23

Citation: 2023 FC 1661

Ottawa, Ontario, December 8, 2023

PRESENT: Madam Justice McDonald

BETWEEN:

**SEYED AMIR ALI SEIF AND
SEYED SATAR SEIF**

Applicants

and

**MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

[1] On this judicial review application the Applicants challenge a Visa Officer's [Officer] decision refusing a study permit for Seyed Amir Ali Seif, the Principle Applicant, to attend middle school, and refusing a temporary resident visa for his father. Both are citizens of Iran.

[2] The Principle Applicant was accepted for enrollment in Grade 7 at Ottawa-Carleton District School Board. The Principle Applicant's parents are sponsoring his education in Canada and provided financial details of their savings and investments in their application.

[3] In the decision of December 10, 2022, the Office states:

I have considered the following factors in my decision. 12 year old Minor applicant to study at Ottawa-Carleton District School Board – grade 7. The purpose of the visit itself does not appear to be reasonable, in view of the fact that similar programs are available closer to the applicant's place of residence. Motivation to pursue studies in Canada does not seem reasonable given that a comparative course is offered in their home country for a fraction of the cost. 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. Weighing the factors in this application. I am not satisfied that the applicant will depart Canada at the end of the period authorized for their stay. For the reasons above, I have refused this application.

[4] Although the Applicants raise procedural fairness issues with this decision, I have determined that the unreasonableness of the decision is dispositive of this judicial review. I therefore decline to address the procedural fairness issues.

[5] The standard of review for the Officer's decision is reasonableness (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65). As stated by the Supreme Court of Canada, a reasonable decision is one that possesses the three hallmarks of reasonableness — justification, transparency and intelligibility — within the decision-making process (*Vavilov* at para 99). With respect to justification, it is not enough for an outcome to be justifiable. Instead,

where reasons for a decision are required, the decision must also be justified, by those reasons, by the decision-maker to those whom the decision applies (*Vavilov* at para 86).

[6] Visa officers are not expected to produce exhaustive reasons considering the high volume decision-making context; however, the decision must still be based on an internally coherent and rational chain of analysis and be justified in relation to the facts and law that constrain the decision maker (*Vavilov* at para 85).

I. Analysis

A. *Is the Officer's decision reasonable?*

[7] The Applicants argue that the decision is unreasonable as the Officer made a number of conclusions without any reference to how those conclusions were reached relative to the materials filed in support of their application.

[8] The Applicants challenge the reasonableness of the Officer's finding that "the fact that similar programs are available closer to the applicant's place of residence" and a "comparative course is offered in their home country for a fraction of the cost."

[9] The Officer provided no context or support for this conclusion. The evidence on the record was that the Principle Applicant has attended school in Iran, however, that fact alone does not support the Officer's conclusion that school in Iran is a "comparative course" or that it was at a "fraction of the cost." In my view, this summary conclusion without even a summary explanation by the Officer is insufficient to meet the requirements of a reasonable finding (*Yuzer*

v Canada (Citizenship and Immigration), 2019 FC 781 at para 21 and *Afuah v Canada (Citizenship and Immigration)*, 2021 FC 596 at para 15).

[10] The Applicants also submit that the Officer’s question regarding the motivation to pursue studies in Canada is not a reasonable finding. They point to the Study Plan, where the Principle Applicant’s father writes:

Amir Ali is our only child, and we want to help him receive the best education possible in this globalized age to ensure a promising future. We are willing to invest in his education and cultivation from a young age to gradually prepare him for his future studies. Amir Ali desires to study medicine in an Anglophone country in the future. My spouse and I have supported him in learning English in Iran and want him to experience studying in Canada for a year to master his English language skill while undertaking science and other courses. Amir Ali intends to complete his high school diploma in Iran. He is a talented and hardworking student. He would become a competent professional who would develop a good life and contribute to society through a good education.

Canada offers an education of high quality, and its multicultural society is well-known for its peacefulness and high level of security. We would like to expose our son to a community where he would get academic education and experience socio-cultural values that nurture a highly multicultural society.

[11] I acknowledge that the Officer has discretion to refuse a study permit where there is the absence of a study plan or where there is only a general claim to the value of education (*Charara v Canada (Citizenship and Immigration)*, 2016 FC 1176 at para 38; *Farnia v Canada (Citizenship and Immigration)*, 2022 FC 511 at paras 16-17).

[12] In this case, the Study Plan explains the motivation is to “experience studying in Canada for a year to master his English language skill while undertaking science and other courses” and that the Principle Applicant intends to complete his high school diploma in Iran and then study

medicine in an Anglophone country. The Plan also explains that the parents want to invest in his education.

[13] The Officer did not directly engage with or address the education objectives of the Principle Applicant. The Officer does not state that the Study Plan is too vague. Rather, the Officer appears to disregard the Study Plan because of the Principle Applicant's age. However, in the absence of an age restriction on eligibility for a study visa, the Officer has an obligation to fully consider the visa application including the stated educational objectives of attending school in Canada.

[14] The Applicants also challenge the Officer's finding that "[t]he purpose of visit does not appear reasonable given the applicant's socio-economic situation." The Officer does not explain what social and or economic factors are being relied upon to support this finding.

[15] In support of the visa applications, the Applicants provided detailed information including: a Study Plan, Certificate of Engagement in Studies, Birth Certificate, Title Deeds for two apartments and financial details showing significant funds in bank accounts.

[16] A similar situation arose in *Mohammadaghaei v Canada (Citizenship and Immigration)*, 2023 FC 294 [*Mohammadaghaei*] where Justice Bell found that the evidence of the Applicant's socio-economic situation—being an only child with gainfully employed parents who have sufficient savings to finance one year of education abroad—lead him to question the intelligibility of the officer's conclusion that a year of study in Canada is not reasonable from a socio-economic perspective (*Mohammadaghaei* at para 22).

[17] Respondent's counsel submitted that the cost for the Principle Applicant to attend school in Canada for one year represents over one-third of the Principle Applicant's father's savings and thus it was reasonable for the Officer to conclude that the minor Applicant "did not adequately demonstrate compelling reasons for which international education would be of benefit." The challenge with this submission is that the reasons offered by the Officer do not provide this explanation or justification. As emphasized in *Vavilov*, reasonableness review is concerned with a decision maker's justification for their decision (*Vavilov* at para 15).

[18] The Respondent relies upon *Jafari v Canada (Citizenship and Immigration)*, 2022 FC 1761 [*Jafari*]. However, the facts here differ from those in *Jafari*. In *Jafari*, Justice Bell remarked there was no evidence of the applicant's career path. However, in this case, there is a Study Plan that explains the reasons for the Principle Applicant attending school in Canada in English.

[19] In this case, the Officer's reference to the Applicants' socio-economic status is vague and lacking the necessary justification.

II. Conclusion

[20] For the reasons outlined above, I have found that the Visa Officer's decision denying the study permit is unreasonable. The Officer's reasons do not provide justification for the decision reached that was responsive to the evidence in the record. This judicial review application is therefore granted.

[21] There is no question for certification.

JUDGMENT IN IMM-1022-23

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is allowed. The decision of the Officer dated December 10, 2022 is set aside and the matter is remitted for redetermination by another officer.

2. There is no question for certification.

"Ann Marie McDonald"

Judge

FEDERAL COURT

SOLICITORS OF RECORD

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