

Federal Court



Cour fédérale

Date: 20231222

Docket: IMM-11221-22

Citation: 2023 FC 1751

Ottawa, Ontario, December 22, 2023

PRESENT: Madam Justice Sadrehashemi

BETWEEN:

**KARIMEH MATOURI
AHMAD BACHARI
KIANA BACHARI**

Applicants

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

I. Overview

[1] Karimeh Matouri is the Principal Applicant, who applied for a study permit to Canada for the purpose of studying Business Administration at the University of Victoria. Her husband, Ahmad Bachari, applied for a work permit and her daughter, Kiana Bachari, applied for a temporary resident visa in order to accompany the Principal Applicant to Canada for the duration

of her study. The Principal Applicant and her family (collectively “the Applicants”) had all three of their applications refused.

[2] The Principal Applicant’s study permit was refused on the grounds of not having significant family ties outside of Canada, and the purpose of visit to Canada being inconsistent with a temporary stay. Her husband and her daughter’s applications were refused on the grounds that their purpose of visit is inconsistent with a temporary stay because of the Officer’s determinations on Ms. Matouri’s application.

[3] The determinative issue is whether the Officer ignored or misconstrued the evidence in coming to their determination that Ms. Matouri does not have significant family ties outside Canada and that the purpose of her visit is not consistent with a temporary stay. I have reviewed these issues on a reasonableness standard of review (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [Vavilov] at para 23). I am granting the application because there are significant shortcomings on central issues in the Officer’s evaluation of the evidence.

II. Procedural Fairness Arguments Have No Merit

[4] Ms. Matouri also alleges in her written materials on judicial review that the Officer breached procedural fairness in assessing her study permit. There is no merit to this argument. First, Ms. Matouri speculates that the Officer considered “extrinsic evidence” in reviewing her application but provides no support for this view. Second, she argues that the Officer ought to have put any concerns about her intention to study directly to her for a response. No negative

credibility determination was made. As Justice Régimbald of this court recently explained in *Aghvamiamoli v Canada (Citizenship and Immigration)*, 2023 FC 1613 at paragraph 21, in these circumstances, an applicant does not have to be notified to address concerns and gaps in the evidence. Lastly, Ms. Matouri argues that she had a legitimate expectation that the Officer would consider her submitted documents and in failing to do so, the Officer breached procedural fairness. The Applicant is speculating that the Officer did not consider her documents because of the nature of their reasons. There is little detail provided supporting the legitimate expectation claim. This argument is better framed, as was also argued, not as a procedural fairness concern but rather a substantive one about the reasonableness of the Officer's review of the evidence in the record.

III. Evaluation of the Evidence Was Unreasonable

[5] The requirement that an officer be satisfied that a person applying to study in Canada will not overstay the period authorized for their stay is set out in subsections 11(1) and 20(1) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 and in paragraph 216(1)(b) of the *Immigration and Refugee Protection Regulations*, SOR/2002-227. The Officer based their determination that Ms. Matouri is not likely to leave Canada at the end of her authorized stay on two factors: lack of significant family ties in her country of citizenship and her study plan.

[6] In evaluating the reasonableness of a decision, a reviewing court must consider the decision's institutional context (*Vavilov* at paras 91 and 103). Visa officers are responsible for considering a high volume of study permit applications. While extensive reasons are not required, an officer's decision must be transparent, justified, and intelligible (*Vavilov* at para 15).

There needs to be a “rational chain of analysis” so that a person impacted by the decision can understand the basis for the determination (*Vavilov* at para 103; see also *Patel v Canada (Minister of Citizenship and Immigration)*, 2020 FC 77 at para 17; *Samra v Canada (Minister of Citizenship and Immigration)*, 2020 FC 157 at para 23; and *Rodriguez Martinez v Canada (Minister of Citizenship and Immigration)*, 2020 FC 293 at paras 13–14).

[7] On significant family ties outside of Canada, the Officer does not make any mention of Ms. Matouri’s statement about her ties to her mother, which highlighted Ms. Matouri’s desire to return to Iran because of her mother’s old age and her mother being widowed. These submissions are directly relevant and contradict the Officer’s finding that Ms. Matouri had no significant family ties outside of Canada.

[8] The Officer’s determination about Ms. Matouri’s study plan is also inconsistent with the evidence in the record. The Officer finds that Ms. Matouri’s previous schooling and employment shows an inconsistent career progression, and that she has previous studies at a higher academic level than the proposed Diploma. The Officer was also not satisfied with Ms. Matouri’s explanation of how the Diploma would benefit her, or that her motivation to pursue this program of study is reasonable.

[9] The Officer does not explain how Ms. Matouri’s career progression is inconsistent or why her previous studies, in an unrelated field, are at a higher academic level. Ms. Matouri received an Associate’s Degree in English Teaching from an Iranian university in 2004. That same year, she began working as a Sales Expert. She worked in that company for five years and

then moved to the Sales Department in an internationally-recognized company, before starting for her current employer as an Expert in International Affairs. It is unclear from the Officer's reasons why the Officer believed that this was an inconsistent career progression. Given this was a central basis on which the Officer dismissed the application, the reasoning had to be explained in light of the evidence in the record.

[10] Ms. Matouri received a job offer from her current employer containing a promotion to Director of International Relations. The promotion requires a business administration degree. The Officer does not reference this letter from the employer, though it is relevant to and contrary to their finding that Ms. Matouri had not explained her motivation to pursue study in Canada.

[11] The Respondent made arguments about the nature of the employment letter, noting particular alleged deficiencies. None of these points are mentioned by the Officer; the Officer does not mention the letter at all. As noted by Justice Little in *Zibadel v Canada (Citizenship and Immigration)*, 2023 FC 285 at paragraph 48, "I cannot impose my own view of the circumstances, buttress the reasons with my own, or guess what the officer must have been thinking."

[12] Overall, I am not satisfied that the Officer meaningfully grappled with key issues raised in the Applicant's submissions and the evidence in the record (*Vavilov* at paras 125–128). The decision is therefore unreasonable and requires redetermination.

[13] Neither party raised a question for certification and I agree none arises.

JUDGMENT in IMM-11221-22

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is granted;
2. The decisions of Immigration, Refugees and Citizenship Canada dated November 3, 2022 are set aside and sent back to be redetermined by a different decision-maker; and
3. No serious question of general importance is certified.

"Lobat Sadrehashemi"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-11221-22

STYLE OF CAUSE: KARIMEH MATOURI, AHMAD BACHARI, KIANA BACHARI v THE MINISTER OF CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: WINNIPEG, MANITOBA

DATE OF HEARING: DECEMBER 13, 2023

JUDGMENT AND REASONS: SADREHASHEMI J.

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