

Federal Court



Cour fédérale

Date: 20240131

Docket: IMM-272-23

Citation: 2024 FC 164

Vancouver, British Columbia, January 31, 2024

PRESENT: The Honourable Mr. Justice Fothergill

BETWEEN:

**ROUZBEH ABDISOUI
AND ROHAM ABDISOUI**

Applicants

and

**THE MINISTER OF CITIZENSHIP
AND IMMIGRATION**

Respondent

JUDGMENT AND REASONS

[1] Rouzbeh Abdisoufi and his son Roham are citizens of Iran. Mr. Abdisoufi works as a realtor and is the sole proprietor of a real estate agency in Chalus, Iran. His son is seven years old and attends school.

[2] The Applicants sought temporary resident visas to spend five weeks with Sanaz Pourelmi, the Applicants' wife and mother respectively, who is attending the Université du

Québec à Trois-Rivières on a study permit. The visa officer [Officer] refused their request because the Applicants failed to demonstrate sufficient financial resources for their trip, or the requisite degree of establishment in Iran.

[3] The Officer's GCMS notes 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 as follows:

I have reviewed the application. I have considered the following factors in my decision. The applicant's assets and financial situation are insufficient to support the stated purpose of travel for themselves. Taking the applicant's purpose of visit into account, the documentation provided in support of the applicant's financial situation does not demonstrate that the applicant is sufficiently established that the proposed visit would be a reasonable expense. The purpose of the applicant's visit to Canada is not consistent with a temporary stay given the details provided in the application. Taking the applicant's travel plans into consideration, the applicant does not appear to be sufficiently well established that the proposed travel would be a reasonable expense. I have concerns with the true motivations in seeking entry to Canada. I am not satisfied the PA is a genuine visitor that will leave Canada at the end of the authorized stay. PA will be accompanied by son to visit spouse (SP holder). The ties to their home country are weaken[ed] 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. 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] 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).

[5] 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).

[6] Procedural fairness is subject to a reviewing exercise best reflected in the correctness standard, although strictly speaking no standard of review is being applied (*Canadian Pacific Railway Company v Canada (Attorney General)*, 2018 FCA 69 at para 54). The ultimate question is whether the Applicants knew the case to meet, and had a full and fair chance to respond (*Siffort v Canada (Citizenship and Immigration)*, 2020 FC 351 at para 18).

[7] Mr. Abdisoufi submitted evidence of his employment as a realtor and sole proprietor of a real estate agency, and deeds confirming his ownership of property in Iran. He also claimed to have \$23,000 in available funds in a bank account. The letter that accompanied the request for temporary visitor visas purported to attach a copy of the bank statement, but in fact none was provided.

[8] Counsel for the Applicants candidly admits that this is a weakness in their case. However, he maintains that the remainder of the evidence was sufficient to demonstrate the Applicants’ financial resources. He notes that Ms. Pourelmi would not have been granted a study permit if

she had not been able to show she was capable of paying for her tuition and living expenses, and a five week visit by her husband and son would not have increased these expenses to any great extent.

[9] The Temporary Resident Visa Instructions for the Ankara Visa Office require all Iranian applicants to provide “copies of bank statements or bank book covering the past six (6) months”. In *Aghvamiamoli v Canada (Citizenship and Immigration)*, 2023 FC 1613 [Aghvamiamoli], Justice Guy Régimbald noted the importance of complying with instructions issued by local offices respecting visa applications (at para 28).

[10] The Applicants did not provide bank statements for the preceding six months, or any other proof of access to \$23,000 to finance their trip. The documentation did not show any income derived from Mr. Abdisoufi’s property. Nor did he demonstrate the income generated from his real estate business. It is well established that visa officers are expected to “conduct a more detailed and fulsome analysis about the source, origin, nature and stability of these funds” (*Aghvamiamoli* at para 29).

[11] A visa officer is not required to give extensive reasons (*Touré v Canada (Citizenship and Immigration)*, 2020 FC 932 at para 11; *Yuzer v Canada (Citizenship and Immigration)*, 2019 FC 781 at para 20). The absence of adequate supporting documentation to confirm the availability of the Applicants’ funds was sufficient for the Officer to refuse the applications for temporary visitor visas.

[12] The remainder of the Applicants' arguments may be dealt with briefly. This Court has sometimes found fault with visa officers who refuse applications solely because the applicant and his or her immediate family will all be in Canada (see, for example, *Vahdati v Canada (Citizenship and Immigration)*, 2022 FC 1083 at para 10; *Balepo v Canada (Citizenship and Immigration)*, 2016 FC 268 at paras 15-16). Visa officers may nevertheless consider accompanying family members when assessing establishment and ties to an applicant's home country. As Justice Shirzad Ahmed held in *Amiri v Canada (Citizenship and Immigration)*, 2023 FC 1532 (at para 31):

[...] Here, as in *Sayyar*, the Officer did not state that the Principal Applicant had no family ties to Iran (*Sayyar* at para 15); rather, the presence of the Principal Applicant's spouse reduced her motivation to return to Iran when weighing all of the factors in the overall assessment of the claim. I therefore find the Officer's decision in this regard to be justified in light of *Sayyar* and the evidence before the Officer (*Vavilov* at paras 99-101).

[13] The Applicants say that the Officer unfairly found them not to be genuine visitors, and unreasonably speculated they would not leave Canada at the end of their authorized stay. They say this was an adverse credibility finding that should not have been made without adequate notice and an opportunity to respond (citing *Al Aridi v Canada (Citizenship and Immigration)*, 2019 FC 381 at para 20). The Applicants rely on *Cervjakova v Canada (Citizenship and Immigration)*, 2018 FC 1052, in which Justice John Norris held that "[t]he conclusion that the applicant would not leave Canada at the end of her authorized stay is especially troubling" (at para 12).

[14] I agree with the Respondent that this finding was nothing more than a recognition that the Applicants had failed to rebut the presumption they intended to immigrate to Canada (*Pastor v*

Canada (Citizenship and Immigration), 2021 FC 1263 at para 16). The Officer made no finding of misrepresentation pursuant to s 40(1)(a) of the *Immigration and Refugee Protection Act*, SC 2001, c 27, which would have resulted in a five-year prohibition on entering Canada. The refusal of the Applicants' visa requests was not in itself a severe consequence, as they retained the ability to reapply (*Sulce v Canada (Citizenship and Immigration)* 2015 FC 1132 at para 10).

[15] The application for judicial review is therefore dismissed. 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 dismissed.

“Simon Fothergill”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-272-23

STYLE OF CAUSE: ROUZBEH ABDISOUFI AND ROHAM ABDISOUFI v
THE MINISTER OF CITIZENSHIP AND
IMMIGRATION

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