Federal Court  Cour fédérale

Date: 20250718

Docket: IMM-12475-24

Citation: 2025 FC 1282

Toronto, Ontario, July 18, 2025

PRESENT: Madam Justice Whyte Nowak

BETWEEN:

ZAEEM SALMAN KHAN

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

I. Overview

[1] The Applicant, Zaeem Salman Khan, is a self-represented litigant who seeks judicial review of a decision [Decision] of a visa officer [Officer] of Immigration, Refugees and Citizenship Canada [IRCC]. The Officer rejected the Applicant's application for a work permit [WP Application] under the International Mobility Program, A77 Startup Business Class work permit program [Program].

[2] The Applicant submits that the Decision is unreasonable as the Officer overlooked critical evidence and the Decision is incoherent in suggesting that the Applicant had not satisfied the Officer that he would leave Canada at the end of his stay, which he says ignores the very purpose of the Program which allows applicants to work in Canada to develop their business as a precursor to permanent residence.

[3] For the reasons that follow, I find that the Applicant has not met his onus of showing that the Decision is unreasonable. The harsh fact is that the Applicant failed to provide a complete application and did not establish that he met the eligibility criteria for the Program; this was not a case where the Officer ignored relevant evidence or failed to take into account the nature of the Program. Accordingly, this application is dismissed.

II. Facts

A. *The Applicant's WP Application*

[4] The Applicant is a resident of Qatar who intends to develop a business, PetOnline [Business], which will create a platform for veterinary telemedicine. He is the co-founder of the business and plans to act as the Senior Manager of the Business.

[5] The Applicant's lawyer submitted his WP Application through the IRCC online portal on January 4, 2024. According to the Applicant, the documents attached to his WP Application included, *inter alia*:

- A Commitment Certificate - Letter of Support from a government designated organization in Canada (Manitoba

Technology Accelerator) attesting to the compelling need for the Applicant's presence in Canada;

- A 54-page business plan which highlights the significant benefits the Business would afford Canadians;
- The Applicant's bank statements showing a balance of CAD $650,000 as well as a CAD $500,000 investment in the Business;
- Travel documents showing the Applicant's extensive travel history and compliance with visa requirements; and
- English language testing documents showing International English Language Testing System [IELTS] test scores exceeding the required score.

B. *The Decision*

[6] The Global Case Management System [GCMS] notes that accompanied the Decision dated June 12, 2024 indicate that the Officer read the Applicant's business plan and representative submission letter. The Officer found that the Applicant had not shown he was eligible for the Program and had not satisfied the Officer that he would leave Canada at the end of his authorized stay.

[7] The Officer gave five reasons for finding that the Applicant has not demonstrated that he meets the requirements of the Program:

(1) The Officer was not satisfied that the Applicant's work will create or maintain a significant economic, cultural or social benefit, noting that no official Commitment Certificate or Letter of Support is on file;

(2) The Applicant had not demonstrated a compelling need to come to Canada before permanent residence is obtained;

(3) The Applicant has not provided evidence that he and all of the essential team members have submitted an application for permanent residence in the start up business class;

(4) The Applicant had not demonstrated sufficient language ability as there were no IELTS results or equivalent provided;

(5) The Officer was not satisfied that the Applicant would depart Canada at the end of the authorized period of stay should his permanent resident application not be granted.

III. Issues and Standard of Review

[8] The Applicant has raised the following issues which challenge the merits of the Decision:

A. Is the Officer's Decision incoherent?

B. Did the Officer overlook critical evidence in arriving at the Decision?

[9] The applicable standard of review of the merits of a decision is that of reasonableness as set out in *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [*Vavilov*]. A reasonable decision bears the hallmarks of justification, transparency and intelligibility with the burden resting on the challenging party to show that the decision is unreasonable (*Vavilov* at paras 99-100).

IV. Analysis

A. *The Decision is not incoherent*

[10] The Applicant cites a line of cases including *Karimi v Canada (Citizenship and Immigration)*, 2023 FC 411 [*Karimi*] and *Serimbetov v Canada (Immigration, Refugees and Citizenship)*, 2022 FC 1130 [*Serimbetov*], suggesting that it is illogical to refuse a work permit

application applied for under the Program on the basis of evidence of an intention to stay in Canada, such as family ties, given that permanent residence status is contemplated under the Program.

[11] I do not agree with the Applicant's reading of these decisions. Immigration officers have a statutory duty to be satisfied that an applicant will leave Canada after the period of their authorized stay regardless of an applicant's intention to seek permanent residence; this is plainly set out in subsection 22(2) of the *Immigration and Refugee Protection Act*, SC 2001, c 27, which states:

Dual intent	**Double intention**
22(2) An intention by a foreign national to become a permanent resident does not preclude them from becoming a temporary resident if the officer is satisfied that they will leave Canada by the end of the period authorized for their stay.	**(2)** L'intention qu'il a de s'établir au Canada n'empêche pas l'étranger de devenir résident temporaire sur preuve qu'il aura quitté le Canada à la fin de la période de séjour autorisée.

[12] In the context of the Program, the decisions in *Karimi* and *Serimbetov* hold that it is unreasonable for a visa officer to refuse a work permit application on the basis of family ties *absent a reasonable justification* given the intent of the Program. As the Respondent points out, the Officer provided such justification, stating:

> [The Applicant] is intending to relocate themselves and their family members to Canada and in the process forfeit their temporary immigration status in Gulf. I am not satisfied that after having done so that, given prevailing conditions in their country of citizenship and country of current residence, that they would have an incentive to return.

[13] Given this rational justification and the Officer's express acknowledgement of both the nature of the Program and the Applicant's dual intent (*Ramos v Canada (Immigration, Refugees and Citizenship)*, 2017 FC 768 at para 13), I can find no error of incoherence in the Officer's Decision.

B. *The Officer did not overlook relevant evidence*

[14] The Applicant submits that the Officer overlooked critical evidence in deciding that the Applicant had not met the requirements of the Program. This evidence includes: his English language testing results; a Commitment Certificate - Letter of Support from a designated entity; and evidence demonstrating his intention to leave Canada at the end of his authorized stay.

(1) The Applicant's language testing results

[15] The Applicant makes three arguments as to why the Officer erred in finding that he failed to demonstrate his English language proficiency.

[16] First, he relies on the fact that the cover letter for his WP Application provides his IELTS test results and lists his IELTS certificate as an attachment. Not only does the Certified Tribunal Record [CTR] not support this, but the Officer who processed the WP Application also swore an affidavit [Affidavit] in which he swears that the IELTS test results were not received in support of the WP Application.

[17] The CTR is presumed complete and the Applicant's mere assertion that the documents were provided is not sufficient to rebut this presumption (*El Dor v Canada (Citizenship and Immigration)*, 2015 FC 1406 at para 32), especially in the face of sworn evidence to the contrary. The fact that these documents are now included in the Applicant's Application Record cannot make up for the fact that the documents were not before the Officer and therefore cannot undermine the reasonableness of the Officer's Decision on judicial review (*Adewale v Canada (Citizenship and Immigration)*, 2007 FC 1190 at para 10).

[18] Second, the Applicant submits that he provided his IELTS testing results from June 2022 in a prior application for permanent residency, which the Officer could easily have accessed. This too is no answer to the Applicant's omission: the onus was on the Applicant to provide a complete application, and immigration officers are under no obligation to search for documents that form part of an applicant's earlier or related application (*Almadhoun v Canada (Citizenship and Immigration)*, 2024 FC 193 at para 21).

[19] Finally, the Applicant argues that documents in the CTR demonstrate a clear English language proficiency. These documents include his resume and Master of Business Administration transcripts from the University of Warwick as well as his counsel's recitation of the Applicant's IELTS testing results in the cover letter for his WP Application. I agree with the Respondent that in the absence of the certified IELTS testing results, it was open to the Officer to find that the Applicant had not demonstrated a recognized level of language proficiency (*Sun v Canada (Citizenship and Immigration)*, 2019 FC 1548 at para 27 [*Sun*]), and it was not

unreasonable for the Officer not to accept the submissions of counsel, which is not evidence (*Sun* at para 30).

(2) Commitment Certificate – Letter of Support

[20] The Officer notes in the Decision and confirms in the Affidavit that no *official* Commitment Certificate - Letter of Support is on file.

[21] The Applicant notes that a letter from Manitoba Technology Accelerator was included in his WP Application, but as the Respondent points out, this does not constitute a Start-Up Business Class Commitment Certificate - Letter of Support in the form required by IRCC, which form expressly instructs as follows:

> GENERAL INFORMATION
>
> You must include this Letter of Support with your complete application for permanent residence, which must be submitted to the Centralized Intake Office in Sydney, Nova Scotia.
>
> Refer to the Start-up Business application guide for more information on how to submit your application.
>
> This document is your Letter of Support provided to you by designated entity. It contains a summary of details that were provided to the Department of Immigration, Refugees, and Citizenship Canada by the entity supporting your business proposal.
>
> The Designated entity must provide a Letter of Support specific to each individual applying for the permanent residence.

[22] The letter in the CTR relied on by the Applicant is the individual-specific letter from the designated entity and is not the official Commitment Certificate - Letter of Support, which the Applicant was required to provide.

(3) Evidence supporting the Applicant's temporary stay

[23] The Applicant also submits that the Officer also unreasonably neglected to consider evidence which supported the temporary nature of his stay, including his positive travel history, his family ties in Qatar and his stable employment back in Qatar.

[24] I do not consider the Officer's failure to refer to these factors as a fatal flaw that undermines the reasonableness of the Decision as the evidence does not have the significance that the Applicant suggests. The Applicant emphasizes that the family form submitted with his WP Application indicates that his wife and child would not be accompanying him to Canada; however, he has another daughter and a parent who reside here. As for the factor of his stable employment in Qatar, the letter from the Applicant's employer confirming his employment does not indicate that the Applicant's job will be held for him until his return.

[25] It is important to note, in any event, that the Applicant has not challenged the Officer's finding that the Applicant did not provide evidence that he and his team members had submitted an application for permanent residence. The application for permanent residence must have been submitted prior to the work permit application, given that it supports the policy rationale of entry to begin work while a permanent residence application is pending. This was fatal to the

Applicant's WP Application and underscores the fact that the Applicant's WP Application was simply not complete.

V. Conclusion

[26] The Decision is intelligible, transparent and justified on the record. Accordingly, this application is dismissed.

JUDGMENT in IMM-12475-24

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is dismissed; and

2. There is no question for certification.

"Allyson Whyte Nowak"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

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APPEARANCES:

Zaeem Salman Khan	FOR THE APPLICANT (ON HIS OWN BEHALF)
Amy King	FOR THE RESPONDENT

SOLICITORS OF RECORD:

Attorney General of Canada Toronto, Ontario	FOR THE RESPONDENT