Federal Court  Cour fédérale

Date: 20250410

Docket: IMM-8769-23

Citation: 2025 FC 664

Ottawa, Ontario, April 10, 2025

PRESENT: Mr. Justice Pentney

BETWEEN:

STEVEN ALAN YOUMBI NJANDA

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

I. Introduction

[1] The Applicant, Steven Alan Youmbi Njanda, seeks judicial review of the decision refusing his application for a study permit, and finding him inadmissible for misrepresentation in accordance with paragraph 40(1)(a) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [IRPA].

[2] The Officer examining the application was concerned that the Applicant had submitted falsified bank statements. The Officer sent a procedural fairness letter to the Applicant explaining the issue and giving him a chance to respond. The Applicant provided further information in response to the fairness letter, but the Officer was not satisfied with the explanation. The Applicant's application was refused because of misrepresentation.

[3] This case has a rather unusual procedural history which is summarized below, followed by a discussion of the merits of the Applicant's claim. For the reasons set out below, this application for judicial review will be dismissed.

II. Procedural History

[4] The Applicant was advised that his application had been refused by letter dated June 24, 2023. On July 12, 2023, the Applicant's counsel filed a Notice of Application seeking leave to pursue judicial review of the decision. This Court granted leave on September 26, 2024, and the in-person hearing was set for December 12, 2024.

[5] On November 8, 2024, counsel for the Applicant brought a motion for an Order removing him as counsel of record on the basis that he was unable to obtain instructions from the Applicant. The Respondent took no position on the motion, other than to seek confirmation that if the motion was granted, service on the Applicant could be done using the email address that was on the record. On November 21, 2024, Associate Judge Horne granted the motion removing the Applicant's counsel as solicitor of record, and that Order was duly served on the Applicant at his email address.

[6] On December 2, 2024, I issued a Direction to the parties requiring the Applicant to advise the Respondent and the Registry, on or before December 6, 2024, whether he had retained another counsel or whether he intended to represent himself. On December 9, 2024, the Applicant sent an email confirming his desire to continue with the application despite his financial difficulties and the fact that he resided outside of Canada. The Applicant's email ended with the following request:

> I am reaching out to you with the hope that there may be alternative options or possible solutions available to address my absence and ensure my case is still considered fairly. I would be grateful for any guidance or advice you can provide under these difficult circumstances.

[7] On December 10, 2024, I issued the following Direction to the parties:

> 1. The Respondent shall provide its position on [the Applicant's] request on or before 4:00 p.m. on December 11, 2024, including whether the Respondent is prepared to conduct the hearing via Zoom teleconference, or whether the Respondent is content to have the matter dealt with in writing, on the basis of the written submissions.
>
> 2. The Applicant shall provide his position on or before 4:00 p.m. on December 11, 2024, on whether he relies on the written submissions filed by his former counsel, and whether he is content to have the Court deal with the matter in writing on the basis of those submissions.

[8] On December 11, 2024, the Respondent indicated that "in the interests of getting on with the matter and justice, the Respondent is content to have the matter dealt with in writing on the basis of the written submissions… [o]r alternatively a Zoom teleconference." No response was received from the Applicant by the deadline stipulated in the Direction, despite follow-up emails from the Registry.

[9] In order to ensure that the Applicant had the maximum opportunity possible to put forward his position, I issued the following further Direction early in the morning on December 12, 2024:

> The Applicant was required to respond to the previous Direction by close of business yesterday. The Court will extend the deadline for the Applicant's response – the Applicant must provide his response by the close of business today, December 12, 2024. In particular, the Applicant is directed to indicate: (a) whether he relies on the written submissions filed by his previous counsel; and (b) whether he consents to having his application for judicial review dealt with in writing, on the basis of the written submissions filed by the parties.
>
> If no response is provided by the Applicant by that time, the Court will determine its next steps in dealing with this matter without seeking further information from the parties.

[10] No response was received from the Applicant. In the absence of a response, I have decided to deal with this matter on the basis of the written submissions filed by the then-counsel for the Applicant, as well as the written submissions of the Respondent.

III. Background

[11] The Applicant is a citizen of Cameroon. On December 15, 2022, the Applicant applied for a study permit to attend college in Canada. In his application, the Applicant indicated that he anticipated that the cost of his studies would be CAD $75,000 and these costs would be paid by his parents, who ran their own business.

[12] In support of his application, the Applicant filed bank statements from Caisse d'Epargne et de Credit Pour L'Entreprenariat au Cameroun (CECEC) dated November 15, 2022, signed by "Claude Ngoula, Directeur d'Agence."

[13] On February 17, 2023, the Officer examining the Applicant's application sent him a procedural fairness letter. The key portion of the letter stated: "[s]pecifically, I have concerns that the documents from the [CECEC] which you have provided in support of your application are fraudulent." The letter also warned the Applicant that if it was found that he had engaged in misrepresentation, he may be found inadmissible under paragraph 40(1)(a) of IRPA.

[14] On March 2, 2023, the Applicant responded to the fairness letter by sending two letters (one for each of his parent's bank accounts) from the CECEC, signed by Claude Ngoula and another person. The letters confirmed the account balances, indicated that the funds were sufficient to allow the Applicant to study in Canada, and stated that the bank statements are authentic.

[15] The Officer was not satisfied that these letters dispelled their concerns that the bank statements are fraudulent. In reaching this conclusion, the Officer relied on correspondence received directly from CECEC confirming that the bank documents the Applicant submitted with his application are fraudulent.

[16] Based on the Officer's conclusion that the bank documents are fraudulent, the Applicant's application was refused, and he was found inadmissible for misrepresentation in accordance with paragraph 40(1)(a) of IRPA.

[17] The Applicant seeks judicial review of this decision.

IV. Issues and Standard of Review

[18] The determinative issue in this case is whether the decision unreasonable. The procedural history summarized above gives rise to another question, namely whether the application should be dismissed because the Applicant has, in effect, abandoned it. I will discuss this briefly before turning to the merits of the case.

[19] This question is to be assessed under the framework for reasonableness review set out in *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [*Vavilov*], and confirmed in *Mason v Canada (Citizenship and Immigration)*, 2023 SCC 21.

[20] In summary, under the *Vavilov* framework, a reviewing court is to review the reasons given by the administrative decision-maker and determine whether the decision is based on an internally coherent chain of reasoning and is justified in light of the relevant legal and factual constraints (*Vavilov* at para 85). The onus is on the Applicants to demonstrate that "any shortcomings or flaws … are sufficiently central or significant to render the decision unreasonable" (*Vavilov* at para 100). Absent exceptional circumstances, reviewing courts must

not interfere with the decision-maker's factual findings and cannot reweigh and reassess evidence considered by the decision-maker (*Vavilov* at para 125).

V. Analysis

[21] As noted above, the Applicant was provided with several opportunities to confirm whether he wished to pursue his case, either by having it dealt with in writing based on his former counsel's written submissions or by way of a remote hearing. After initially indicating that he wanted to pursue his application, the Applicant failed to respond to repeated communications from the Registry.

[22] Based on this, the Court could dismiss this application because the Applicant has abandoned it. Once his former counsel's motion to be removed from the file was granted, the Applicant had the option of retaining other counsel or representing himself. He indicated a desire to continue with his case and inquired about the means of doing so. The Court responded promptly with clear instructions and deadlines but was met with silence from the Applicant.

[23] Under Rule 38 of the *Federal Courts Rules*, SOR98-106, the Court can proceed with a hearing in the absence of one party if the Court is satisfied that the party was given notice of the hearing. There is no doubt that the Applicant in this case was given ample and repeated notice of the hearing, and opportunities to make submissions.

[24] Having considered all of the circumstances, I have decided to deal with the case on its merits, based on the written submissions of the parties. It is significant that the Applicant's

former counsel had filed fulsome written submissions, as did the Respondent. I also took into consideration the Respondent's willingness to have the matter dealt with in writing. In light of this, I will deal with this matter on its merits. However, it is important to underline that the Court, in exercise of its inherent jurisdiction to control its own processes, would have been fully entitled to dismiss the application as having been abandoned.

[25] Turning to the merits, I am not persuaded that the decision is unreasonable. The Officer had substantial reasons to be concerned about the authenticity of the bank statements submitted by the Applicant. The correspondence from the CECEC could not have been clearer – they stated that the documents he submitted were not authentic.

[26] The Applicant was advised of the Officer's concerns by way of a procedural fairness letter. He claims that the letter was not sufficiently detailed to allow him to respond to the Officer's concerns. I disagree. The Officer stated the key concern as plainly as possible, and the fact that the Applicant provided letters attesting to the authenticity of the bank statements from the CECEC is a clear indication that the Applicant knew the case he had to meet in response to the fairness letter. As noted by Justice Grammond in *Sharma v Canada (Citizenship and Immigration)*, 2023 FC 1190 at para 5, similarly worded procedural fairness letters have been found to be sufficient in other cases. The same is true here.

[27] It was not surprising that the Officer was not convinced by the further letters the Applicant provided, given that they were signed by the same person who had authored the original letter, a document that the CECEC had confirmed was fraudulent. The Officer had

warned the Applicant about the concern that the bank statements were not authentic, and the onus was on the Applicant to rebut that concern. He did not do so.

[28] The Officer's findings that the bank statements were fraudulent and that the Applicant had committed a material misrepresentation in his application are supported in the record and explained in the reasons for the decision. That is all that reasonableness requires. A reviewing Court should defer to these sorts of findings by Officers who bring experience and expertise to their task, a task that Parliament has assigned to them at first instance.

[29] For the reasons set out above, I am not persuaded that the Officer's decision is unreasonable.

[30] The application for judicial review is therefore dismissed. There is no question of general importance for certification.

JUDGMENT in IMM-8769-23

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is dismissed.

2. There is no question of general importance for certification.

"William F. Pentney"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	IMM-8769-23
STYLE OF CAUSE:	STEPHEN ALAN YOUMBI NJANDA v THE MINISTER OF CITIZENSHIP AND IMMIGRATION
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JUDGMENT AND REASONS:	PENTNEY J.
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WRITTEN SUBMISSIONS BY:

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