

Federal Court



Cour fédérale

Date: 20250425

Docket: IMM-14777-23

Citation: 2025 FC 745

Ottawa, Ontario, April 25, 2025

PRESENT: Mr. Justice Pentney

BETWEEN:

REZA GHANITAB

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

[1] The Applicant, Reza Ghanitab, seeks judicial review of the decision refusing his application for permanent residence and finding him inadmissible for misrepresentation.

[2] The Applicant is a citizen of Iran. He applied for permanent residence (PR) as a member of the Self-Employed Persons Class. As part of his application the Applicant submitted the results of a test of his language ability, referred to as an IELTS test. The Officer processing his

application verified the test results and discovered they were not valid. Because of this, the Officer sent the Applicant a Procedural Fairness Letter (PFL), indicating a concern that he had submitted fraudulent test results and giving him the opportunity to respond within 30 days.

[3] The Applicant's counsel submitted a detailed response, indicating that he had been duped by an elaborate fraud relating to the language test. The counsel stated that the Applicant had enrolled in a preparation course at language institute in Iran. Following the closure of the IELTS exam in Iran, the language institute enrolled him in the British Council IELTS exam in Turkey. He provided documentation to back up this claim, including emails, details regarding the test administration and location, and the test results that he received. He indicated that all of his email correspondence was received from or sent to the following email address: noreply@britishcouncil.org. The counsel's letter indicated that the Applicant went to Turkey and completed the IELTS test on February 25 and 26, 2023.

[4] The counsel's letter stated that following receipt of the PFL, they contacted the British Council in Ankara, Turkey, which advised that they had received several inquiries regarding fraudulent emails from an email address "noreply@britishcouncil.org". The letter stated that the British Council representative had advised that their correct email address is the following: "no-reply@britishcouncil.org." The hyphen in the "no-reply" is what distinguishes the correct email address from the one used to perpetrate fraud. Based on this, the Applicant's counsel claimed that a finding of misrepresentation was not justified because his situation fell within the innocent mistake exception. He genuinely believed he was attending a legitimate IELTS examination and

that his test results were valid. Essentially, the Applicant claimed he had been duped by an elaborate fraud.

[5] The Applicant's explanation was examined by an Officer, who found his response to be inconsistent with the information the Applicant had previously submitted. The following passage captures the Officer's reasoning:

I also note that the representative's submission indicates that [the Applicant] has travelled to Turkey for the IELTS test in February 2023. However, the IMM5562 form which was signed by the [Applicant] and dated May 29, 2023 states that the [Applicant] has not travelled outside of Iran since 2019. Therefore, [the Applicant] himself admits that he has not travelled to Turkey in February 2023, as indicated by the representative. I am concerned that [the Applicant] has misrepresented himself and is therefore inadmissible pursuant to A40(1)(a). The information received in response to the PFL has failed to disabuse me of my concerns, as noted above.

[6] The Officer referred the Applicant's file to a Senior Officer for review. The Senior Officer concurred with the recommendation, finding that the Applicant's claim of innocent misrepresentation was not supported by the information. After noting the discrepancy between the claim that the Applicant travelled to Turkey to take the IELTS test and the travel history form he submitted with his original application (which showed no trips outside of Iran), the Senior Officer stated: "I believe that the correct information was provided on the travel form and I do not find the explanation for [the fraudulent test result document submitted] to be credible." Based on this, the Applicant's PR application was rejected for misrepresentation and he was deemed inadmissible to Canada for a period of five years.

[7] The Applicant argues that the decision is unreasonable, because the Officers did not grapple with other supporting evidence he had submitted that confirmed that he had, in fact, gone to Turkey to take the IELTS test. This question is to be examined 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.

[8] 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).

[9] The Applicant submitted new evidence in his affidavit filed on this judicial review application. The new evidence consists of passport stamps indicating proof of travel to Turkey and details of a criminal conviction in Iran against the individual who perpetrated the IELTS fraud. I am not persuaded that this evidence falls within any of the exceptions to the rule that new evidence is not permitted on an application for judicial review (*Association of Universities and Colleges of Canada v Canadian Copyright Licensing Agency (Access Copyright)*, 2012 FCA 22. Because it does not fall within any exception, I have not considered this new evidence.

[10] The Applicant submits that the first Officer as well as the Senior Officer failed to grapple with the other evidence he had submitted that shows that the test was arranged and held in Turkey and that confirms he paid to take the test. He says that this evidence corroborates his story and that the Officers were compelled to consider it. Given the serious consequences of a finding of misrepresentation, the Applicant argues that the Officers were under a higher obligation to justify the outcome (*Vavilov* at para 133). He submits that the Officer's reasons are insufficient to justify the result.

[11] I disagree. The key finding made by both Officers is that they did not believe that the Applicant travelled to Turkey. The first Officer noted that the Applicant said he travelled to Turkey to take the IELTS test in February 2023, but in May 2023 he signed his IMM5562 travel history form saying he had not left Iran since 2019. The Officer simply did not believe the Applicant's explanation in his response to the PFL and instead relied on the travel history form he submitted with his original application. The Senior Officer's analysis followed the same line of reasoning.

[12] When he responded to the PFL, the Applicant did not submit any other documentation confirming his travel to Turkey. The evidence he points to is about his registration to attend the exam in Turkey and the arrangements associated with it but does not confirm his actual attendance. The Applicant's entire claim of innocent misrepresentation rested on the veracity of his claim that he took the IELTS exam in Turkey. The Officers did not believe him, because he had signed a form in May 2023 attesting that he had not left Iran since 2019, which conflicted

with his alleged travels to Turkey a few months earlier. The Applicant provided no other evidence confirming his travel to Turkey.

[13] I can find no basis to question the Officer's reasons. I accept that the Officers had a duty to provide clear and cogent reasons for finding that the Applicant had misrepresented a material fact on his application, given the serious consequences of such a finding: *Alves v Canada (Citizenship and Immigration)*, 2021 FC 716 at para 15. In this case, I find that the Officer's reasons meet this standard. The key finding made by the Officers was that they did not believe the Applicant had travelled to Turkey, based on the travel history form he had submitted with his original application. That finding was fatal to the Applicant's claim of innocent misrepresentation, but one that was open to the Officers to make. Based on the evidence before the Officers, I can find no basis to question their analysis on this point. The decision is, therefore, reasonable.

[14] For the reasons set out above, the application for judicial review is dismissed. There is no question of general importance for certification.

JUDGMENT in IMM-14777-23

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-14777-23

STYLE OF CAUSE: REZA GHANITAB v THE MINISTER OF
CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: TORONTO, ONTARIO

DATE OF HEARING: APRIL 16, 2025

JUDGMENT AND REASONS PENTNEY J.

DATED: APRIL 25, 2025

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