

Federal Court



Cour fédérale

Date: 20250521

Docket: IMM-8428-24

Citation: 2025 FC 920

Toronto, Ontario, May 21, 2025

PRESENT: The Honourable Mr. Justice A. Grant

BETWEEN:

ZHALEH AZIZI ROSTAMI

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

I. OVERVIEW

[1] The Applicant seeks judicial review of a Visa Officer's decision to refuse her application for temporary residence. For the following brief reasons, this application for judicial review will be granted.

II. BACKGROUND

A. *Facts*

[2] The Applicant, Zhaleh Azizi Rostami, is a citizen of Iran. She applied for a temporary resident visa [TRV] in order to come to Canada to visit her sister for her birthday.

[3] In support of her application, Ms. Rostami provided the following:

- Family information regarding her elderly parents and her spouse, who would be remaining in Iran; and
- Financial documentation, including bank statements; payslips and confirmation of employment; and title deeds and lease agreements for residential rental properties.

[4] An Officer refused the Applicant's TRV in April 2024. The Officer was not satisfied that Ms. Rostami would leave Canada at the end of her stay, as: a) she did not have sufficient finances to support her trip; b) she does not have significant family ties outside Canada; and c) the purpose of her visit was not consistent with a temporary stay.

[5] In notes entered into the Global Case Management System [GCMS], which form part of the reasons for decision, the Officer stated:

The documentation provided in support of the applicant's financial situation does not demonstrate that the funds would be sufficient or available. Mellat bank statement provided did not include banking transactions to demonstrate the history of funds accumulation and the availability of these funds. Melli banking transaction history shows pre-existing low balances, lump-sum deposits and

fluctuating transactions with total deductions often equaling/exceeding the total deposits. Little evidence on file to demonstrate the history of funds accumulation. The presence of the lump-sum deposit does not satisfy me that the applicant will have access to the funds provided in support of the application. Therefore, It appears that the bank accounts have been inflated for the visa application.

...

Evidence of available funds associated with assets such as a vehicle, rental properties, or potential income, have not been included in the calculation of available funds.

[6] The Officer also found that:

Although the PA is traveling without their spouse, I have concerns that the ties to their country are not sufficiently great to motivate departure from Canada. PA works as sales expert. The purpose of the applicant's visit to Canada is not consistent with a temporary stay given the details provided in the application.

III. ISSUES and STANDARD OF REVIEW

[7] The Applicant submits that the Officer's decision is unreasonable. The applicable standard of review is reasonableness: *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at paras 10, 16, 23, 25.

IV. ANALYSIS

[8] The Applicant submits that, in rejecting her application, the Officer failed to grapple with important evidence that ran contrary to their conclusions: *Cepeda-Gutierrez v Canada (Minister*

of Citizenship and Immigration), 1998 CanLII 8667 (FC) at para 15. I agree. I also find that the Officer's reasons on the Applicant's family ties lack justification and transparency.

[9] As can be seen from the GCMS notes, the Officer found that Ms. Rostami would not leave Canada at the end of her stay for two overarching reasons. First, she did not demonstrate she had sufficient finances; and second, she did not have significant family ties outside of Canada. The Officer ignored critical information in the assessment of each of these factors.

A. *Sufficient Finances*

[10] On the question of the Applicant's finances, the Officer found that Ms. Rostami's bank statements showed only lump sum deposits and fluctuating transactions with total withdrawals often outweighing the deposits, and that there was little evidence to demonstrate funds accumulation. The Officer also noted that the Applicant had not provided detailed banking transactions for one of her bank accounts. These factors are relevant considerations, but also relevant were the Applicant's considerable assets, which were explicitly not considered. The Officer stated: "Evidence of available funds associated with assets such as a vehicle, rental properties, or potential income, have not been included in the calculation of available funds." This statement is somewhat ambiguous; it could either mean that the Officer was of the view that the Applicant had not provided information related to her assets, or it could mean that such information had been provided, but was not included in the Officer's assessment of the Applicant's available funds. Either way, this aspect of the Officer's decision was unreasonable.

[11] If the Officer meant to say that the Applicant had not provided information related to her assets, this was simply incorrect. Ms. Rostami provided title deeds to six residential rental properties that she owns and provided a lease agreement demonstrating the income from at least one of these properties.

[12] If, by contrast, the Officer was aware of the Applicant's assets, but for some reason decided not to include them in the assessment of her available funds, the Officer failed to justify this approach. An individual's assets, particularly income generating assets such as rental properties are clearly relevant to the assessment of their available funds. Indeed, the Ankara Visa Office instructions for TRV applicants (which processes applications from Iran) *requires* that applicants provide this information:

You must submit the following:

Proof of funds to cover all your expenses:

...

- Proof of assets, such as real estate property, investments or other forms of income.

[13] The Applicant's rental assets were an important aspect of her claim to have had sufficient funds to support her travel to Canada. At the hearing into this matter, counsel for the Respondent suggests it was reasonable for the Officer to exclude these assets in their assessment because: 1) assets are not necessarily liquid and so it is reasonable not to include them in an assessment of an individual's ability to fund their stay in Canada; and 2) there was no indication in the Applicant's banking records of the income she was receiving from the rental properties. I do not accept these arguments for at least a couple of reasons.

[14] First, it is somewhat perverse for IRCC to specifically request that documents be included in an application, if they are then simply discarded because they do not assist officers in deciding TRV applications.

[15] Second, the Respondent's explanations as to why the Officer disregarded any consideration of the Applicant's assets are somewhat speculative, as they were not reasons provided by the Officer. Given that the Applicant provided these documents specifically because IRCC requires them, it was incumbent on the Officer, and not the Respondent on judicial review, to explain why, in this case, they were viewed as essentially irrelevant to the TRV application.

[16] I have one other concern with the Officer's decision that I will briefly outline. Having reviewed the Applicant's banking records, I see no basis for the Officer's suspicions related to her bank balances. As requested by IRCC, the Applicant provided a detailed bank statement from her bank – Bank Melli – that show the typical ebbs and flows of a frequently used bank statement. While there were withdrawals and deposits, it is simply inaccurate to state that total deductions often exceeded total deposits. While there certainly were many deposits and withdrawals from the account, in fact, the account demonstrates a gradual increase of deposits over withdrawals. As such, I frankly see no basis for the suspicion that the Officer cast on the Applicant's bank statements in this regard.

[17] It is true, as the Officer found, that the Applicant did not provide a detailed transaction history for her second bank account. However, given my other concerns with the Officer's reasons, I do not find that this fact alone provided a sufficient basis on which to deny the

Applicant's TRV application. In the end, I am satisfied that the Officer's assessment of the Applicant's finances was unreasonable.

B. *Family Members Outside Canada*

[18] The Officer acknowledged that the Applicant would be travelling to Canada without her spouse, but nevertheless found that she had not established significant family relationships outside Canada. This finding was unreasonable for two reasons. The first reason is that the Officer failed to justify the finding that the Applicant's spouse in Iran did not constitute a significant family relationship outside Canada.

[19] Second, the evidence before the Officer was that the Applicant has elderly parents, who reside in Iran, and that Ms. Rostami is their only daughter remaining in Iran. The Officer failed to consider this fact in concluding that the Applicant has no significant family relationships outside Canada. It may, of course, be that the Officer did not consider the Applicant's Iranian parents to constitute "significant family relationships" in the context of a TRV application, however, nowhere in the decision or GCMS notes is there such reasoning. In the absence of such a finding, I will not presume this to be the Officer's rationale.

[20] As a result, I find that Officer's consideration of the Applicant's family members outside Canada to be unreasonable.

V. CONCLUSION

[21] For the above reasons, I will grant this application for judicial review. The parties did not propose a question for certification, and I agree that none arises.

JUDGMENT in IMM-8428-24

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is granted.
2. The matter is remitted to a different decision-maker for reconsideration in accordance with these reasons.
3. No question is certified for appeal.

"Angus G. Grant"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-8428-24

STYLE OF CAUSE: ZHALEH AZIZI ROSTAMI v MINISTER OF
CITIZENSHIP AND IMMIGRATION

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