Federal Court Cour fédérale

Date: 20250605

Docket: IMM-7574-24

Citation: 2025 FC 1020

Ottawa, Ontario, June 5, 2025

PRESENT: The Honourable Mr. Justice Régimbald

BETWEEN:

LIU HONG

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

[1] The Applicant was refused a permanent resident visa under the Québec investor category, because he failed to submit a copy of his wife's *curriculum vitae* [CV] via webform. On February 25, 2023, the Applicant requested reconsideration of the refusal, enclosing evidence that he had indeed submitted the requested document three times. This request was refused on March 6, 2024, because the Officer was not convinced that he had in fact submitted the requested document. The Applicant now seeks judicial review of this latest refusal, arguing that the Officer's reasons

unreasonably omit evidence contradicting their finding of fact. I agree. For the following reasons, this application is granted.

[2] The sole issue is whether the decision under review is reasonable (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at paras 10, 25 [*Vavilov*]; *Mason v Canada (Citizenship and Immigration)*, 2023 SCC 21 at paras 7, 39–44 [*Mason*]). To avoid judicial intervention, the decision must bear the hallmarks of reasonableness—justification, transparency, and intelligibility (*Vavilov* at para 99; *Mason* at para 59). A decision may be unreasonable if the decision maker misapprehended the evidence before it (*Vavilov* at paras 125–126; *Mason* at para 73). Reasonableness review is not a "rubber-stamping" exercise, it is a robust form of review (*Vavilov* at para 13; *Mason* at para 63). The party challenging the decision bears the onus of demonstrating that the decision is unreasonable (*Vavilov* at para 100).

[3] To prove that the CV had indeed been submitted, the Applicant provided a letter from their immigration consultant stating that the CV had been sent on June 29, 2023, August 7, 2023, and August 16, 2023, as well as several screenshots showing that the Immigration, Refugees and Citizenship Canada webform had been completed and submitted (Certified Tribunal Record at 6, 18–19 [CTR]).

[4] However, the Officer was not satisfied that these images demonstrated that the webform had actually been submitted (CTR at 6). They noted that "the screenshots showing the webforms [did] not have any date stamps and [had] been cropped to show only part of the monitor view," thus only showing the "webforms before the submission" (CTR at 6).

[5] On judicial review, the Applicant raises a piece of evidence that was before the Officer but not addressed in their reasons. It is a screenshot of the webform having been completed and filled, with the CV apparently uploaded, and a green box with the term “Success!” seemingly confirming that the relevant documents have been uploaded (CTR at 35). They allege that this screenshot proves that the CV was indeed submitted for the Officer’s consideration.

[6] It is not for this Court to determine whether the CV was submitted, or whether this screenshot is reliable evidence. The Officer is entrusted with such determinations, because they are the merits decider. The Court’s role only consists of concluding whether the Officer’s decision is justified in light of the facts and the law.

[7] In this vein, I note that the Officer is presumed to have considered all the evidence, and that they may assess and evaluate the evidence before them (*Simpson v Canada (Attorney General)*, 2012 FCA 82 at para 10). An applicant cannot expect to rebut this presumption by simply criticizing the weight the administrative decision maker gave to one or many of the pieces of evidence: “the Court will consider putting aside this presumption only when the probative value of the evidence that is not expressly discussed is such that it should have been addressed” (*Lee Villeneuve v Canada (Attorney General)*, 2013 FC 498 at para 51, citing *Cepeda-Gutierrez v Canada (Minister of Citizenship and Immigration)*, 1998 CanLII 8667 (FC) at paras 14–17 [*Cepeda-Gutierrez*]). The fact remains that an administrative decision maker is not required to make an explicit finding on each constituent element leading to their final conclusion (*Newfoundland and Labrador Nurses’ Union v Newfoundland and Labrador (Treasury Board)*, 2011 SCC 62 at para 16).

[8] Nonetheless, contradictory evidence should not be ignored. This is particularly true when the evidence relates to one of the main points on which the decision maker relies to reach their conclusions. Although reviewing courts should refrain from putting the decision maker's reasons under a microscope, the decision maker cannot act "without regard to the evidence" (*Cepeda-Gutierrez* at paras 16–17). When a decision maker's reasons do not mention the evidence that contradicts its conclusions, the Court may intervene and infer that they did not review the contradictory evidence when reaching their finding of fact.

[9] This matter warrants the Court's intervention. Although it was open to the decision maker to weigh the evidence and draw conclusions from it, the Officer could not omit and reject important and contradictory evidence without providing transparent or intelligible reasons for doing so (see *Banovic v Canada (Citizenship and Immigration)*, 2024 FC 1990 at para 66). Nothing in the Officer's reasons shows that the "Success!" screenshot was considered nor explains why it ought to be rejected. This omission is serious insofar as it relates to the core issue of the decision under review, namely the question of whether the CV was duly submitted. The Officer could have found that the "Success!" screenshot was also cropped and, as the other screenshots, did not have a date stamp establishing the date of the submission, but they had to provide reasons as to why that evidence was not sufficiently credible and reliable, along with the letter of the immigration consultant, to allow the Applicant to meet their case.

[10] The Officer did not justify their reasoning in relation to a key piece of evidence, which causes the Court to lose confidence in the outcome they reached. Accordingly, the decision is

unreasonable and must be sent back for redetermination. This application for judicial review is granted.

JUDGMENT in IMM-7574-24

THIS COURT'S JUDGMENT is that:

1. The application is granted.
2. The decision is set aside and the matter is remitted for redetermination before a different Officer.
3. There is no question of general importance for certification.

"Guy Régimbald"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	IMM-7574-24
STYLE OF CAUSE:	LIU HONG v THE MINISTER OF CITIZENSHIP AND IMMIGRATION
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