Federal Court  Cour fédérale

Date: 20250623

Docket: IMM-5837-24

Citation: 2025 FC 1125

Ottawa, Ontario, June 23, 2025

PRESENT: The Honourable Mr. Justice Southcott

BETWEEN:

CADOGAN, LISA ANASTACIA LASHAUNA

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

I. Overview

[1] This is an application for judicial review of a decision [the Decision] of an officer [the Officer] of Immigration, Refugees and Citizenship Canada [IRCC], dated March 20, 2024, which refused the Applicant's application for a temporary resident visa (visitor visa) and found her inadmissible to Canada for misrepresentation.

[2] As explained in greater detail below, this application for judicial review is dismissed, because the Decision is reasonable and was reached in a procedurally fair manner.

II. **Background**

[3] The Applicant is a citizen of Guyana. She applied for a visitor visa, on or about February 23, 2024, through the IRCC online portal. In response to the question in the application as to whether she had "… ever been refused a visa or permit, denied entry to, or ordered to leave any country or territory", the Applicant disclosed a prior visa refusal to Canada in July 2023 but did not disclose that she had been refused visas to the United States [US] in 2013 and 2023.

[4] The Officer sent the Applicant a procedural fairness letter dated March 13, 2024 [PFL], identifying the Officer's concern that the Applicant appeared to have failed to declare previous visa refusals.

[5] The Applicant responded to the PFL, admitting that she had unintentionally omitted the US visa denials and explaining that she did not fully understand the relevant question.

[6] By letter dated March 20, 2024 [the Decision Letter], the Officer conveyed the Decision that is the subject of this application for judicial review.

III. **Decision under Review**

[7] In the Decision Letter, the Officer refuses the Applicant's visitor visa application and explains that the Applicant has been found inadmissible to Canada in accordance with paragraph 40(1)(a) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [IRPA] for directly or indirectly misrepresenting or withholding material facts relating to a relevant matter that induces or could induce an error in the administration of the IRPA. The Officer further explains that, in

accordance with paragraph 40(2)(a) of the IRPA, the Applicant will remain inadmissible to Canada for a period of five years.

[8] The Officer's Global Case Management System [GCMS] notes provide the following more detailed reasons for the Decision:

> Application reviewed. PA was sent a PFL to address the concerns of undisclosed information in the statutory questions. PA's response is not credible as it is not believeable [*sic*] that the PA would not think that the 2 USNIV refusals and canada [*sic*] refusals were not germane to this application.
>
> Based on the application, I am satisfied that the applicant failed to provide complete and truthful information. This could have led to an error in the administration of the act. The PA was provided with an opportunity to address this concern and has failed to provide any information which overcomes said concern. Therefore, based on the information on file, I am satisfied that the PA is inadmissible under A40, misrepresentation and is inadmissible to Canada for a period of 5 years as a result.
>
> Refused.

IV. **Issues and Standard of Review**

[9] The Applicant articulates the following issues for adjudication by the Court:

A. Whether the Applicant was provided with a procedurally fair opportunity to respond to the Officer's concerns; and

B. Whether the finding of misrepresentation under paragraph 40(1)(a) of the IRPA, including the finding that the misrepresentation was material, was unreasonable.

[10] The second issue, which concerns the merits of the Decision, is reviewable on the standard of reasonableness, as informed by *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65. The first issue, related to procedural fairness, is reviewable on a standard akin to correctness, requiring the Court to consider whether the procedure followed was fair, having regard to all the circumstances (*Canadian Association of Refugee Lawyers v Canada (Immigration, Refugees and Citizenship)*, 2020 FCA 196 at para 35, leave to appeal to SCC refused, 39522 (5 August 2021)).

V. **Analysis**

A. *Whether the Applicant was provided with a procedurally fair opportunity to respond to the Officer's concerns*

[11] The Applicant submits that she was deprived of procedural fairness, because the PFL provided her only 15 days to respond to the Officer's concerns and because the online platform through which she was required to submit a response afforded her only a 50-word limit and no ability to upload additional evidence or material.

[12] I find no merit to this argument. The Applicant responded to the PFL with an explanation that she unintentionally omitted the US visa denials in 2013 and 2023, because she did not fully understand the question. She has not identified, through either evidence or argument in this judicial review application, any further explanation or supporting document that she was deprived of an opportunity to submit. The Applicant has not established that she was not afforded an opportunity to respond comprehensively to the Officer's concerns.

B. *Whether the finding of misrepresentation under paragraph 40(1)(a) of the IRPA, including the finding that the misrepresentation was material, was unreasonable*

[13] The Applicant argues that the Officer's finding of misrepresentation, including that the misrepresentation was material, was disproportionate and unduly harsh. She submits that the Officer should have considered the surrounding circumstances holistically, including the urgency of the situation which involved the Applicant seeking a visa to accompany an autistic child travelling back to Canada.

[14] The Applicant also argues that the Decision was otherwise unreasonable, given that the previous US visa refusals were ultimately disclosed by the Applicant (in response to the PFL) along with an explanation of the reason for her initial failure to disclose them. The Applicant submits that the Officer ignored this explanation or failed to provide intelligible reasons for rejecting it.

[15] Again, I find no merit to the Applicant's arguments. The GCMS notes demonstrate that the Officer considered the Applicant's response to the PFL. The notes also provide intelligible reasoning by the Officer in rejecting that response. The Officer concluded that the Applicant's response was not credible, as the Officer was not prepared to accept that the Applicant did not think that previous visa refusals were not germane to her visa application. As the Respondent submits, the fact that the Applicant ultimately disclosed the previous refusals in response to the PFL does not detract from the materiality of the original failure to disclose them and therefore does not impact the reasonableness of the Decision (*Singh v Canada (Citizenship and Immigration)*, 2023 FC 1668 at para 34).

[16] There is also no basis for a conclusion that the Officer was unaware of the circumstances underlying the Applicant's visa application. While the Decision does not expressly reference those circumstances, the Officer is presumed to be aware of all information presented in connection with an application. The Officer expressly addressed the explanation provided by the Applicant, which is the focus of the misrepresentation inquiry the Officer was required to conduct. The Applicant's reason for applying for the visa is not sufficiently material to that inquiry to support a conclusion that the surrounding circumstances were overlooked.

[17] I also note that the Applicant's written submissions on the reasonableness of the Decision argue that the Officer made a veiled credibility finding. In fact, the Decision includes an express credibility finding. However, to the extent that the Applicant is arguing that this finding gave rise to an undischarged procedural fairness obligation to afford the Applicant a further opportunity to respond, I do not agree that any such obligation arose. The PFL was sufficient to put the Applicant on notice of the issue she was required to address, including the possibility that the resulting explanation would not be accepted (*Alalami v Canada (Citizenship and Immigration)*, 2018 FC 328 at para 13).

[18] Finally, I note an irregularity in the record in that, in the GCMS notes that provide the Officer's analysis, the Officer appears to refer to not only the two previously undisclosed US visa refusals but also to previously undisclosed Canadian refusals. The relevant sentence reads:

> PA's response is not credible as it is not believable that the PA would not think that the two USNIV refusals and canada [*sic*] refusals were not germane to this application.
>
> [Emphasis added.]

[19] This reference to Canadian refusals is odd, because it is clear from the record that, in her original visa application, the Applicant did disclose that she had previously been refused a visa to Canada in July 2023. Neither party addressed this irregularity in their written submissions. When I raised the point at the hearing, counsel for both parties brought the Court's attention to the Applicant's response to the PFL, in which she stated as follows:

> June, 2023, & February, 2024 I was denied Canadian Visas. On the Canada Feb 2024 application I unintentionally omitted USA Visa denials 2013, 2023. I am sorry I did not fully understand the question.

[20] The Applicant's counsel submitted at the hearing that the Applicant has not been the subject of any prior Canadian visa refusals other than the July 2023 refusal that she disclosed in her original visa application. Counsel submits that the June 2023 reference in the Applicant's response to the PFL is intended to refer to the July 2023 refusal (with the Applicant having erred in referencing the particular month) and that the February 2004 reference relates to the visa application process in which the Applicant was then engaged (incorrectly describing that process as having resulted in a refusal at that time).

[21] I do not understand the Respondent's counsel to disagree with the Applicant's submission. In other words, the Applicant has not been the subject of any undisclosed Canadian visa refusals. I therefore asked the Respondent's counsel whether the Decision's reference to undisclosed Canadian refusals raises concern as to the reasonableness of the Decision. The Respondent argues that the reasonableness of the Decision is not affected, because it reflects the information that the Applicant (albeit erroneously) provided. The Applicant's counsel did not

address this point in reply. I agree with the Respondent's argument and find that this point does not undermine the reasonableness of the Decision.

VI. **Conclusion**

[22] In conclusion, as the Decision is reasonable and was reached in a procedurally fair matter, this application for judicial review will be dismissed. Neither party proposed any question for certification for appeal, and none is stated.

JUDGMENT IN IMM-5837-24

THIS COURT'S JUDGMENT is that this application for judicial review is dismissed.

No question is certified for appeal.

"Richard F. Southcott"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	IMM-5837-24
STYLE OF CAUSE:	CADOGAN, LISA ANASTACIA LASHAUNA v THE MINISTER OF CITIZENSHIP AND IMMIGRATION
PLACE OF HEARING:	TORONTO, ONTARIO
DATE OF HEARING:	JUNE 10, 2025
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