

Federal Court



Cour fédérale

Date: 20250912

Docket: IMM-10731-23

Citation: 2025 FC 1510

Ottawa, Ontario, September 12, 2025

PRESENT: Mr. Justice Pentney

BETWEEN:

GURLEEN SIDHU

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

[1] The Applicant, Gurleen Sidhu, seeks judicial review of the decision of an Immigration Officer (Officer) to remove her as an overage dependent from her mother's application for permanent residence in the family class under the Parents and Grandparents program. The Officer found that she had not established that she met the criteria to qualify as an overage dependent.

[2] The Applicant submits that she was denied procedural fairness because the Officer made a credibility finding without giving her an opportunity to address the concerns; she also argues that the decision is unreasonable on its merits, considering the evidence that was submitted.

[3] I am dismissing the application for judicial review. The Applicant was not denied procedural fairness. Although the Officer said the key medical evidence was given very minimal weight because of concerns about its credibility, that was a careless use of language. In substance, the Officer found the evidence to be insufficient. There was no duty to give the Applicant notice of the Officer's concerns or an opportunity to respond, because the concerns arose from the document itself as well as the legal criteria for overage dependent. The Applicant was aware of the legal standard she had to meet, and she knew about the limitations in the medical evidence.

[4] On the merits, the decision is reasonable. The Applicant did not submit sufficient evidence to establish that she met the criteria for overage dependent. The Officer's decision reflects the evidence in the record and the relevant legal framework. There is no basis to find the decision to be unreasonable. The application for judicial review is therefore dismissed.

I. Background

[5] The Applicant was born on April 11, 1989. She is a citizen of India, and lives there with her mother. The Applicant's brother is a citizen of Canada. In November 2021, he applied to sponsor his mother under the Parents and Grandparents program. The Applicant was included in the application as a dependent child.

[6] At the time of the application, the Applicant was 32 years old. As explained more fully below, to qualify as an overage dependent the Applicant had to demonstrate that she had financially depended on the support of her parents since before the age of 22, that her dependence continued after age 22, and that it was due to a physical or mental condition. Counsel's letter submitted with the application stated that the Applicant "is financially and emotionally dependent upon her family. Gurleen has never been employed in any capacity and is solely dependent upon her family financially for support."

[7] In addition, the Applicant submitted a psychological assessment from the Psychowellness Center in India (Report). This Report is described in more detail below; at this stage it is sufficient to note that it indicated that several standard psychological assessment tools had been used to assess the Applicant. Based on the results, the Applicant was said to have a mild level of intellectual disability, with borderline clinical depression, low self-esteem and a low level of self-confidence. The Report states that the Applicant "is dependent on her mother for her emotional and financial needs, she can perform daily chores, needs to be engaged in meaningful activities." The Applicant also submitted her resume, which listed her academic achievements but did not show any record of employment.

[8] No other evidence was submitted to support the Applicant's claim that she was financially dependent upon her parents.

[9] The Officer's decision is set out in notes in the Global Case Management System. The Officer made the following key findings:

- No documentation was submitted to suggest the Applicant has a physical or mental disability that would render her unable to be self-sufficient.
- The Report was given “very minimal weight... due to lack of credibility and relevance. It is indicated at the top that it is not issued for medico-legal use, but for professional use only... so it was not issued with the intention of being provided as evidence. Also, the assessment was made on October 9, 2021 and speaks largely to the subject’s mental state at that time, which would be at 32 years of age.”
- No complementary information or medical report was submitted to corroborate that the Applicant had any condition that affected her ability to be self-sufficient from a younger age. Her condition has not “been found to require medication or more serious form(s) of treatment.”
- Lastly, the Report stated that the Applicant’s condition prevented her from completing her schooling but that is contradicted by her resume, which indicates that she completed high school and a Bachelor of Arts degree “which would mean that she has been able to successfully follow a course of study and could have been gainfully employed at some point in her adult life.”

[10] Based on these findings, the Officer concluded that the Applicant did not establish that she met the criteria for an overage dependent and therefore refused to process her as part of the mother’s application for permanent residence.

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

II. Issues and Standard of Review

[12] There are two issues in this case:

- A. Was the Applicant denied procedural fairness because the Officer made a credibility finding without giving her notice and an opportunity to respond to the concerns?
- B. Is the decision unreasonable?

[13] The first question is assessed on a standard that is akin to “correctness,” although technically no standard of review is applied at all: *Canadian Pacific Railway Company v Canada (Attorney General)*, 2018 FCA 69 at paras 54- 55 [*Canadian Pacific*]; see also *Heiltsuk Horizon Maritime Services Ltd v Atlantic Towing Limited*, 2021 FCA 26 at para 107. Under this approach, a reviewing Court is required to assess whether the decision-making process was fair in the particular circumstances of the case, “with a sharp focus on the nature of the substantive rights involved and the consequences for an individual...” (*Canadian Pacific* at para 54).

[14] The second question is 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 [*Mason*].

[15] 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; *Mason* at para 8). The onus is on the Applicant 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).

III. Analysis

A. *The Applicant was not denied procedural fairness*

[16] The Applicant’s procedural fairness argument primarily focuses on the Officer’s use of the term “credibility” in according the Report very minimal weight. She argues that the law requires that a claimant be given notice and an opportunity to respond before credibility findings are made. That was not done in this case, which the Applicant says resulted in a breach of procedural fairness.

[17] The Applicant submits that she is owed a high duty of procedural fairness because her application for permanent residence was at stake. She argues that the Officer had an obligation to clearly and precisely articulate their concerns about the Report, and to give her a fair opportunity to respond.

[18] The Applicant accepts that the Officer was not required to give her a “running score” on how her application was being assessed, or to give her notice of a concern that arose directly from the legislation itself: *Hassani v Canada (Citizenship and Immigration)*, 2006 FC 1283, at para 24. However, where “the concerns relate to the ‘credibility, accuracy or genuine nature’ of information, an opportunity to respond may be afforded...”: *Ahani v. Canada (Immigration,*

Refugees and Citizenship), 2018 FC 109 at para 26. The Applicant says that this is exactly what happened here: the Officer had concerns about the credibility of the Report and was therefore required to give her notice of the questions and an opportunity to respond to them.

[19] In the alternative, the Applicant submits that separate and apart from the use of the word, the Officer made a negative credibility finding about the Report. She argues that the Officer did not believe the clear findings set out in the Report, and therefore she was entitled to receive notice of the concerns and an opportunity to respond.

[20] I am not persuaded that the Applicant was denied procedural fairness. The Officer was careless in using the word “credibility” to describe why the Report was given minimal weight. In substance, the Officer’s concerns related to the sufficiency of the evidence rather than its credibility. The use of a wrong word, in the circumstances of this case, does not amount to a fatal error, for the reasons explained below.

[21] The requirements of procedural fairness in the context of a permanent residence application were cogently summarized by Justice Gascon in *Tiben v. Canada (Citizenship and Immigration)*, 2020 FC 965, and I cannot improve upon his description:

[30] Procedural fairness does not require applicants to be given the opportunity to respond to concerns about information that they are aware of and have provided themselves. In this case, the additional reasons given by the Officer in the Decision were not based on extrinsic evidence, but on concerns about information that Mr. Tiben and the Dependant Applicants had themselves provided. As such, the fact that they formed a part of the basis for the Decision does not constitute a breach of procedural fairness. More generally, it is well accepted that visa officers do not have a duty or legal obligation to seek to clarify a deficient application, to reach out

and make an applicant's case, to apprise an applicant about concerns arising directly from the legislation or regulations, to provide the applicant with a running score at every step of the application process, or to offer further opportunities to respond to continuing concerns or deficiencies (*Sharma v Canada (Citizenship and Immigration)*, 2020 FC 381 at para 32; *Lv v Canada (Citizenship and Immigration)*, 2018 FC 935 at para 23). To impose such an obligation would be akin to giving advance notice of a negative decision, an obligation that the Court has expressly rejected on many occasions.

[31] The onus is on visa applicants to put together applications that are convincing, to anticipate adverse inferences contained in the evidence and address them, and to demonstrate that they have a right to enter Canada. Procedural fairness does not arise whenever an officer has concerns that an applicant could not reasonably have anticipated (*Singh v Canada (Citizenship and Immigration)*, 2012 FC 526 at para 52).

[22] These are the principles that will guide my analysis of the Applicant's procedural fairness argument.

[23] At the time of the application for permanent residence, the Applicant was 32 years old. In order to qualify as an overage dependent, she needed to meet the definition set out in sub-paragraph 2(b)(ii) of the *Immigration and Refugee Protection Regulations*, SOR/2002-227 (IRPR): "dependent child, in respect of a parent, means a child who... (ii) is 22 years of age or older and has depended substantially on the financial support of the parent since before attaining the age of 22 years and is unable to be financially self-supporting due to a physical or mental condition." Thus, she had to establish three key things: that she had been substantially financially dependent on her mother since before the age of 22; that her dependence persisted beyond age 22; and that her dependence was due to a physical or mental condition.

[24] To show that she met the criteria for substantial financial dependence, the Applicant submitted her counsel's letter stating that she met the definition, as well as the Report and her resume. The Applicant's procedural fairness claim rests on the argument that the Officer made a credibility finding with respect to the Report.

[25] There can be no doubt that the Officer used the term "credibility" in the assessment of the Report. To quote from the decision, the Officer stated that they gave "very minimal weight to this report due to lack of credibility and relevance." However, upon analysis of the reasons, I find that the Officer's concerns were related to the insufficiency of evidence proving that the Applicant met the legal definition of overage dependent, and not an issue of credibility.

[26] The distinction between credibility and sufficiency findings is sometimes a bit murky. In *Magonza v. Canada (Citizenship and Immigration)*, 2019 FC 14 [*Magonza*], Justice Grammond set out a useful clarification of the concepts used in the fact-finding process. The term credibility was described as "the answer to the question, 'is this a trustworthy source of information?'" (*Magonza* at para 16). This generally includes an assessment of the trustworthiness and believability of a piece of evidence, which includes both honesty concerns and factors that may affect the witness's ability to recount the facts with accuracy, often referred to as "reliability". Thus, a credibility finding can be based on either a determination that the witness is being less than honest, or that they are telling what they believe to be the truth but they were not able to perceive all the pertinent details of the event or are not able to remember it accurately.

[27] This can be contrasted with a finding that a piece of evidence is credible, meaning reliable and trustworthy, but it is insufficient to meet the party's onus of proof. An easy example is a letter from a doctor, recounting what the claimant told them about the key incident in the case. The letter may be believable, in the sense that the doctor is honestly repeating what they were told as recorded in their notes, and so there is no question about the doctor's ability to recall it. However, the letter may not be sufficient to establish a claim, simply because the doctor did not personally witness the incident and did not make any clinical assessment or diagnosis that would be consistent with injuries that resulted from the incident in question. In such a case, an Officer may find that the doctor's letter should be given little weight to corroborate the claimant's evidence, explaining that it simply repeats what the claimant told the doctor with no additional relevant details that would make it compelling or persuasive. That is not a credibility finding. Rather, it is a finding that the evidence is insufficient to establish the point in question.

[28] There is abundant case-law finding that an Officer's decision can be quashed because they made a "veiled" credibility finding, meaning that in substance they found that the claimant's evidence was not believable or reliable – even though they did not use the term "credibility". I note that "the choice of words used, whether referring to credibility or to insufficiency of the evidence is not solely determinative of whether the findings were one or the other or both" (*Gao v. Canada (Citizenship and Immigration)*, 2014 FC 59, at para 32). On judicial review, the judge is required to look at the substance of the Officer's reasoning rather than fastening onto magic words. Common markers of a veiled credibility finding include determinations that the evidence was contradicted by other statements, or not plausible, or that the person was motivated to favour the claimant. If, in substance, the Officer finds that they simply do not believe key evidence put

forward by a claimant, then they have made a credibility finding, even though they did not use that word.

[29] This case presents the opposite side of that coin. The question that arises here is whether using the word “credibility” automatically triggers the Officer’s duty to give notice and an opportunity to respond. I find that imposing such a requirement would favour form over substance. Instead, I must examine the Officer’s reasoning process to determine whether they made an actual finding that the Report was not credible.

[30] In assessing the Applicant’s argument that the Officer made a credibility finding, I am required to examine the reasons as a whole in light of the record and the applicable legal framework. I must also take the administrative context for the decision into account. In this case, it is pertinent that the Officer is not required to be a lawyer, and the decision is made based on a review of the documentation submitted, not after an oral hearing.

[31] Examining the decision as a whole sheds important light on the Officer’s reasoning process, and points away from a credibility finding. As noted above, the Officer made several key findings that situate their assessment of the Report. First, the Officer noted that no documentation suggested that the Applicant “has a physical or mental disability that would render them unable to be self-sufficient.” On this point, the Officer stated that the Report indicated that the Applicant had borderline clinical depression but found that this did not directly address her capacity to obtain gainful employment. In making these findings, the Officer was applying a factor that arises directly from the legal definition of a dependent child.

[32] The Officer then explained why they gave the Report very minimal weight, noting that the Report stated at the outset that it was “not issued for medico-legal use, but for professional use only...” Based on this, the Officer concluded that the Report “was not issued with the intention of it being provided as evidence.” The Officer added that the assessment was made when the Applicant was 32 years of age “and speaks largely to [her] mental state at that time...” Next, the Officer stated that no other information or medical report was submitted “to corroborate that [the Applicant] had any condition that [would] affect her ability to be self-sufficient from a younger age.” These comments also relate to factors that are set out in the legal definition.

[33] None of these statements by the Officer indicate that they did not believe what the Report said or that they doubted the psychologists’ capacity to recount their evidence. Instead, the Officer’s analysis indicates that the focus was on the sufficiency of this evidence to meet the statutory requirements to establish that the Applicant qualified as an overage dependent. In substance, the Officer did not make any credibility finding at all.

[34] Examining the Officer’s decision in light of the record and legal context lends further support to my conclusion that the Officer’s finding was, in substance, about the sufficiency of the evidence rather than the credibility of the Report. As noted earlier, the Applicant had to demonstrate three things in order to meet the statutory definition of overage dependent: that she had been financially dependent on her parents since before the age of 22; that her dependence continued after age 22; and that her dependence was due to a physical or mental condition. The

Applicant was represented by counsel in making her application and counsel was undoubtedly aware of the legal requirements.

[35] In order to establish that she met the criteria for overage dependent, the Applicant's main evidence was the Report. Her counsel's letter simply affirmed that she was dependent on her mother, and her resume set out her background. There was no other evidence filed about the Applicant's dependence. In examining the Report, the Officer noted that it expressly stated that it was prepared "For Professional Use Only" and was "not for Medico-legal Use" and accordingly gave it less evidentiary weight.

[36] There is simply no indication that the Officer used the term "credibility" in its legal sense, because the decision does not suggest in any way that the Officer did not find the Report to be trustworthy. Instead, the substance of the Officer's finding was that the Report was insufficient to establish that the Applicant met the criteria of the law. Therefore, the Officer was not obligated to give the Applicant notice of, or an opportunity to respond to, the concerns about the sufficiency of the Report.

[37] Stepping back from the details, I am required to determine whether the Applicant was denied procedural fairness, with a keen eye on the interests at stake. I agree with the Applicant that her application for permanent residence hung in the balance and therefore she was entitled to a higher degree of procedural fairness than applies in the visitor visa context for example. In this case, the Officer's concerns about the sufficiency of the Report arose from the document itself and the analysis flowed directly from the legal requirements that the Applicant was familiar with.

The Applicant was fully aware of the legal requirements she had to meet, and she and her legal counsel knew what the Report said. She had the opportunity to provide other, more persuasive evidence, but chose not to do so. Viewed in this light, I am unable to conclude that the Applicant was denied procedural fairness.

[38] The careless use of the word “credibility” in the Officer’s decision was not a fatal flaw, when the reasons are examined carefully and in light of the evidence and legal framework. For the reasons set out above, I can find no basis to conclude that the Applicant was denied procedural fairness.

B. *The decision is reasonable*

[39] The Applicant’s argument that the decision is unreasonable focuses on several elements. She submits that the Officer failed to properly analyze the evidence and imposed unjustified requirements. She challenges the Officer’s statement that there was “(n)o documentation submitted to suggest that [the Applicant] has a physical or mental disability that would render them unable to be self-sufficient.” The Applicant submits that the Officer ignored the specific findings in the Report. The Applicant also contends that the Officer unreasonably concluded that her condition is not severe enough to meet the criteria under the IRPR because “her condition has not been found to require medication or more serious form(s) of treatment.” She points out that there is no requirement in the IRPR for a condition to require medication or other forms of treatment.

[40] In addition, the Applicant argues that the Officer erred in finding a contradiction in the evidence when none actually existed. The Officer stated that the Report said that the Applicant's condition prevented her from completing her schooling but found that this was contradicted by her resume which showed that she had completed high school and a Bachelor of Arts degree. The Applicant says that the Officer mis-read the Report, which did not actually state that she had been unable to complete her education, but rather says: "As reported by mother and brother [the Applicant] has not completed her full time schooling and was put on open learning school and Polytechnic for skill development..." The Applicant says that the Officer unreasonably failed to engage with the actual evidence in the record, and the supposed contradiction in her evidence was unjustifiably held against her.

[41] According to the Applicant, the Officer's burden of justification was increased given the consequences, and the Officer's unreasonable decision has profound effects on her. The decision also has significant ramifications for her mother, who is eligible for sponsorship by her brother in Canada but feels compelled to stay in India because she cannot leave the Applicant alone there.

[42] While I accept that the stakes were high for the Applicant and her mother, and therefore the Officer's duty to justify the decision was increased, I am not persuaded that the Officer's decision is unreasonable. The reasons reflect the evidence, assessed against the relevant legal framework, and the reasoning process is clear and cogent. That is what reasonableness demands under the *Vavilov* framework.

[43] I disagree with the Applicant's argument that the Officer failed to engage with her evidence and imposed unjustified requirements. The Officer did not quote the Report at length, but the discussion of it reveals that the Officer gave it careful attention. The clinical diagnosis in the Report did not address or explain, in any specific way, the Applicant's dependence on her mother or her inability to work. The Report indicates that the Applicant has a lower than average IQ and was experiencing some clinical depression and lack of self-confidence. However, the Report does not state that her condition would prevent her from gainful employment.

[44] As for the Officer's description of the Applicant's educational qualifications, I agree that the Officer's description of this element in the Report is inaccurate. Contrary to the Officer's statement, the Report does not actually say that the Applicant was unable to complete her education. However, I am not persuaded that this is a significant finding in the overall analysis. The Officer correctly noted that the Applicant's resume showed that she had completed secondary school and obtained a Bachelor of Arts degree. From this, the Officer found that the evidence did not support an inference that the Applicant lacked the capacity to engage in gainful employment. There is nothing unreasonable in that finding. The Officer is permitted to use common sense and ordinary experience in assessing such matters.

[45] The completion of a Bachelor of Arts degree demonstrates many positive attributes that favour the Applicant. Even if she completed it through "open schooling" rather than on a full-time basis following the usual academic calendar, the completion of the degree tends to demonstrate that she has skills and capacities that would make her employable. In the end, the Officer recognized the Applicant's accomplishment in completing her Bachelor of Arts degree

and reasonably found that it suggested that she had the personal attributes to “successfully follow a course of study” which meant that she “could have been gainfully employed at some point in her adult life.” This was a reasonable inference for the Officer to draw from the evidence in the record.

[46] I turn next to the Applicant’s argument that the Officer imposed an unjustified requirement in finding that her condition was not severe enough to qualify under the IRPR because it was not found to require medication or more serious forms of treatment. I disagree with this characterization of the Officer’s reasoning. If the Officer had found that the Applicant did not qualify specifically because her condition did not require medication or a serious form of treatment, I would agree with the Applicant’s argument that this imposed an unreasonable and unjustified requirement. However, that is not what the Officer stated in the decision.

[47] In assessing the Report, the Officer said that it did not support a finding that her condition was serious enough to meet the definition of overage dependent child in the IRPR. I have already discussed the Officer’s reasons for making that finding. The Officer found that the recommendations at the end of the Report, summarized above, provided “further support” for the conclusion that she did not qualify under the definition. This is an observation that accurately reflects the Report’s contents, not the imposition of an additional unjustified hurdle for the Applicant to overcome.

[48] Several other features of the Report are noteworthy, even if they were not expressly mentioned by the Officer. The purpose of the assessment was stated to be: “To assess for phobia,

anxiety, depressive symptoms, obsessive compulsiveness, and presence of certain maladjusted personality traits, if any.” While the Report sets out the results of the various standardized tests that were administered, it does not contain any specific diagnoses that confirm the Applicant’s dependence or her inability to be self-sufficient. She is described as having a “mild level of intellectual disability” with “(s)erious limitations in areas such as learning and reasoning.” The doctors state that she is assessed as having “borderline clinical depression” and express concerns about her hostility and obsessive compulsive behaviour. The Report states that the Applicant’s “difficulties in intellectual and learning abilities resulted in to (sic) low self-esteem and self-confidence.” Overall, she was assessed as having mild intellectual disabilities, mild mental sub-normality with clinician depression.

[49] The recommendations set out at the end of the Report include regular physical exercise, training in general social skills, management of emotions and interpersonal effectiveness training, as well as learning basic life skills and engaging in mindfulness activities in daily life.

[50] This was the factual context for the Officer’s finding on the Report, which lends colour and context to the decision. The Officer found that there was no evidence of a physical or mental condition that would cause the Applicant to be financially dependent on her mother since before age 22. The Officer found the Report to be insufficient to support her claim of dependency, noting its expressly limited purpose and the fact that it described the Applicant’s situation at age 32, and did not expressly review her prior condition. These findings reflect the evidence in the record, considered in the context of the legal framework.

[51] Stepping back to consider the decision as a whole, it is important to recall that the Officer was required to assess whether the Applicant's evidence supported her claim to be an overage dependent. As discussed previously, the onus was on the Applicant to demonstrate that she had been financially dependent upon her parents since before the age of 22, that the dependence continued after age 22, and that it was due to a physical or mental condition. The only evidence submitted by the Applicant was the Report and her resume. The counsel's letter is not evidence, *per se*. The Officer examined the evidence and found it lacking. The Report did not diagnose a physical or mental condition that would render the Applicant substantially dependent upon her mother, and the other evidence did not support that finding either. In fact, the Officer found that the Applicant's resume supported the inference that she could have found paid employment, given her educational achievements.

[52] The Officer's reasons are clear, coherent and follow a logical chain of analysis. They reflect an examination of the evidence in light of the record and the Officer's findings are explained in light of the evidence. That is what is required for a reasonable decision under the *Vavilov* framework. I am not persuaded that the Applicant has demonstrated a sufficiently serious flaw in the reasoning on the essential elements of the case. Because of that, and for the reasons set out above, I find the decision to be reasonable.

IV Conclusion

[53] Based on the analysis set out above, the application for judicial review is dismissed.

[54] There is no question of general importance for certification.

JUDGMENT in IMM-10731-23

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-10731-23

STYLE OF CAUSE: GURLEEN SIDHU v THE MINISTER OF
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