Federal Court Cour fédérale

Date: 20260122

Docket: IMM-18700-24

Citation: 2026 FC 100

Ottawa, Ontario, January 22, 2026

PRESENT: Madam Justice Conroy

BETWEEN:

ELAHE ZAHIRI MEHRABADI

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

[1] The Applicant, Ms. Elahe Zahiri Mehrabadi, seeks judicial review of an immigration officer's [Officer] decision refusing her application for a study permit in Canada.

[2] For the reasons that follow, the application for judicial review is dismissed. The decision refusing her study permit was reasonable and the process fair.

I. **Background**

[3] Ms. Mehrabadi is a citizen of Iran. She applied for a study permit to complete a master's program at the University of Saskatchewan. As part of her study permit application, she was required to provide proof of funds. On April 6, 2024, she submitted statements of account, dated April 4, 2024, from her two Iranian banks: Bank Maskan and Bank Melli Iran.

[4] On June 4, 2024, an Immigration Officer submitted a verification request to Bank Maskan to confirm the authenticity of the bank statement provided by the Applicant. On June 8, the Bank responded, advising that the statement was not authentic. It stated:

> This is to certify that the issued account balance certificate to **MS. ELAHE ZAHIRI MEHRABADI IS NOT GENUINE !**
>
> [emphasis original]

[5] On July 12, 2024, the Officer issued a Procedural Fairness Letter [PFL] advising the Applicant that the documents from Bank Maskan she submitted were verified and confirmed to be fraudulent. The PFL further advised that if she were found to have engaged in misrepresentation, she may be inadmissible to Canada under s. 40(1)(a) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [*IRPA*].

[6] The Applicant responded to the PFL and explained that she sought clarification from the bank and was informed by a bank employee that the authenticity concerns likely stemmed from a clerical or system error. She said that the bank advised her to obtain a new bank statement to resolve the matter.

[7] Her response included updated statements from both banks dated July 18, 2024, which she described as replacements for the original April 4, 2024 statements. The new statement from Bank Maskan showed a balance which was about $35,500 lower than the original statement provided. The new statement from Melli Bank showed a balance about $9,460 higher than the original statement she provided. The new bank statements showed the Applicant's available funds were lower than originally reported but still exceeded what was required for the purposes of a study permit.

[8] Her PFL response also emphasized that she had no intent to misrepresent any information, pointing to the accuracy of her other documents and the overall sufficiency of her financial resources.

A. *Decision Under Review*

[9] By letter dated September 3, 2024, the Applicant was informed that her study permit application was refused. The letter states, in part:

> You have been found inadmissible to Canada in accordance with paragraph 40(1)(a) of the Immigration and Refugee Protection Act (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. In accordance with paragraph A40(2)(a), you will remain inadmissible to Canada for a period of five years from the date of this letter or from the date a previous removal order was enforced.

[10] The Global Case Management System [GCMS] notes, which form part of the reasons for the purposes of judicial review (*Wang v Canada (Citizenship and Immigration),* 2018 FC 368 at para 9), state:

> The [Applicant's] response to the PFL was thoroughly and carefully considered; however, I am not satisfied that the concerns regarding misrepresentation identified have been satisfactorily disabused. […] As indicated in the PFL, I am concerned that the [Applicant] may be inadmissible for misrepresentation for directly misrepresenting a material fact that could have induced an error in the administration of the Act.
>
> …
>
> Had the financial documents been assessed as genuine, it could have led the officer to be satisfied that the applicant had sufficient funds to support the duration of their stay and would allow the [the Applicant] to leave Canada at the end of their authorized stay in accordance with R216(1)(b). The [Applicant] could have been granted a study permit without satisfying the requirements of the Act.

II. **ISSUES AND STANDARD OF REVIEW**

[11] The Applicant argues the decision is unreasonable and that there was a breach of procedural fairness.

[12] In assessing the merits of the decision, the parties submit and I agree, that the applicable standard of review is reasonableness: *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at paras 23, 25 [*Vavilov*].

[13] Allegations of procedural unfairness are considered on a standard akin to correctness: *Canadian Pacific Railway Company v Canada (Attorney General)*, 2018 FCA 69 [*Canadian Pacific*] at paras 54-56. The role of the reviewing court on a question of procedural fairness is to determine whether the procedure followed was fair, having regard to the particular circumstances of the case.

III. **ANALYSIS**

A. *The process was fair*

[14] The Applicant submits that procedural fairness was breached because, in her view, the PFL ought to have provided more detail about the alleged misrepresentation. She asserts that the Officer did not identify the precise aspect of the statement of account that was seen to be problematic or fraudulent, citing *Waheed v Canada (Citizenship and Immigration)*, 2020 FC 265 at paragraphs 13–15 [*Waheed*].

[15] The Applicant acknowledges that decisions on temporary visa applications typically attract a minimal level of procedural fairness. She argues that a heightened duty of procedural fairness is however owed where there is a finding of inadmissibility due to misrepresentation under s. 40(1)(a), citing *Baniya v Canada (Minister of Citizenship and Immigration)* 2022 FC 18 at paragraph 19.

[16] I agree with the Applicant that a finding of inadmissibility due to misrepresentation under s. 40(1)(a) attracts a higher level of procedural fairness, but I am not persuaded that process here fell short of what was required.

[17] A determination of misrepresentation leads not only to the rejection of a temporary visa, but also to 5-year inadmissibility to Canada. The importance of a decision to the individual affected is an important factor that affects the content of the duty of procedural fairness (*Baker v Canada (Minister of Citizenship and Immigration)*, 1999 CanLII 699 (SCC) at para 25). A 5-year ban is a more serious consequence than a mere refusal for a temporary visa and accordingly

attracts a higher level of procedural fairness: *Likhi v Canada (Citizenship and Immigration)*, 2020 FC 171 at para 27; *Kaur v Canada (Citizenship and Immigration)*, 2022 FC 270 at paras 24–27; *Asanova v Canada (Citizenship and Immigration)*, 2020 FC 1173 at paras 29–30.

[18] The determinative question is whether the Applicant knew the case to meet and had a full and fair chance to respond: *Abdool v Canada (Citizenship and Immigration)*, 2024 FC 1172 at para 27. This requires that the PFL clearly set out all of the relevant concerns so that an applicant knows the case to be met and has a true opportunity to meaningfully respond to all of the officer's concerns: *Sapru v Canada (Citizenship and Immigration)*, 2011 FCA 35 at paras 31–32; *Velasquez Perez v Canada (Citizenship and Immigration)*, 2011 FC 1336 at paras 34–35.

[19] I am satisfied that the PFL made it plain to the Applicant that the central issue was the authenticity of the Bank Maskan statement of account provided in her application. Once its authenticity was placed in question, the Applicant was required to provide a response capable of dispelling the Officer's concern. She attempted to do so by contacting the bank, requesting an explanation, and as instructed by her bank, submitted updated statements to the Officer. Her actions collectively demonstrate that she understood the case to be met. I am not persuaded that greater specificity in the PFL was required.

[20] The present case is distinguishable from *Waheed*, which the Applicant relies on. There, the officer's conclusion regarding the applicant's falsification of work experience was grounded in a specific concern that the former employer was not located at the address provided and did not exist. The Court held that it was a breach of procedural fairness to not have communicated this finding to the applicant in the procedural fairness letters. The same was true in *Chahal v*

Canada (Citizenship and Immigration), 2022 FC 725 [*Chahal*], where the officer relied on undisclosed interviews and conflicting accounts regarding the applicant's role. There, the Court held that the applicant was entitled to know the "underlying concern or problem" leading to the conclusion: *Chahal* at para 27.

[21] Here, by contrast, the Officer had only one piece of information: Bank Maskan's confirmation that the Applicant's statement was "not genuine." That concern was clearly communicated in the procedural fairness letter. Unlike in *Waheed* and *Chahal*, above, there was no further undisclosed information to provide.

B. *The decision is reasonable*

[22] The Applicant raises several grounds for challenging the reasonableness of the decision. I address only her most viable arguments, which are the following:

> a. The reasons are insufficient as they are (i) unresponsive to the Applicant's explanations in the response to the PFL; and (ii) do not explain with sufficient specificity the conclusion on misrepresentation and why it was considered material; and
>
> b. The Officer failed to consider whether the misrepresentation fell within the "innocent misrepresentation" exception.

C. *Sufficiency of the reasons*

[23] The parties agree that visa officers face a high volume of applications, and their reasons generally do not need to be lengthy or detailed. "However, their reasons do need to set out the key elements of the Officer's line of analysis and be responsive to the core of the claimant's

submissions on the most relevant points" *Nesarzadeh v Canada (Citizenship and Immigration)*, 2023 FC 568 at para 7.

[24] The Applicant argues that greater specificity in the reasons will be required where there is a finding of inadmissibility because the stakes are higher, citing *Ali v Canada (Citizenship and Immigration)*, 2021 FC 731 at para 30 and *Baniya v Canada (Minister of Citizenship and Immigration)* 2022 FC 18 at para 19.

[25] Akin to her procedural fairness argument, the Applicant argues that the reasons ought to have stated the precise reason the bank document was seen as fraudulent: for example, whether the balance shown in the statement was inaccurate, whether the issuing bank was found not to exist, or whether the signatures or institutional stamps appearing on the document were fabricated.

[26] I do not take issue with the Applicant's proposition that the reasons provided for a finding of misrepresentation must reflect the more severe consequences to an applicant. However, I am not persuaded that the reasons provided by the Officer here fell short.

[27] Indeed, based on the record before me, it is not readily apparent what further details could have been included in the reasons. This was not a case with a complex fact pattern. Before the Officer was two conflicting pieces of evidence: (1) Bank Maskan's email stating that the bank statement included with the application was "not genuine", and (2) the Applicant's response to the PFL stating a "system or human error" caused the Bank Maskan statement being identified as fraudulent.

[28] It is apparent from the reasons that the Officer considered the explanation provided by the Applicant in her response to the PFL, but did not accept it. It was entirely open to the Officer to conclude that the Applicant's explanation was insufficient to dispel their concern. It is not the Court's role to re-weigh the conflicting evidence and come to its own view on the merits: *Vavilov* at paras 83 and 125. The reasons provided by the Officer were sufficiently responsive.

[29] On misrepresentation, the Officer explained:

> Had the financial documents been assessed as genuine, it could have led the officer to be satisfied that the applicant had sufficient funds to support the duration of their stay and would allow the [Applicant] to leave Canada at the end of their authorized stay in accordance with R216(1)(b). The [Applicant] could have been granted a study permit without satisfying the requirements of the Act.

[30] I am not persuaded that the Officer was obliged to provide further details on their conclusion with respect to the misrepresentation or why it was material. The fact that the second set of bank statements provided by the Applicant appeared to demonstrate that she had sufficient funds does not negate a finding of material misrepresentation where the Officer has concluded that the application included a non-genuine financial document. The case law is clear: a misrepresentation need not be decisive or determinative to be material. It is material if it is important enough to affect the process and *could* have induced an error in the application of the Act: *Singh v Canada (Citizenship and Immigration)*, 2023 FC 1668 at para 31 [*Singh 2023*], and the cases cited therein.

D. *The "innocent misrepresentation" exception does not apply*

[31] Counsel for the Applicant raised the issue of innocent misrepresentation and several other issues for the first time in his oral argument and without notice to the Respondent or the Court.

[32] The case law of this Court provides that, in the normal course, a party cannot rely on an argument that was not in their written submissions: *Tehranimotamed v Canada (Citizenship and Immigration)*, 2024 FC 548 at para 12; *Kilback v Canada*, 2023 FCA 96 at para 41; *Qureshi v Canada (Minister of Citizenship and Immigration)*, 2000 CanLII 16005 at paras 10–11. It is unfair to the party opposite and inappropriate to raise new grounds for the first time at the hearing without prior notice: *Kiver v Canada (Citizenship and Immigration)*, 2025 FC 819 at para 7.

[33] I nevertheless exercised my discretion to hear the Applicant's arguments on innocent misrepresentation. The Respondent requested an opportunity to provide post-hearing written submissions on the issue, which I granted.

[34] By way of background, a finding of misrepresentation under s. 40(1)(a) of IRPA requires there is a misrepresentation and that it was material and could have induced an error in the administration of the Act. There is no requirement to show that the misrepresentation was intentional, deliberate or negligent (*Bains v Canada (Citizenship and Immigration)*, 2020 FC 57 at 63), as the term "knowingly" is not found in s. 40(1)(a) of the *IRPA* (*Singh 2023* at para 32, citing *Sun v Canada (Citizenship and Immigration)*, 2019 FC 824 at para 23).

[35] The jurisprudence has however recognized a narrow “innocent misrepresentation” exception: *Medel v Canada (Employment and Immigration)*, [1990] 2 FC 345 (FCA).

[36] The Applicant submits that the Officer erred by failing to consider whether the alleged misrepresentation fell within the “innocent misrepresentation” exception recognized in the jurisprudence.

[37] The “innocent misrepresentation” exception only applies where there is a conclusion that the misrepresentation was indeed innocent: *Alalami v Canada (Citizenship and Immigration)*, 2018 FC 328 at para 16. There was no such finding in this case. The Officer here did not accept the explanation provided by the Applicant that the original bank statement must have been issued pursuant to a system or human error. If the Officer had accepted the Applicant’s explanation, then it may have been incumbent on them to assess whether the exception was met (i.e., whether her reliance on the original bank statement was honest and reasonable). I agree with the Respondent: as the innocent misrepresentation exception has no potential application in the absence of a conclusion that the error was innocent, the failure to consider this issue does not render the decision unreasonable.

IV. **Conclusion**

[38] I conclude that the decision under review was reasonable and the reasons transparent, intelligible and justified (*Vavilov* at para 15). Further, the Applicant knew the case to be met and there was no breach of procedural fairness. Accordingly, the judicial review is dismissed.

JUDGMENT in IMM-18700-24

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is dismissed.

2. There is no question for certification.

3. No costs are awarded.

"Meaghan M. Conroy"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

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