

FEDERAL COURT

Between:

JANE APPLICANT

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

APPLICANT'S RECORD

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Solicitor for the Applicant

FEDERAL COURT

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**APPLICATION FOR LEAVE
and for JUDICIAL REVIEW**

TO THE RESPONDENT:

AN APPLICATION FOR LEAVE TO COMMENCE AN APPLICATION FOR JUDICIAL REVIEW UNDER SUBSECTION 72(1) OF THE *IMMIGRATION AND REFUGEE PROTECTION ACT*.

UNLESS A JUDGE OTHERWISE DIRECTS, THIS APPLICATION FOR LEAVE will be disposed of without personal appearance by the parties, in accordance with paragraph 72(2)(d) of the *Immigration and Refugee Protection Act*.

IF YOU WISH TO OPPOSE THIS APPLICATION FOR LEAVE, you or a solicitor authorized to practice in Canada and acting for you must immediately prepare a Notice of Appearance in Form IR-2 prescribed by the *Federal Courts Immigration and Refugee Protection Rules*, serve it on the tribunal and the applicant's solicitor or, if the applicant does not have a

solicitor, serve it on the applicant, and file it, with proof after service, at the Registry, within 10 days after the service of this application for leave.

IF YOU FAIL TO DO SO, the Court may nevertheless dispose of this application for leave and, if the leave is granted, of the subsequent application for judicial review without further notice to you.

Note: Copies of the relevant Rules of Court, information on the local office of the Court and other necessary information may be obtained from any local office of the Federal Court or the Registry in Ottawa, telephone: (613) 992-4238.

The Applicant seeks leave of the Court to commence an application for judicial review of:

The decision made by an un-named Visa Officer ('the Officer' or 'the tribunal') with Immigration, Refugees and Citizenship Canada ('IRCC') at the Embassy of Canada, Visa Section, in Fakeville, Fakenation rejecting the Applicant's application for a temporary resident visa (hereinafter 'the Application').

The decision was made on September 14, 2019, and the Applicant was notified of the decision on September 15, 2019 via the IRCC online portal. The decision **did not** contain the written reasons of the tribunal.

The address of the decision-maker is:

Embassy of Canada
Visa Section
1234 Fake St
Fakeville, Fakenation
Fax: (123) 456-7890

No telephone number provided
Client ID ('UCI'): 12-3456-7890
Application number: V123456789

In the event leave is granted, the Applicant seeks the following relief by way of a judicial review:

1. A writ of certiorari quashing the decision of the Officer dated September 14, 2019 to reject the Application;
2. An Order referring this matter for reconsideration by another Officer; and
3. Such further and other relief as may be advised and this Honourable Court considers appropriate in the circumstances.

In the event that leave is granted, the application for judicial review is to be based on the following grounds:

1. That the Officer failed to observe a principle of natural justice, procedural fairness or other procedure that she/he is required by law to observe;
2. That the Officer acted without jurisdiction, acted beyond jurisdiction or refused to exercise her/his jurisdiction;
3. That the Officer's decision does not meet the reasonableness standard of review;
4. That the Officer based her/his decision on erroneous findings that were made in a perverse or capricious manner or without regard for the totality of the material before her/him;
5. That the Officer failed to consider the totality of the evidence before her/him;
6. That the Officer acted in any other way that is contrary to law; and
7. Such further grounds as may be advised and this Honourable Court may allow.

The Applicant **has not** received the written reasons from the tribunal.

In the event that leave is granted, the Applicant proposes that the application for judicial review be heard in Ottawa, in the English language.

The address in Canada where documents may be served on the Applicant is:

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123 Lawyer Ave, Suite 456
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DATED this 1st day of October, 2020.

Jane Counsel

JANE COUNSEL
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Solicitor for the Applicant

TO: Attorney General of Canada
Department of Justice Canada
Ontario Regional Office
120 Adelaide Street West
Suite 400
Toronto, ON. M5H 1T1
Fax: (416) 954-8982

Solicitor for the Respondent

Court File No. IMM-1-20

FEDERAL COURT

Between:

JANE APPLICANT

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**APPLICATION FOR LEAVE
and for JUDICIAL REVIEW**

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Solicitor for the Applicant



Government of Canada
Embassy of Canada

Gouvernement du Canada
Ambassade du Canada

The Registry
The Federal Court of Canada
Thomas D'Arcy McGee Building
90 Sparks Street, 5th Floor
Ottawa, Ontario K1A 0H9

[Redacted]

Dear Sir/Madam:

[Redacted]

This is in response to a request pursuant to Rule 9 of the Federal Courts Citizenship, Immigration and Refugee Protection Rules.

Please find enclosed a copy of the decision rendered in connection with the above-noted application. Please be advised that the enclosed notes in the Global Case Management System (GCMS) form part of the reasons for the decision.

I certify the enclosed copy of the decision and written reasons for decision as a correct copy of the original, pursuant to Rule 9(2)(a) of the Federal Courts Citizenship, Immigration and Refugee Protection Rules.

Should you have any questions concerning this, please contact litigation counsel for the Respondent at the Department of Justice.

Yours truly,

[Redacted signature]

[Redacted name]

CC: [Redacted] (for the Applicant)
Barrister & Solicitor

[Redacted contact information]

CC: [Redacted]

Department of Justice
Ontario regional Office
120 Adelaide Street West
Suite 400
Toronto, Ontario
M5H 1T1
Fax: (416) 954-8982

[Redacted footer]



Government of Canada / Gouvernement du Canada

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[Redacted]

UCI: [Redacted]

Application no.: [Redacted]



[Redacted]

Dear [Redacted]

Thank you for your interest in visiting Canada. After careful review of your temporary resident visa application and supporting documentation, I have determined that your application does not meet the requirements of the Immigration and Refugee Protection Act (IRPA) and Immigration and Refugee Protection Regulations (IRPR). I am refusing your application on the following grounds:

- I am not satisfied that you will leave Canada at the end of your stay as a temporary resident, as stipulated in paragraph 179(b) of the IRPR, based on your travel history.
- I am not satisfied that you will leave Canada at the end of your stay as a temporary resident, as stipulated in paragraph 179(b) of the IRPR, based on your family ties in Canada and in your country of residence.
- I am not satisfied that you will leave Canada at the end of your stay as a temporary resident, as stipulated in paragraph 179(b) of the IRPR, based on your personal assets and financial status.

You are welcome to reapply if you feel that you can respond to these concerns and can demonstrate that your situation meets the requirements. All new applications must be accompanied by a new processing fee.

Sincerely,
Embassy of Canada
Visa Section



Canada

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www.cic.gc.ca

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Canada

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Restricted Label

Text

Created By

Created Date

Office

I have reviewed the application. Taking the applicant's purpose of visit into account, the applicant does not appear to be sufficiently well established that the proposed visit would be a reasonable expense. Given family ties or economic motives to remain in Canada, the applicant's incentives to remain in Canada may General outweigh their ties to their home country. The applicant's prior travel history is insufficient to count as a positive factor in my assessment. Weighing the factors in this application, I am not satisfied that the applicant will depart Canada at the end of the period authorized for their stay. For the reasons above, I have refused this application.

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

FEDERAL COURT

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and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

AFFIDAVIT OF JANE APPLICANT

I, Jane Applicant, a Visa Applicant, of the City of Visa in the Country of IRCC, SWEAR THAT:

1. My name is Jane Applicant. I was born on January 1, 1981 in the City of Visa, in the Country of IRCC. My Immigration, Refugees and Citizenship Canada ('IRCC') client identification number ('UCI') is 12-3456-7890. I am citizen of IRCC and of no other country.
2. I am the Applicant in the herein Application for Leave and for Judicial Review. As such I have personal knowledge of the matters hereinafter deposed to. Where I do not have personal knowledge of a matter, I verily believe it to be true and have provided the source of my belief to the best of my abilities.
3. I am a professional Visa Applicant.
4. On August 23, 2019, I applied for a temporary resident visa (hereinafter 'the Application' or 'TRV'). The TRV application was based on my plan to visit my mother and father in Canada. I submitted my

application through the IRCC online portal. Please find attached and marked as **Exhibit "A"** a copy of the materials submitted in support of the Application.

- 5. My Application was refused on September 14, 2019. I received a notice of refusal through the IRCC online portal on September 15, 2019. I am seeking leave to judicially review this decision.

SWORN BEFORE ME at the City of)
 Visa in the Country of IRCC)
 this 15th day of April, 2020)

Joe Commissioner

Jane Applicant

COMMISSIONER FOR TAKING
 AFFIDAVITS etc.

JANE APPLICANT

Fictional

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AFFIDAVIT OF JANE APPLICANT

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Solicitor for the Applicant

Fictional

This is **Exhibit "A"** referred to in the
Affidavit of Jane Applicant
sworn before me this 15th day of April, 2020

Joe Commissioner

A COMMISSIONER OF OATHS etc.

COVER LETTER

APPLICATION FORMS

Fictional

SUPPORTING DOCUMENTS

FEDERAL COURT

Between:

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APPLICANT'S MEMORANDUM OF ARGUMENT

OVERVIEW

[1] This is an application for leave and for judicial review of a decision made on September 14, 2019 by an un-named Visa Officer ('the Officer' or 'the tribunal') with Immigration, Refugees and Citizenship Canada ('IRCC') at the Embassy of Canada, Visa Section, in Fakeville, Fakenation rejecting the Applicant's application for a temporary resident visa (hereinafter 'the TRV Application').

[2] **OVERVIEW**

PART I: THE FACTS

[3] The Applicant relies on the facts as set out in the Affidavit of Jane Applicant and the Exhibit thereto, enclosed at Tab 3(A) of the Applicant's Record ('AR'). The relevant facts are briefly summarized as follows.

I. Background to the TRV Application

[4] **FACTS**

II. The TRV Application

[5] The Applicant submitted an application for a temporary resident visa ('TRV') on August 23, 2019.¹

[6] **FACTS**

III. The Officer's Decision

[7] **FACTS**

PART II: POINTS IN ISSUE

[8] This application for leave raises the following issues:

- i. What is the standard of review;
- ii. Whether the Officer's decision was reasonable.

¹ AR, Tab 3A, p. 10 [Affidavit of Jane Applicant, para 4]; AR, Tab 3A, p. 14-16 [Forms and documents submitted in support of TRV application].

PART III: SUBMISSIONS

I. The Standard of Review

[9] The Applicant submits that the merits of the Officer's decision are reviewable on a standard of reasonableness.²

II. The Officer's Decision was Unreasonable

Overview

[10] **SUBMISSIONS**

The Officer Disregarded Evidence

The Officer Disregarded Evidence of Family Ties

[11] **SUBMISSIONS**

The Officer Disregarded Evidence of Travel History

[12] **SUBMISSIONS**

The Officer's Decision Lacks Transparency and Intelligibility

[13] **SUBMISSIONS**

The Officer's Reasoning on the "Reasonableness" of the Expense is Unintelligible

[14] **SUBMISSIONS**

² *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 (CanLII), <<http://canlii.ca/t/j46kb>>, retrieved on 2020-04-13 [<https://perma.cc/8VXW-9AYB>] [*Vavilov*].

PART IV: ORDER SOUGHT

[15] The Applicant seeks leave or judicial review, and if leave is granted, the following relief:

i. *FIRST GROUND OF RELIEF*

ii. *SECOND GROUND OF RELIEF*

PART V: LIST OF AUTHORITIES

- 1) *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 (CanLII), <<http://canlii.ca/t/j46kb>>, retrieved on 2020-04-13
[<https://perma.cc/8VXW-9AYB>]

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 17th day of April, 2020.

Jane Counsel

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ARGUMENT**

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