

CANADA / JUDGMENT

Akaya v. Canada (Citizenship and Immigration)

2026 FC 546

COURT

Federal Court

DECIDED

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Akaya v. Canada (Citizenship and Immigration) Court (s) Database Federal Court Decisions Date 2026-04-24 Neutral citation 2026 FC 546 File numbers IMM-18791-24 Decision Content Date: 20260424 Docket: IMM-18791-24 Citation: 2026 FC 546 Ottawa, Ontario, April 24, 2026 PRESENT: The Honourable Madam Justice Tsimberis BETWEEN: SANDRA IHUOMA AKAYA Applicant and MINISTER OF CITIZENSHIP AND IMMIGRATION Respondent JUDGMENT AND REASONS I. Overview [1] The Applicant, Sandra Ihuoma Akaya, is a twenty-nine (29) year-old Nigerian woman seeking to complete a program in pre-health sciences in Canada. Ms. Akaya is seeking judicial review of a September 23, 2024 decision [Decision] of an officer [Officer] of the Immigration, Refugees, and Citizenship Canada [IRCC] refusing her application for a study permit. The Officer was not satisfied Ms. Akaya will leave Canada at the end of the period authorized for her stay and return to her country of residence at the end of her studies in accordance with subsection 216(1) of the Immigration and Refugee Protection Regulations, SOR/2002-227 [IRPR], and that she had sufficient and available financial resources, without working in Canada, to pay the tuition fees for her program of studies and to pay for living expenses while in Canada.

- [2] Ms. Akaya submits that the Officer breached her right to procedural fairness by making veiled credibility findings against her without providing an opportunity to respond to the Officer's concerns. Ms. Akaya further submits the Officer misapprehended relevant evidence such that the Decision and reasons are not responsive to the evidence on record, rendering the Decision unreasonable.
- [3] The Minister of Citizenship and Immigration [Minister] submits the Officer did not make any veiled credibility findings and, as such, there is no breach of procedural fairness. The Minister further submits that the Decision is not unreasonable because the Officer explained clearly the reasoning behind his finding of insufficient evidence relating to the provenance of the funds. The Minister argues the Officer's chain of reasoning is not contested and reasonable.

- [4] For the reasons that follow, the application for judicial review is granted. II. Background [5] On July 19, 2024, Ms. Akaya applied for a study permit to pursue a college diploma in Pre-Health Sciences from Mohawk College in Hamilton, Ontario. In support of her application, Ms. Akaya provided documents from Mr. Chimezie Maclord Akaya, whom she indicated was her elder brother, detailing his undertaking to financially support her studies. Ms. Akaya also provided proof of the first semester tuition payment.
- [6] Mr. Chimezie Maclord Akaya, an Electronics Engineering Manager in Colorado, United States of America, provided the following: (i) a letter of sponsorship indicating he is “fully capable of supporting [Ms. Akaya’s] education and living expenses while she resides in Canada”; (ii) proof of employment (notably a letter from Lockheed Martin dated August 16, 2023 indicating Mr. Akaya has an unannualized base salary of \$185,000), (iii) proof of funds in a chequing account (a letter dated July 15, 2024 from Wells Fargo confirming he had a bank account balance of \$86,007.03); and (iv) proof of funds in an investment account from December 2023 showing an “Ending Value as of 12/31” of \$92,883.72. Additionally, Mr. Akaya provided proof of familial property ownership and proof of his business ownership in Nigeria. III. Decision Under Review [7] On September 23, 2024, the Officer refused Ms. Akaya’s visa application because they were not satisfied that she would leave Canada at the end of her stay as required by paragraph 216(1)(b) of the IRPR. The Officer indicated this determination was based on Ms. Akaya not having sufficient and available financial resources, without working in Canada, to pay the tuition fees for the course or program of studies and to maintain herself, as required under paragraphs 220(a) and (b) of the IRPR.
- [8] The Officer’s Global Case Management System [GCMS] notes indicate that the Officer took issue with Ms. Akaya’s financial documentation, casting doubt over the source and availability of the funds, as well as her relationship to the sponsor/brother. The relevant GCMS notes are reproduced below: I have reviewed the application. The applicant's assets and financial situation are insufficient to support the stated purpose of travel for the applicant (and any accompanying family member(s), if applicable). Financial documents provided belong to the sponsor/brother and indicate a closing balance of approximately \$92,000 USD. - Limited evidence pertaining to the source on stated funds: I note that the financial documents provided were not bank statements but rather stock portfolio. It is uncertain that the funds will remain at current value if needed access to them. - Family link could not be established between PA and sponsor/brother. Taking the applicant's plan of studies into account, the documentation provided in support of the applicant's financial situation does not demonstrate that funds would be sufficient or available. I am not satisfied that the applicant has sufficient and available financial resources to pay the tuition fees for the program of studies that they intend to pursue and to pay for living expenses while in Canada. For the reasons above, I have refused this application. IV. Analysis [9] Section 216 of the IRPR states that an officer shall issue a study permit to a foreign national if, following an examination, it is established that certain criteria are met, including that the foreign national will leave Canada by the end of the period authorized for their stay.

- [10] Ms. Akaya, who is seeking a student visa, bears the burden of providing the Officer with all relevant information to satisfy the Officer that she meets the statutory requirements of the Immigration and Refugee Protection Act, SC 2001, c 27 [IRPA] and the IRPR, which includes providing evidence establishing that she would leave Canada at the end of her authorized stay and that she has sufficient and available financial resources: *Akomolafe v Canada* (Citizenship and Immigration), 2016 FC 472 [Akomolafe] at para 16. A. Was Ms. Akaya Denied Procedural Fairness by any Veiled Credibility Findings? [11] In assessing this ground for judicial review, strictly speaking, no standard of review is implicated. The question I must answer is whether Ms. Akaya knew the case she had to meet, was given a right to be heard and had a full and fair chance to do so: *Canadian Pacific Railway Co v Canada* (Attorney General), 2018 FCA 69 at para 56.
- [12] As I will explain, I agree with Ms. Akaya that the Decision was made in breach of the requirements of procedural fairness because the Officer made an adverse credibility finding without first alerting Ms. Akaya to the Officer's concerns and giving her an opportunity to respond.
- (1) The Officer's finding that Ms. Akaya did not have the required financial resources available is not a veiled credibility finding [13] Ms. Akaya argues she was denied procedural fairness because the Officer made two veiled credibility findings without giving her a chance to respond to the concerns. Specifically, Ms. Akaya argues the Officer's skepticism regarding the source of the funds and the familial link to her brother amount to veiled credibility findings.
- [14] Regarding the Officer's concerns about the source of the funds, Ms. Akaya submits the Officer's statement that there is "limited evidence regarding the source of the funds" implies that the funds may have been misappropriated for the study permit application. Ms. Akaya argues that, similarly to *Jahanian v Canada* (Citizenship and Immigration), 2024 FC 581 [Jahanian], the language used by the Officer has "pejorative connotation" and is clearly an adverse credibility finding.
- [15] In the circumstances of that case, Justice Norris noted that there was nothing on the face of the documents that gave rise to any concerns, and therefore, the officer must have doubted the veracity of the applicants' representation that the documents were accurate and reflected the funds available to them: *Jahanian* at para 12.
- [16] I agree with the Minister who submits that Ms. Akaya's reliance on *Jahanian* is misplaced. In *Jahanian*, Justice Norris found that the officer expressed thinly veiled doubts about the veracity of the applicant's representations noting specifically that the officer described the documents as being "for demonstration purposes only", which necessarily carries a pejorative connotation, that was further reinforced by the officer's other statement that the documentation provided by the applicants is not reflective of their "legitimate financial resources": *Jahanian* at para 10. In this case, the Officer highlighted a lack of evidence regarding the source of funds, noting that the letter from Wells Fargo only discloses a

closing balance at one point in time, while the pay stubs only covered about a month's worth of the sponsor's earnings.

- [17] On this point, I disagree with Ms. Akaya that the Officer's statement that there is "limited evidence regarding the source of the funds" implies that the funds may have been misappropriated for the study permit application. In my view, the reasons of the Officer do not imply that they did not believe Ms. Akaya's true financial position, as was the case in Jahanian.
- (2) The Officer's finding that familial link cannot be established is a veiled credibility finding [18] Ms. Akaya submits that the Officer also made an adverse credibility finding in concluding that a "family link could not be established" between Ms. Akaya and the sponsor/brother Mr. Chimezie Maclord Akaya. Ms. Akaya explains her student visa application clearly lists Mr. Chimezie Maclord Akaya as being her brother and was accompanied with family pictures depicting them together in addition to both their signed letters confirming their sibling relationship. Ms. Akaya submits that the Officer's rejection of her statement that Mr. Chimezie Maclord Akaya is her brother is a clear indication that the Officer doubted the truth of Ms. Akaya's Family Information Form and was required to put this concern to Ms. Akaya and give her an opportunity to respond to this concern.
- [19] The Minister submits that the family photos provided by Ms. Akaya that showed Mr. Chimezie Maclord Akaya do not prove a blood relationship and identifying someone in a Family Information section of the application does not suffice to put their blood relationship beyond question. The Minister argues that this cannot be equated to the sort of unquestionable evidence cited in Jahanian.
- [20] I disagree with the Minister.
- [21] I acknowledge that the line between an insufficiency of evidence and a veiled credibility finding may be difficult to draw and that negative bona fide findings can sometimes amount to veiled credibility findings reflecting concerns about the genuineness of an application: *Chera v Canada (Citizenship and Immigration)*, 2023 FC 733 at para 21, citing *Abbas v Canada (Citizenship and Immigration)*, 2022 FC 378 at para 25.
- [22] Notwithstanding the low level of procedural fairness owed to applicants in the context of a study permit application, the Officer was nonetheless required to provide Ms. Akaya with an opportunity to respond to the Officer's concern as to the authenticity of the documents and information submitted in her study visa application concerning the family link between her and Mr. Chimezie Maclord Akaya: *Hassani v Canada (Minister of Citizenship and Immigration) (FC)*, 2006 FC 1283 at para 24; *Al Aridi v Canada (Citizenship and Immigration)*, 2019 FC 381 at para 20.
- [23] I also disagree with the Minister who submits that attempting to impugn the sibling relationship finding does little to establish an untenable decision under the framework in *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 because the issue

of sufficient funds is determinative by itself. The Minister advances no case law to support this proposition, but relies on Rule 220 of the IRPR, which states that an officer shall not issue a study permit unless the foreign national has sufficient and available financial resources to pay their tuition fees and support themselves in Canada.

- [24] In this case, the breach of procedural fairness relates to the Officer's finding that the "family link could not be established between PA and sponsor/brother." This finding is critical to the proof of funds analysis, as there is a link between the sibling relationship and the evidence put forth to prove Ms. Akaya has the funds necessary. In my view, this makes the above-mentioned procedural fairness error fatal in this case because Mr. Chimezie Maclord Akaya's relationship is very closely tied to Ms. Akaya's proof of funds for her student permit application as her brother is her only source of funds. For this reason, I am of the view that the breach of procedural fairness, which relates to a central element of her application, is sufficiently material to require that the matter be reconsidered.
- [25] For these reasons, I will not address Ms. Ekaya's submissions and challenges to the reasonableness of the Officer's determinations, nor the Minister's submissions in that regard. V. Conclusion [26] For these reasons, the Court grants the application for judicial review. Neither party proposed a serious question of general importance for certification under paragraph 74(d) of the IRPA. I agree that no question arises. JUDGMENT in IMM_18791-24 THIS COURT'S JUDGMENT is that: The application for judicial review is allowed. The decision of the IRCC officer dated September 23, 2024, is set aside and the matter is remitted for redetermination by a different decision maker. No question of general importance is certified. "Ekaterina Tsimberis" Judge FEDERAL COURT SOLICITORS OF RECORD DOCKET: IMM-18791-24 STYLE OF CAUSE: SANDRA IHUOMA AKAYA v MINISTER OF CITIZENSHIP AND IMMIGRATION PLACE OF HEARING: Toronto, Ontario DATE OF HEARING: November 19, 2025 JUDGMENT AND reasons: TSIMBERIS J. DATED: april 24, 2026 APPEARANCES: Ali Esnaashari For The Applicant Stephen Jarvis For The Respondent SOLICITORS OF RECORD: Ali Esnaashari TORONTO, ONTARIO For The Applicant ATTORNEY GENERAL OF CANADA TORONTO, ONTARIO For The Respondent

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