

Federal Court



Cour fédérale

Date: 20250401

Docket: IMM-14274-23

Citation: 2025 FC 603

Ottawa, Ontario, April 1, 2025

PRESENT: The Honourable Madam Justice Heneghan

BETWEEN:

CHUNHUA ZHAO

Applicant

and

**THE MINISTER OF CITIZENSHIP
AND IMMIGRATION**

Respondent

REASONS AND JUDGMENT

[1] Ms. Chunhua Zhao (the “Applicant”) seeks judicial review of the decision of an officer (the “Officer”), refusing her application for permanent residence as a member of the “spouse or common-law partner in Canada” class, as defined by the *Immigration and Refugee Protection Regulations*, SOR/2002-227 (the “Regulations”).

[2] The Applicant is a citizen of China. Her sponsor is a permanent resident of Canada who obtained that status in 2018. The Applicant applied for permanent residence in September 2021. In September 2023, Immigration, Refugees and Citizenship Canada (“IRCC”) requested more documentary information.

[3] The Applicant and her sponsor were interviewed at the same time by different officers.

[4] The interviews took place on October 13, 2023.

[5] On November 1, 2023, the Officer, identified as “CC28461”, refused the application on the grounds of dissatisfaction that the relationship was genuine or had not been entered into primarily for the purpose of acquiring permanent residence in Canada.

[6] The Applicant now argues that she suffered a breach of natural justice because the decision was made by someone who had not heard the interviews, thereby breaching the principle that “he who hears must decide”. She relies upon the decision in *Canadian Association of Refugee Lawyers v Canada (Minister of Citizenship and Immigration)*, 2019 FC 1126. She also submits that the Officer committed a breach of procedural fairness by not raising concerns about the credibility of her answers, in particular about the number of times she had travelled from Canada, her country of residence, to China, her country of nationality, in the preceding 10 years.

[7] Finally, the Applicant argues that the decision is unreasonable and made without regard to the evidence.

[8] The Minister of Citizenship and Immigration (the “Respondent”) submits that there was no breach of natural justice and that the Applicant’s reliance on the decision in *Canadian Association of Refugee Lawyers, supra* is misplaced.

[9] Otherwise, the Respondent argues that there was no breach of procedural fairness arising from the Officer’s failure to raise credibility concerns with the Applicant. Finally, she submits that the decision is reasonable.

[10] Any issue of a breach of natural justice or a breach of procedural fairness is reviewable on the standard of correctness; see the decision in *Canada (Citizenship and Immigration) v Khosa*, [2009] 1 S.C.R. 339.

[11] Pursuant to the decision of the Supreme Court of Canada in *Canada (Minister of Citizenship and Immigration) v Vavilov*, [2019] 4 S.C.R. 653, the merits of the decision are reviewable on the standard of reasonableness.

[12] In considering reasonableness, the Court is to ask if the decision under review “bears the hallmarks of reasonableness – justification, transparency and intelligibility – and whether it is justified in relation to the relevant factual and legal constraints that bear on the decision”; see *Vavilov, supra*, at paragraph 99.

[13] I agree with the position of the Respondent in respect of the alleged breach of natural justice, allegedly resulting from the fact that the Officer reviewed the notes of both interviews.

[14] In the context of an application for permanent residence as a spouse or common-law partner, it is reasonable that the Officer would compare the answers given in the interviews by both the Applicant and the sponsor.

[15] I agree with the Respondent that the context in *Canadian Association of Refugee Lawyers, supra* is distinguishable. In that case, this Court was concerned with the improper influence of jurisprudential guides upon independent decision making.

[16] I see no breach of procedural fairness arising from the fact that the Officer who interviewed the Applicant did not advise her of concerns about her credibility. The Applicant was expected to give truthful and complete answers about her travels. It was open to the Officer to reject the Applicant's explanation as to why she did not do so.

[17] Finally, there is the issue of the reasonableness of the decision, within the scope of *Vavilov, supra*.

[18] The Officer was mandated to assess the evidence against the statutory criteria. The Officer did so and gave reasons for the decision. In my opinion, the reasons respond to the evidence. The reasons of the Officer are "transparent, intelligible and justified".

[19] In the result, the application for judicial review will be dismissed. There is no question proposed for certification.

JUDGMENT IN IMM-14274-23

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

There is no question proposed for certification.

"E. Heneghan"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-14274-23

STYLE OF CAUSE: CHUNHUA ZHAO v. MCI

PLACE OF HEARING: VANCOUVER, BRITISH COLUMBIA

DATE OF HEARING: NOVEMBER 27, 2024

REASONS AND JUDGMENT: HENEGHAN J.

DATED: APRIL 1, 2025

APPEARANCES:

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Richard Li	FOR THE RESPONDENT

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