

Federal Court



Cour fédérale

Date: 20250414

Docket: IMM-5200-24

Citation: 2025 FC 685

Ottawa, Ontario, April 14, 2025

PRESENT: The Honourable Madam Justice Aylen

BETWEEN:

DOREEN ELIZABETH JOHNSON

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

[1] The Applicant, a 79-year-old Canadian citizen, applied to sponsor her spouse, a 29-year-old citizen of Nigeria [Spouse], for permanent residence under the spouse or common-law partner in Canada class. In a decision dated March 4, 2024 (and amended on March 28, 2024), the Immigration Appeal Division [IAD] found, on a balance of probabilities, that the marriage was entered into primarily for the purpose of acquiring a status or privilege under the *Immigration and*

Refugee Protection Act, S.C. 2001, c. 27 [IRPA] and refused the spousal sponsorship application pursuant to subsection 4(1) of the *Immigration and Refugee Protection Regulations*, SOR/2002-227 [IRPR]. The Applicant seeks judicial review of the IAD's decision.

[2] For the reasons that follow, I am not satisfied that the Applicant has established any basis for the Court's intervention. Accordingly, the application for judicial review shall be dismissed.

I. Background

[3] In late 2018, the Applicant and her Spouse started communicating on Instagram after the Spouse made a comment on the Applicant's Instagram feed. The couple first met in person on December 20, 2019, and got married on January 2, 2020. They have lived together in Canada since February 2023, with the exception of two short trips the Spouse took outside of Canada.

[4] In October 2021, the Applicant applied to sponsor the Spouse to join her in Canada. In June 2023, following an interview with the Spouse, a visa officer notified the Applicant that her application for spousal sponsorship was refused on the basis of a finding that the couple's marriage was not genuine and was entered into primarily for an immigration-related purpose, as per subsection 4(1) of the *IRPR*.

[5] The Applicant appealed the refusal of her sponsorship application to the IAD.

II. Decision under Review

[6] Following a hearing, the IAD found that, on a balance of probabilities, the Applicant's marriage to the Spouse was entered into primarily for the purpose of acquiring a status or privilege under the *IRPA*. In reaching its conclusion, the IAD considered the Applicant's detailed testimony as to why she proposed marriage, the Spouse's knowledge gap at the interview, the Applicant's "wait-and-see approach" to sharing information with the Spouse, and other inconsistencies in the evidence.

[7] The IAD noted that in order to determine whether the relationship was entered into for the purpose of acquiring any status under the *IRPA*, the focus was on the intention of one or both individuals at the time of entering into the marriage. The IAD indicated that the marriage will be caught by this prong of the subsection 4(1) test if, for at least one of the spouses, the primary purpose of entering into the marriage is to gain an immigration advantage. This primary purpose is assessed at the time of the marriage and the immigration purpose must be the primary purpose.

[8] The IAD determined that the Applicant was motivated to bring the Spouse to Canada to alleviate his financial struggles and be a companion to her. The IAD noted that she testified about asking a few people to come live with her, but that they all turned her down. She arranged for his arrival after thinking: "Why don't I ask [the Spouse] if he wants to come here? I want him here. I would love to have him here in my house and continue on this relationship that we have that was so good". Initially, she started looking into how the Spouse could come to Canada and be "sponsored even without marriage" and found that he had to meet a certain financial threshold

which was beyond his circumstances. When she realized that he would not be able to meet the financial threshold, she described trying to find him a job in the United Arab Emirates [UAE] via a work agent in June 2019.

[9] The IAD noted that it was following the Spouse's failed plans to secure employment in the UAE that the Applicant decided that they should just get married, stating, "...this is just stupid. I said why don't we just get married...we love each other. Well, we'll just get married and maybe we will try that way" [Emphasis added]. It was shortly thereafter that she started to make travel arrangements to travel to Dubai and Nigeria to meet the Spouse in-person for the first time, and to get married.

[10] The IAD took into account the Applicant's response to her counsel's question about whether her reason for having the Spouse come to Canada was to marry him, or because she was lonely and wanted someone to be with her, to which she answered "both".

[11] The IAD noted that during the interview in June 2023, the Spouse was unable to demonstrate knowledge of basic aspects of the Applicant's life despite having been married for over three years. He did not know why the Applicant took her medications, was not sure how many children, grandchildren, or great-grandchildren she had, and did not know whether she had a will, among other things. The IAD found that the apparent lack of discussion between the couple in the three-year timeframe about the Applicant's personal history and basic concerns did not align with a finding that the marriage was entered into for a legitimate spousal purpose.

[12] The IAD further noted that, contrastingly, at the hearing in February 2024, the Spouse was more aware of the Applicant's affairs and was able to provide detailed and accurate information on some of the topics he had missed at the interview. The Applicant and the Spouse gave explanations as to why the Spouse was more knowledgeable at the hearing than at the interview. The IAD found that the explanations at times reconciled the Spouse's prior inconsistent statements but did not explain the couple's lack of sharing before the interview. The IAD found that the knowledge gaps at the time of the interview supported a finding of an immigration purpose to the marriage.

[13] The IAD noted that, as recently as at the hearing, the Spouse seemed disinterested in the Applicant's health. The IAD found this disinterest about something so significant and germane to not suggest a legitimate spousal purpose to the marriage.

[14] The IAD described the Applicant's wait-and-see approach to sharing more deeply in the marriage as another indication of a primary immigration purpose to the marriage. For example, the Applicant had not told certain of her family members of the marriage, and she had not shown the Spouse "a bunch of family pictures". When asked why she was withholding such information, she said that the Spouse's "...PR thing is at the top of the list". The Applicant did provide an explanation to the IAD for her wait-and-see approach, which the IAD rejected given that the Applicant had shared information about some family members and had shared painful information with her Spouse about her past.

[15] The IAD noted inconsistencies in their evidence versus the documentation (such as who proposed marriage, who first said “I love you” and how the relationship developed), which also did not support a legitimate spousal relationship.

[16] The IAD concluded that the following collectively supported its finding of a primary immigration purpose to the marriage:

- The Applicant’s testimony regarding her motivations to marry the Spouse, which set out a primary immigration purpose to their marriage;
- The Spouse’s limited knowledge of the Applicant’s circumstances at the time of the interview;
- The Applicant’s hesitation to share in-depth information about some of her personal circumstances with the Spouse; and
- Inconsistent testimony in areas that remained unresolved at the hearing’s close.

[17] The IAD then considered the positive evidence that typically goes to genuineness, including but not limited to ongoing contact, a degree of comingling of funds, knowledge of each other, and general extended family support, all considerations present to some degree in this case. However, the IAD found that the positive evidence did not overcome the significant concerns with respect to the primary purpose component of section 4(1).

[18] The IAD concluded that, on a balance of probabilities, the primary purpose of their marriage was an immigration purpose. A legal marriage was not borne from love, but rather was an option only exercised when other options failed.

III. Analysis

[19] The sole issue for determination is whether the IAD's decision was reasonable.

[20] The parties agree and I concur that the applicable standard of review is reasonableness. When reviewing for reasonableness, the Court must take a "reasons first" approach and determine whether the decision under review, including both its rationale and outcome, is transparent, intelligible and justified [see *Mason v Canada (Citizenship and Immigration)*, 2023 SCC 21 at para 8]. A reasonable decision is one that is based on an internally coherent and rational chain of analysis and that is justified in relation to the facts and law that constrain the decision-maker [see *Canada (Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at paras 15, 85]. The Court will intervene only if it is satisfied there are sufficiently serious shortcomings in the decision such that it cannot be said to exhibit the requisite degree of justification, intelligibility and transparency [see *Adeniji-Adele v Canada (Citizenship and Immigration)*, 2020 FC 418 at para 11].

[21] Subsection 4(1) of the *IRPR* creates a two-pronged test to determine whether a relationship is a spousal relationship for the purposes of sponsorship. An applicant bears the onus of proving: (i) that their relationship is genuine; and (ii) that it was not entered into primarily for the purpose of acquiring any status or privilege under the *IRPA* [see *Kaur v Canada (Citizenship and Immigration)*, 2010 FC 417 at para 15]. If either of the conditions set out in paragraphs 4(1)(a) or (b) of the *IRPR* is not met, a marriage will be disqualified [see *Chakhnashvili v. Canada (Citizenship and Immigration)*, 2024 FC 5 at para 19].

[22] Importantly, a marriage entered into for the purpose of acquiring a status or privilege will be flawed even if it subsequently becomes genuine. As well, a marriage that is validly entered into can become flawed for immigration purposes if it loses its genuineness [see *Canada (Citizenship and Immigration) v. Moise*, 2017 FC 1004 at para 15].

[23] This Court has recognized that the two considerations– the genuineness of the marriage and the primary motivation for it – are related. This means that the stronger the evidence regarding the genuineness of the marriage, the less likely it is that it was entered into primarily to obtain an immigration advantage. Conversely, the more compelling the proof that the couple was seeking immigration status, the more likely it will be that the marriage was not genuine [see *Gill v Canada (Citizenship and Immigration)*, 2014 FC 902 at para 15].

[24] The Applicant asserts that the IAD made a number of errors that render its decision unreasonable, which I will address in turn.

[25] The Applicant asserts that the IAD's reasons improperly imply that an intention to marry an individual with the purpose of bringing them to Canada, in and of itself, supports a finding under paragraph 4(1)(a) that the marriage was entered into primarily for an immigration purpose. The Applicant asserts that a primary purpose of marriage requires more than evidence that residence or citizenship was of interest or a consideration in the decision to marry; it must be that the real reason for the marriage was to facilitate immigration. However, contrary to the Applicant's assertion, the IAD did not base its finding that the marriage was entered into primarily for an immigration purpose solely on the Applicant's testimony that she sought to bring her Spouse to

Canada through marriage. As outlined above, it was but one of many aspects of the evidence that the IAD considered.

[26] The Applicant asserts that the IAD ignored evidence in finding that she sought to bring her Spouse to Canada as a companion and that their relationship was not borne of love. She asserts that the IAD selectively considered the evidence before it and failed to take into account their testimony in respect to how they were drawn to one another, why they chose to continue communicating with one another, how their feelings developed for one another over the course of their relationship and why they felt that marriage was an appropriate evolution of their relationship. At paragraph 35 of her written submissions, the Applicant detailed various aspects of her testimony that she states demonstrate that she is in a committed bona fide marriage with her Spouse and not a “companionship”.

[27] A decision-maker is presumed to have weighed and considered all of the evidence presented to it. A failure to mention a particular piece of evidence does not mean that it was ignored. It is only when a decision-maker is silent on evidence clearly pointing to an opposite conclusion that the Court may intervene and infer that the decision-maker overlooked the contradictory evidence when making its finding [see *Cepeda-Gutierrez v Canada (Minister of Citizenship and Immigration)*, [1998] FCJ No 1425 at paras 16-17]. I agree with the Respondent that this is not the case here. Much of the evidence that the Applicant asserts was ignored was, in fact, referenced in the IAD’s decision, such as the genesis of their relationship, how the subject of marriage came up, that she loves the Spouse, their travels to Dubai and Nigeria, and the information she shared about her family and about her ex-partners. Moreover, I do not find that

the evidence pointed to by the Applicant squarely contradicts the IAD's finding that the Applicant's motivation for marrying her Spouse was for an immigration purpose.

[28] The Applicant asserts that the IAD's finding that she relied on her Spouse to provide her companionship is not supported by the record. However, the IAD made no such finding. Rather, the IAD found that companionship was part of the Applicant's motivation in bringing her Spouse to Canada, which was a finding well-supported by the evidence.

[29] The Applicant asserts that the IAD improperly focused on minutiae and marginalities when finding that the Applicant adopted a wait-and-see approach to sharing information. The Applicant contends that this finding hinged on her failure to share family photos and address history, but there was evidence before the IAD to show that the Applicant had shared painful information with her Spouse which ought to weigh more. Further, she asserts that the IAD erred in taking issue with the fact that the Applicant had not shared her marriage with other family members, as she does not have a positive relationship with these family members and thus it was reasonable for her not to share her marriage with them. These arguments essentially ask the Court to find that the IAD's weighing of the evidence was flawed and that other evidence should have been given greater weight or the evidence at issue less or no weight. However, it is not the role of this Court to reweigh the evidence to reach an outcome more favourable to the Applicant. I find that it was reasonably open to the IAD to consider and weigh the evidence noted above as it did.

[30] Moreover, the IAD's paragraph 4(1)(a) finding did not "hinge" on the Applicant's failure to share family photos and address history. It was but one of many considerations that the IAD took into account in making its finding.

[31] The Applicant asserts that the IAD erred by giving undue weight to the Spouse's statement at the interview and failed to take into account his testimony at the hearing. She argues that there are many reasonable reasons for why she had not shared certain information with the Spouse prior to the interview. While such reasons may exist, I find that they do not render unreasonable the IAD's weighing of the Spouse's testimony at the interview versus at the hearing. Moreover, contrary to the assertion of the Applicant, the reasons for decision clearly demonstrate that the IAD did not ignore the testimony given by the Spouse at the hearing.

[32] Finally, the Applicant asserts that the IAD inaccurately framed the Spouse's concern about the Applicant's ongoing medical needs. While the Applicant may take issue with the finding made by the IAD from the Spouse's statements at the interview and at the hearing, the IAD's summary of the Spouse's evidence was accurate and I find that it was reasonably open to the IAD to find as it did.

[33] As the Applicant has failed to demonstrate that the IAD's decision was unreasonable, the application for judicial review shall be dismissed.

[34] No question for certification was raised and I agree that none arises.

JUDGMENT in IMM-5200-24

THIS COURT’S JUDGMENT is that:

1. The application for judicial review is dismissed.
2. The parties proposed no question for certification and none arises.

“Mandy Aylen”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-5200-24

STYLE OF CAUSE: DOREEN ELIZABETH JOHNSON V THE MINISTER
OF CITIZENSHIP AND IMMIGRATION

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