

Federal Court



Cour fédérale

Date: 20250715

Docket: IMM-6905-24

Citation: 2025 FC 1253

Montréal, Québec, July 15, 2025

PRESENT: Mr. Justice Diner

BETWEEN:

WENHUI LIU

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION CANADA**

Respondent

JUDGMENT AND REASONS

[1] The Applicant, Mr. Wenhui Liu, seeks judicial review of a decision made by an officer [Officer] of Immigration, Refugees and Citizenship Canada [IRCC] refusing his application for permanent residence [Application] and declaring him inadmissible to Canada pursuant to paragraph 40(1)(a) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [IRPA] for making a material misrepresentation and providing a fraudulent document in support of his Application. For the reasons that follow, his application is dismissed.

I. Background

[2] Mr. Liu is a citizen of China. He applied for permanent residence [PR] under the Ontario Immigrant Nominee Program. As part of his Application, he included his accompanying spouse and two accompanying dependent children. The documentation submitted along with the Application included a marriage certificate.

[3] IRCC sent several communications to Mr. Liu between August 2022 and June 2023, requesting additional information. Each of these letters indicated that IRCC must be informed immediately of any changes in the applicant's situation, including "[m]arriage or common-law union, divorce, annulment, legal separation."

[4] On November 16, 2023, IRCC sent a procedural fairness letter [PFL] to Mr. Liu, indicating concerns with the authenticity of the submitted marriage certificate, indicating as follows:

I have reviewed your application and documents you submitted in its support. I have concerns regarding the authenticity of your submitted marriage certificate. In your application, you submitted a marriage certificate that was found to be fraudulent on your spouse's refused work permit application (W305970984) with final decision on October 28, 2022. Your spouse is currently inadmissible to Canada for 5 years from the final decision on their Work Permit application due to the misrepresentation finding on their work permit application.

You have provided the same document as part of your application for permanent residence; and therefore I have concerns that you may also be found inadmissible for misrepresentation. In addition to this, you have indicated on correspondence dated March 2 2024 that you and your accompanying spouse Pham, Thi Van Anh have been divorced since October 13, 2022. To date, we have not received any additional documents regarding your divorce from

your spouse so I also have concerns regarding your divorce from your spouse.

Please provide your divorce certificate, if available; or divorce proceeding documents if your divorce is still pending. Please provide custody documents in regards to your accompanying dependent children: Hoang, Thi Thu Anh, and Hoang, Tung Anh.

[5] On March 2, 2024, as a response to the November 2023 PFL, Mr. Liu provided a divorce judgment dated October 13, 2022 but did not provide any explanation for the fraudulent marriage certificate.

[6] In the Global Case Management System [GCMS] notes, which form part of the Decision, the Officer ultimately notes having received confirmation that the marriage certificate was determined to be fraudulent by the responsible Vietnamese government authority, that the concerns were raised to Mr. Liu via a PFL and that in response to the PFL, Mr. Liu provided a divorce judgment but no letter of explanation as to why he submitted a fraudulent marriage certificate. The Officer further indicates:

As [Mr. Liu] has not provided any explanation as to why he provided a fraudulent marriage certificate, he has failed to allay my concerns that he has misrepresented his marital status. This misrepresentation of his marital status could have induced an error in the administration of the Immigration and Refugee Protection Act and Regulations, as Thi Van Anh Pham and her children could have obtained permanent resident status in Canada as dependents on Mr. Liu's application in error.

As a result, the Officer found Mr. Liu inadmissible pursuant to paragraph 40(1)(a) of the IRPA, for misrepresentation.

[7] Mr. Liu contends that he was taken advantage of by an uncertified immigration consultant operating in China, and therefore, that his Application should be reconsidered and he should have an opportunity to correct any defect. Mr. Liu further argues that the Officer should have included the reasons why they had concerns regarding the authenticity of the marriage certificate in the PFL to allow him to properly alleviate their concerns. Mr. Liu acknowledges that the jurisprudence from this Court is not in his favor, but he asks that I revisit such jurisprudence.

[8] The Respondent counters that the misrepresentation finding is reasonable as the fraudulent nature of the marriage certificate has not been contested at any stage of this proceeding, and that the finding is consistent with the applicable provisions of the IRPA and the *Immigration and Refugee Protection Regulations*, SOR/2002-227, as well as the jurisprudence from this Court (citing *Khan v Canada (Citizenship and Immigration)*, 2019 FC 105 at paras 29-30). The Respondent further counters that the Decision is reasonable notwithstanding the allegations of a third party, namely, an uncertified immigration consultant, being involved in the Application. The Respondent submits that applicants have an obligation to verify the information provided in their application to ensure accuracy.

II. Analysis

[9] I agree with the Respondent. First, it is not contested that Mr. Liu provided a fraudulent marriage certificate with his Application and provided no explanation when the concern was made known through a PFL. This Court has consistently held that an applicant is inadmissible under paragraph 40(1)(a) of the IRPA if there is a misrepresentation by the applicant, and the

misrepresentation is material in that it could have induced an error in the administration of IRPA (see, for instance, *Del Pilar Capetillo Mendez v Canada (Citizenship and Immigration)*, 2022 FC 559 at para 19 [*Mendez*]; *Malik v Canada (Citizenship and Immigration)*, 2021 FC 1004 at para 11; *Bellido v Canada (Minister of Citizenship and Immigration)*, 2005 FC 452 at para 27).

[10] Second, there is no requirement that the misrepresentation be intentional, deliberate or negligent, neither within section 40 of the IRPA or the jurisprudence on the matter (*Mendez* at para 20; *Bains v Canada (Citizenship and Immigration)*, 2020 FC 57 at para 63).

[11] Third, the misrepresentation contemplated by the IRPA includes misrepresentations made by a third party as inadmissibility can result from “directly or indirectly misrepresenting or withholding material facts” [my emphasis], even where an applicant is unaware of them (see for instance *Zolfagharian v Canada (Citizenship and Immigration)*, 2021 FC 1455 at paras 20–21; and *Kaur v Canada (Citizenship and Immigration)*, 2023 FC 1454 at para 24).

[12] In this case, it is not contested that the marriage certificate was fraudulent and that it could have induced an error in the administration of the IRPA, namely that Mr. Liu’s ex-wife and children could have obtained status in Canada based on the fraudulent certificate. Mr. Liu argues that he was the victim of an immigration consultant, but adduced no evidence of a third party being involved in his Application process. Either way, this Court has consistently found, as indicated above, that an applicant commits a misrepresentation even when they are made by third parties, including immigration consultants (see, for instance, *Kaur v Canada (Public Safety and*

Emergency Preparedness), 2023 FC 87 at paras 34-37; *Ali v Canada (Citizenship and Immigration)*, 2022 FC 1638 at para 37-38; *Haghighat v Canada (Citizenship and Immigration)*, 2021 FC 598 at para 25).

[13] Last but not least, the duty of fairness owed by visa officers in the context of permanent residence applications is at the low end of the spectrum (see, for instance, *Khan v Canada (Citizenship and Immigration)*, 2001 FCA 345 (CanLII) at para 31; *Mahmoudzadeh v Canada (Citizenship and Immigration)*, 2022 FC 453 at para 14). I acknowledge this duty is however heightened when the decision includes a finding of misrepresentation, given the serious consequences to the applicant (*Chahal v Canada (Citizenship and Immigration)*, 2022 FC 725 at para 21 [*Chahal*]). That duty implies that the visa officer must inform the applicant of the concerns that arise and must provide the applicant with a meaningful opportunity to respond, which is usually done by a PFL (*Chahal* at para 22).

[14] In this case, not only did the Officer send the November 16 PFL letter to Mr. Liu, laying out the concern regarding the marriage certificate as well as his spouse's refused work permit application based on the fraudulent document, therefore complying with the duty of procedural fairness, but also confirmed with the responsible authority that it had been deemed fraudulent.

[15] In response to the PFL, Mr. Liu offered no explanation for the fraudulent document and instead provided divorce documents. The onus was on Mr. Liu to put his best foot forward and to ensure the accuracy and genuine nature of the documents provided in support of his Application. The Decision provides sufficient justification as to why the marriage certificate was determined

to be fraudulent and Mr. Liu has not convinced me that there was a breach of procedural fairness in this case.

III. Determination in Writing

[16] Finally, I add that the parties requested to have the matter decided in writing, on the basis of the record and written submissions. I learned of the request on consent just prior to the hearing, and accepted the request. For future reference, I point the attention of parties wishing to make such requests to paragraphs 65-70 of the recently-published *Amended Consolidated Practice Guidelines for Citizenship, Immigration, and Refugee Protection Proceedings*, updated on June 20, 2025. As noted at paragraph 66, the Court now encourages such consents for written determinations in an effort to streamline the processing of applications and reduce the time and resources required for resolution, without the need for an oral hearing.

JUDGMENT in IMM-6905-24

THIS COURT’S JUDGMENT is that:

1. This application for judicial review is dismissed.
2. The parties proposed no question for certification and the Court agrees that none arise.
3. No costs will issue.

“Alan S. Diner”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-6905-24

STYLE OF CAUSE: WENHUI LIU v MCI

**MATTER CONSIDERED IN WRITING WITHOUT THE PERSONAL APPEARANCE
OF THE PARTIES**

JUDGMENT AND REASONS: DINER J.

DATED: JULY 15, 2025

WRITTEN REPRESENTATIONS BY:

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FOR THE APPLICANT

Jeanne Robert

FOR THE RESPONDENT

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