Federal Court Cour fédérale

Date: 20260227

Docket: IMM-4532-25

Citation: 2026 FC 278

Ottawa, Ontario, February 27, 2026

PRESENT: The Honourable Madam Justice Heneghan

BETWEEN:

GUOZHONG WENG

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

REASONS AND JUDGMENT

[1] Mr. Guozhong Weng (the "Applicant") seeks judicial review of the decision of the Immigration and Refugee Board, Immigration Appeal Division (the "IAD"). In that decision, the IAD dismissed an appeal from the decision of an officer, refusing the Applicant's spousal sponsorship application for permanent residence on behalf of his wife, Ms. Fengxia Yin.

[2] The officer refused the application in August 2023 on the grounds that Ms. Yin did not meet the definition of a “spouse”, within the meaning of section 4.1 of *the Immigration and Refugee Protection Regulations*, SOR/2002-227 (the “Regulations”).

[3] The IAD held a hearing and heard evidence from the Applicant, his mother and Ms. Yin. It found the evidence to be unreliable and it found that a conjugal relationship had existed between the Applicant and Ms. Yin, prior to his departure from China.

[4] The Applicant is a citizen of China. He obtained permanent residence in Canada in 2013, as a dependant child of his parents.

[5] The Applicant had been romantically involved with Ms. Yin prior to coming to Canada. She became pregnant with their child in 2011.

[6] A daughter was born in 2012. The Applicant said that he learned about the birth in 2014, after his arrival in Canada. He said that he “reconnected” with Ms. Yin in 2015 and married in 2018.

[7] The Applicant submitted the spousal sponsorship application in August 2020. It was denied in August of 2023. The appeal to the IAD was filed in September of 2023.

[8] The Applicant now argues that the IAD unreasonably found that a prior conjugal relationship existed between him and Ms. Yin because it failed to consider the characteristics of

a conjugal relationship as set out by the Ontario District Court in *Malodowich v. Penttinen*, (1980) 17 R.F.L. (2d) 376.

[9] In *Malodowich, supra*, the Court identified certain factors that support the existence of a conjugal relationship, including shared shelter, sexual and personal behaviour, services, social activities, economic support, children and societal perception of the couple.

[10] The Minister of Citizenship and Immigration (the "Respondent") submits that the decision shows no reviewable error.

[11] Following the decision of the Supreme Court of Canada in *Canada (Minister of Citizenship and Immigration) v. Vavilov*, [2019] 4 S.C.R. 653 (S.C.C.), the decision of the IAD is 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] Section 4.1 of the Regulations is relevant and provides as follows:

4.1 For the purposes of these Regulations, a foreign national shall not be considered a spouse, a common-law partner or a conjugal partner of a person if the foreign national has begun a new conjugal	**4.1** Pour l'application du présent règlement, l'étranger n'est pas considéré comme l'époux, le conjoint de fait ou le partenaire conjugal d'une personne s'il s'est engagé dans une nouvelle relation conjugale avec cette

relationship with that person after a previous marriage, common-law partnership or conjugal partnership with that person was dissolved primarily so that the foreign national, another foreign national or the sponsor could acquire any status or privilege under the Act.	personne après qu'un mariage antérieur ou une relation de conjoints de fait ou de partenaires conjugaux antérieure avec celle-ci a été dissous principalement en vue de lui permettre ou de permettre à un autre étranger ou au répondant d'acquérir un statut ou un privilège aux termes de la Loi.

[14] The Applicant challenges the IAD's finding on the first part of the three-part test set out in section 4.1 of the Regulations and argues that this error coloured the IAD's assessment of the remaining elements. He contends the failure of the IAD to engage with the factors identified in *Malodowich, supra* makes its decision unreasonable.

[15] I agree with the Applicant's submissions that the IAD unreasonably found that a conjugal relationship had existed before he entered Canada.

[16] In *M. v. H.,* [1999] 2 S.C.R. 3 in paragraph 60, the Supreme Court of Canada encouraged a "flexible" approach to the assessment of the nature of a relationship. The decision of the IAD in this case does not reflect such flexibility.

[17] In the result, the application for judicial review will be allowed, the decision will be set aside and the matter remitted for redetermination by a differently constituted panel of the IAD. There is no question for certification.

JUDGMENT in IMM-4532-25

THIS COURT'S JUDGMENT is that the application for judicial review is allowed, the decision is set aside and the matter is remitted for redetermination before a differently constituted panel of the IAD. There is no question for certification.

"E. Heneghan"

Judge

FEDERAL COURT

SOLICITORS OF RECORD

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