Federal Court Cour fédérale

Date: 20180221

Dockets: IMM-1124-17
IMM-1125-17

Citation: 2018 FC 192

Ottawa, Ontario, February 21, 2018

PRESENT: The Honourable Mr. Justice O'Reilly

Docket: IMM-1124-17

BETWEEN:

CHUNRANG ZHAO

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

Docket: IMM-1125-17

AND BETWEEN:

JINZHANG YANG

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

I. Overview

[1] The applicants, Ms Chunrang Zhao and Mr Jinzhang Yang, have a daughter, Jin Yang, who emigrated from China to Canada in 2011. Since then, Ms Zhao and Mr Yang have sought temporary visas to visit Jin, her husband, Wei Shu, and their two children. Ms Zhao and Mr Yang made eleven applications for visitors' visas and were denied each time by officials in the Canadian embassy in China. This application for judicial review relates to the eleventh denial.

[2] The officer dealing with the latest visa application stated that he was not satisfied that Ms Zhao and Mr Yang would leave Canada at the end of their authorized visit. He based his decision on the couple's travel history, family ties (both in Canada and China), the stated purpose of their visit, and their financial circumstances. More particularly, the officer noted that Ms Zhao and Mr Yang have little or no history of leaving China and returning there, they lack strong ties to China, and the credibility of their daughter (who had been convicted of possessing credit card data) was questionable.

[3] Ms Zhao and Mr Yang argue that the officer's decision was unreasonable because it failed to take account of new evidence that had not previously been provided, and did not adequately explain why the visas were denied. They ask me to quash the officer's decision and order another officer to reconsider their visa applications.

[4] I can find no basis for overturning the officer's decision. The officer reasonably responded to the evidence before him.

[5] The main issue is whether the officer's decision was unreasonable. There is also a preliminary issue of whether affidavits filed by Ms Zhao and Mr Yang on this application for judicial review are admissible.

II. Are the applicants' affidavits admissible?

[6] The Minister argues that the affidavits are inadmissible because they do not comply with ss 52(*e*) and 54(2) of the *Canada Evidence Act*, RSC 1985, c C-5 (see Annex). They were sworn before an unidentified lawyer, not an official authorized to administer an oath. Further, the Minister maintains that the affidavits are irrelevant.

[7] I find it unnecessary to make a definitive ruling on this issue. The affidavits do not contain, or attach as exhibits, any evidence that is in dispute or that cannot be found elsewhere in the record. I need not decide whether they meet the requirements of the *Canada Evidence Act*.

III. Was the officer's decision unreasonable?

[8] Ms Zhao and Mr Yang contend that the officer failed to consider letters provided by Jin and Wei explaining their circumstances, as well as copies of probation orders, and decisions of the Immigration Appeal Division allowing them to remain in Canada. Further, they say that the officer did not explain why their limited travel history counted against them. In the same vein,

they question why the officer expressed concern about their financial circumstances, given their significant savings, and their family ties in China. Finally, Ms Zhao and Mr Yang express concern whether a poison-pen letter – which they have not seen, but is cited in the record – might have influenced the officer.

[9] I disagree with Ms Zhao and Mr Yang.

[10] It is clear why the officer had concerns about the credibility of Jin and Wei. The additional documentation they provided did not detract from the fact of their convictions, or elevate the veracity of their submissions.

[11] In a letter from Jin, for example, she states that granting her parents visas would encourage her to obey Canadian law in the future. Obviously, that is not a legitimate basis on which to issue the visas.

[12] With respect to travel history, the officer was rightly concerned that Ms Zhao and Mr Yang could not show that they had previously traveled to other countries and returned to China thereafter.

[13] Similarly, while Ms Zhao and Mr Yang have substantial savings – roughly $42,000 – these are liquid assets, not necessarily tying them to China. Further, while they have another daughter and other family in China, the applicants had not shown that these ties were stronger than their ties to their daughter and grandchildren in Canada.

[14] Finally, with respect to the poison-pen letter, there is no indication that it formed any part of the officer's decision.

IV. Conclusion and Disposition

[15] The officer reasonably considered the relevant evidence about the likelihood that Ms Zhao and Mr Yang would return to China if they were granted visitors' visas to Canada. Therefore, I must dismiss this application for judicial review. Neither party proposed a question of general importance for me to certify, and none is stated.

JUDGMENT IN IMM-1124-17 AND IMM-1125-17

THIS COURT'S JUDGMENT is that this application for judicial review is dismissed, and no question of general importance will be certified.

"James W. O'Reilly"
Judge

Annex

Canada Evidence Act, RSC 1985, c C-5	*Loi sur la preuve au Canada*, LRC (1985), ch C-5)
Application of this Part	Application
52 This Part extends to the following classes of persons	**52** La présente partie s'applique aux catégories suivantes de personnes :
…	[…]
e) judicial officials in a foreign country in respect of oaths, affidavits, solemn affirmations, declarations or similar documents that the official is authorized to administer, take or receive;	e) les fonctionnaires judiciaires d'un État étranger autorisés, à des fins internes, à recevoir les serments, les affidavits, les affirmations solennelles, les déclarations ou autres documents semblables;
Documents to be admitted in evidence	Présomption quant au contenu
54(2) An affidavit, solemn affirmation, declaration or other similar statement taken or received in a foreign country by an official referred to in paragraph 52(e) shall be admitted in evidence without proof of the signature or official character of the official appearing to have signed the affidavit, solemn affirmation, declaration or other statement.	**54**(2) L'affidavit, l'affirmation solennelle ou toute autre déclaration semblable reçue à l'étranger et censément signé par le fonctionnaire visé à l'alinéa 52 e) est admis en preuve sans qu'il soit nécessaire de prouver la signature ou la qualité du fonctionnaire.

FEDERAL COURT

SOLICITORS OF RECORD

DOCKETS:	IMM-1124-17 AND IMM-1125-17
DOCKET:	IMM-1124-17
STYLE OF CAUSE:	CHUNRANG ZHAO v THE MINISTER OF CITIZENSHIP AND IMMIGRATION
AND DOCKET:	IMM-1125-17
STYLE OF CAUSE:	JINZHANG YANG v THE MINISTER OF CITIZENSHIP AND IMMIGRATION
PLACE OF HEARING:	TORONTO, ONTARIO
DATE OF HEARING:	OCTOBER 19, 2017
JUDGMENT AND REASONS:	O'REILLY J.
DATED:	FEBRUARY 21, 2018

APPEARANCES:

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Lorne McClenaghan	FOR THE RESPONDENT

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Deputy Attorney General of Canada Toronto, Ontario	FOR THE RESPONDENT