Federal Court  Cour fédérale

Date: 20120905

Docket: IMM-4528-11

Citation: 2012 FC 1053

Ottawa, Ontario, September 5, 2012

PRESENT: The Honourable Mr. Justice O'Keefe

BETWEEN:

DANARAJ DORAISAMY

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

REASONS FOR JUDGMENT AND JUDGMENT

[1] This is an application pursuant to subsection 72(1) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 (the Act) for judicial review of a decision by an immigration officer of Citizenship and Immigration Canada (the officer), dated July 12, 2011, wherein the applicant was denied permanent residence under the spouse in Canada class of subsection 12(1) of the Act and subsection 124(a) of the *Immigration and Refugee Protection Regulations*, SOR/2002-227 (the Regulations). This decision was based on the officer's finding that the applicant was not in a

genuine relationship and entered into the relationship primarily for the purposes of acquiring status under the Act.

[2] The applicant requests that the officer's decision be set aside and the matter sent back for redetermination by another officer.

Background

[3] The applicant, Danaraj Doraisamy, also known as Akka Annis, is a citizen of Singapore. He came to Canada in 1987 under a valid study permit. The applicant continued to hold valid study permits through to June 1990, after which he remained in Canada without legal status.

[4] In the 1990s, the applicant was arrested on two separate occasions for participating in anti-logging protests. During both arrests, he informed the police that his name was Khalil Gupta. In 1998, the applicant was also detained at a political rally in Vancouver.

[5] On March 31, 2002, the applicant met Jasmine Lysenko. At the time, Jasmine was in a long-term relationship with a woman named Sandra. In late 2003, the applicant entered into a relationship with Jasmine and Sandra. However, difficulties arose between the applicant and Sandra and the three-way relationship therefore broke up in the early summer of 2005. In part due to Jasmine's continued emotional attachment to the applicant, Sandra and Jasmine separated in March 2006. Throughout the summer and fall of 2006, the applicant and Jasmine saw each other regularly. Since

the fall of 2006, they have been in a monogamous relationship. On December 1, 2007, the couple married in Nelson, British Columbia.

[6] In June 2006, the applicant was arrested and charged with trafficking in marijuana. He was convicted of trafficking in October 2008 and given an interim sentence of forty days to be served on weekends. The applicant completed his sentence in July 2010.

[7] On February 19, 2009, upon request, the applicant attended the Nelson police station. The applicant disclosed his true identity, immigration history and fears of returning to Singapore based on likely repercussions for his failure to comply with military service there. Canada Border Services Agency (CBSA) thereby arrested the applicant and a deportation order was issued against him on February 23, 2009.

[8] On February 23, 2009, the applicant filed a refugee claim based on his fears of returning to Singapore and the corresponding risks of corporal punishment. The hearing of the applicant's refugee claim was held on June 1, 2010. The applicant's claim was denied on or about August 6, 2010. His application for leave and judicial review of this decision was dismissed on December 22, 2010.

[9] On July 7, 2009, the applicant was issued a work permit, valid until February 23, 2011.

[10] On February 9, 2010, the applicant filed an application for permanent residence in Canada under the spouse in Canada class. The following year, on April 13, 2011, the applicant and his

spouse attended an interview with the officer in Cranbrook. The officer interviewed the couple both together and separately.

Officer's Decision

[11] In a letter dated July 12, 2011, the officer denied the applicant's permanent residence application on the basis that the relationship was not genuine and had been entered into primarily to acquire status under the Act.

[12] In the reasons for the decision, the officer first summarized the applicant's background including his immigration status and criminal conviction. The officer noted that information used in reaching her decision was gathered from the in-person interview with the applicant and his sponsor, the application and submissions filed by the applicant and his lawyer, Field Operations Support System (FOSS) notes and an internet search.

[13] The officer first outlined various factors that led her to believe that the marriage was entered into primarily for the purpose of acquiring status or privilege under the Act.

[14] The officer noted that although the applicant had been in Canada since 1987, he did not submit his permanent residence application until after his criminal conviction became known to CBSA. The officer found that the fact that the applicant changed his name and was convicted under his alias indicated his strong motivation to remain in Canada.

[15] The officer questioned why the applicant's spouse had not sponsored the applicant sooner. The officer noted the applicant's statement that they were waiting for their lawyer to direct them on what to do. However, the officer found that the fact they had not hired an immigration lawyer until after the applicant's arrest, coupled with them not initially living together and evidence suggesting they may not currently be living together (including lack of knowledge on how their mail was delivered, the size of the bed they share and the last time they did anything together at home), indicated that the sponsorship application was a last resort for the applicant to remain in Canada.

[16] The officer also acknowledged the note provided by the applicant's spouse indicating that she was pregnant. However, the officer drew negative inferences from the unspecified day of the month on the note and from previous talks about the possibility of the applicant fathering a child for the applicant's spouse and her former same sex partner.

[17] Further, the officer noted that when asked about his plans should he have to leave Canada, the applicant first discussed his close friends and only later noted that he did not want his wife to raise their child alone. He never specified that he would miss his wife and child.

[18] The officer then noted factors that led her to believe that the marriage was not genuine.

[19] First, the officer noted that the applicant is very motivated not to leave Canada as he has built a life here and fears having to serve up to nine months in prison if returned to Singapore.

[20] The officer then noted that although the couple married in December 2007, the applicant did not start living with his wife until September 2008. In response to the officer's inquiry into this at the interview, the officer noted that the applicant became uncomfortable and explained that his former roommates needed his rental payment to cover their rent. The officer placed significant weight on the applicant's delay in living with his wife after their marriage, particularly in light of their eleven month engagement period. The officer also acknowledged that upon his arrest, his wife did not immediately return home but rather continued her journey as she was planning on coming home soon. In addition, the officer highlighted that at the time of his arrest, the applicant used various addresses in Vancouver when reporting to the CBSA through to May 2009.

[21] The officer also found that there were several details that the couple either did not know about each other or that they provided inconsistent information. For example, they provided contradictory evidence on who first rises in the morning. In addition, the applicant's spouse did not know what the applicant's favourite food was, his hourly wage and what kind of work he does as opposed to who he works for. The couple was also vague about their engagement and the wedding; specifically with regards to how the invitations were made and delivered and the day of the week of their wedding. Further, the officer noted that the couple had a difficult time identifying friends that they spent time together with.

[22] The officer also noted that the applicant stated that his wife was in a previous relationship with a man; however, this contradicted the wife's statement that she had never previously been in a relationship with a man. The officer also noted that the applicant appeared to have a close relationship with his wife's brother, for whom he has worked for several years. The applicant stated

that he might purchase a blueberry farm in Nova Scotia in the future with his wife's brother. However, when his wife spoke about the future, she explained that it was uncertain and may involve the purchase of property in the Slocan Valley or on the North Shore; no mention was made of Nova Scotia. The officer therefore found that the couple did not appear to have the same vision for their future.

[23] In conclusion, the officer found that a long standing friendship existed between the applicant and his wife. The officer also accepted that the applicant has strong community support as demonstrated by the various letters written in his support. However, the officer found that these letters did not outweigh the discrepancies she identified in her decision. The officer concluded that the applicant and his wife were not truthful about their marriage relationship. The applicant's permanent residence application was therefore refused.

Issues

[24] The applicant submits the following point at issue:

Is the decision of the officer unreasonable or made without regard to the evidence before her?

[25] I would rephrase the issues as follows:

1. What is the appropriate standard of review?

2. Did the officer err in deciding that the applicant and his spouse were not in a genuine relationship?

Applicant's Written Submissions

[26] The applicant submits that although he filed extensive documentation and supporting evidence detailing the couple's history together, the officer gave little weight to it, relying predominantly on the answers provided during the interview in rendering her decision. Although a number of sworn statements, letters and photographs were submitted that attested to the genuineness of the relationship, the officer dismissed them without addressing their content. Rather, the officer found that they merely indicated community support. The officer ought to have explained why she preferred her assessment, completed over a single interview, over the evidence from numerous upstanding Canadian citizens, including a United Church pastor, a member of the provincial legislative assembly and a member of the Law Society of British Columbia.

[27] The applicant then responds to the various factors listed by the officer as leading to her finding that the marriage was not genuine. On the applicant's motivation to remain in Canada, the applicant notes that this is not a helpful basis on which to distinguish someone in a genuine relationship from someone that is not; spouses will generally be motivated to remain together. Further, with regards to his use of the assumed name Akka Annis, the applicant notes that he never used it with immigration authorities.

[28] The applicant submits that the reason that his spouse did not attempt to sponsor him earlier was because he had pending criminal charges for which he was awaiting a result. This explanation was before the officer. In addition, contrary to the officer's finding, his permanent residence

application was not his last resort to remain in Canada; at the time of his permanent residence application, his refugee claim and hearing were still pending.

[29] The applicant also highlights the officer's treatment of his spouse's pregnancy. The officer observed in her decision that although the spouse provided a note from a walk-in clinic indicating that she was pregnant, this note did not specify the day of the month on which it was written. The officer also noted that the applicant's spouse and her former same sex partner had previously engaged the applicant in talks about the possibility of him fathering a child for them. The applicant questions the officer's reliance on the pregnancy as a reason for doubting the genuineness of the relationship.

[30] The officer also noted that when questioned about his plans should he be deported, the applicant did not state that he would miss his spouse or child. However, the applicant submits that little weight ought to be given to a speculative question. This question would clearly be difficult for the applicant given his length of time in Canada and fears of returning to Singapore. Further, it is not clear that deportation would result in separation from his wife, as she frequently travels to South Asia on business and has family in India.

[31] The officer placed significant weight on the fact that the applicant did not officially reside with his spouse until September 2008. The applicant submits that there were several factors leading to the applicant's decision to keep the other residence during that time. Nevertheless, he was spending most nights with his spouse before moving into the residence. Further, by the time of the

officer's decision, the couple had been living together for two and one half years, as confirmed by numerous witnesses.

[32] The applicant refers to the officer's treatment of his addresses upon release. The applicant notes that for the first three months after his release, he had to personally report on a daily basis to the CBSA office in Vancouver. Given the distance between Vancouver and Nelson, it was not realistic for him to reside in Nelson during that time. Further, after returning from India ten days after his release, the applicant's wife stayed with him in Vancouver for approximately one month. As soon as his CBSA reporting obligations ended, the applicant returned to Nelson to live with his wife.

[33] In response to the officer's notice of his wife's failure to return from India when she discovered that her husband was arrested, the applicant submits that he explained to the officer that as his wife was in Varanassi, India, at the time, it was not realistic for her to return for his 48 hour detention review. Instead, she sent a letter of support. When she later learned that he had been released, there was no reason for her to incur the expense of returning early as she was scheduled to return to Canada ten days later.

[34] The applicant also submits that there was a misunderstanding with the officer's finding on the applicant's knowledge of his wife's dating history. At the interview, the applicant recalled being questioned about Sandra's previous dating history; not that of his wife. The applicant notes that he was well aware that his wife had not previously been in a relationship with a man.

[35] Finally, the applicant submits that the various discrepancies highlighted by the officer were insignificant and ultimately addressed in his and his wife's affidavits. Specifically, these pertained to the details on the location of the mailbox, size of the bed, Russian movie from the library, who rises first, work schedule and hourly wage and wedding invitations.

[36] In summary, the applicant submits that the officer's decision was not reasonable and was made without regard to the evidence before her.

Respondent's Written Submissions

[37] The respondent submits that the purpose of the Act is to regulate immigration to Canada. The objectives of permitting Canada to pursue the maximum social, cultural and economic benefits of immigration cannot be achieved without a fair and open system that promotes honesty on the part of foreign nationals seeking to come to Canada. Thus, such persons must answer truthfully all questions put to them and provide reasonable documents and information. The failure to do so will result in the inadmissibility of that foreign national on grounds of misrepresentation.

[38] The respondent submits that the officer's factually intensive determination of the genuineness of a marriage attracts a standard of review of reasonableness which warrants significant deference.

[39] The respondent submits that the applicant's arguments pertain primarily to the weight that the officer placed on the supporting documents. However, the officer reached her final conclusion

after examining all the documents and letters that were submitted, along with the evidence of the couple's relationship as provided in the interview. The officer ultimately found that the letters of support did not outweigh the discrepancies and concerns she noted during the interview. It is not the role of this Court on judicial review to reweigh the evidence or to substitute its view of the merits of a spousal application.

[40] The officer also considered the applicant's immigration history, which included the use of an alias to avoid detection and his criminal conviction that ultimately brought the applicant to the attention of the immigration authorities and triggered his various immigration applications. These factors are relevant considerations in the assessment of the *bona fides* of a marital relationship.

[41] The respondent notes that the officer took many factors into consideration in determining that the marriage was not genuine. The respondent submits that the applicant's dismissal of these factors is merely a disagreement with the officer's factually intensive findings. The applicant has not demonstrated that the officer's conclusions could not have reasonably been drawn.

[42] The respondent submits that the officer's decision was reasonable and included reasons setting out the justification, transparency and intelligibility of her decision making process. Her decision therefore, falls within the range of possible, acceptable outcomes that are defensible on the facts and the law. As such, this Court should not interfere with the officer's decision.

Analysis and Decision

[43] **Issue 1**

What is the appropriate standard of review?

Where previous jurisprudence has determined the standard of review applicable to a particular issue before the court, the reviewing court may adopt that standard (see *Dunsmuir v New Brunswick*, 2008 SCC 9, [2008] 1 SCR 190 at paragraph 57).

[44] An officer's determination as to whether a relationship is genuine or entered into for the purposes of acquiring status under the Act is predominantly factual in nature and therefore attracts a reasonableness standard of review (see *Valencia v Canada (Minister of Citizenship and Immigration)*, 2011 FC 787, [2011] FCJ No 992 at paragraph 15; and *Kaur v Canada (Minister of Citizenship and Immigration)*, 2010 FC 417, [2010] FCJ No 482 at paragraph 14).

[45] In reviewing the officer's decision on the standard of reasonableness, the Court should not intervene unless the officer came to a conclusion that is not transparent, justifiable and intelligible and within the range of acceptable outcomes based on the evidence before it (see *Dunsmuir* above, at paragraph 47; *Canada (Citizenship and Immigration) v Khosa*, 2009 SCC 12, [2009] SCJ No 12 at paragraph 59). It is not up to a reviewing Court to substitute its own view of a preferable outcome, nor is it the function of the reviewing Court to reweigh the evidence (see *Khosa* above, at paragraphs 59 and 61).

[46] **Issue 2**

Did the officer err in deciding that the applicant and his spouse were not in a genuine relationship?

To qualify as a member of the spousal class, an applicant must meet the membership parameters outlined under section 124 of the Regulations. This provision must be read together with section 4 of the Regulations, which states that an applicant will not be considered as a spouse of the sponsor if the marriage is either not genuine or was entered into primarily for the purpose of acquiring immigration status (see *Chertyuk v Canada (Minister of Citizenship and Immigration)*, 2008 FC 870, [2008] FCJ No 1086 at paragraph 26).

[47] In determining whether a marriage is genuine, an officer must assess the credibility of the applicant and make findings of fact based on all relevant evidence before it (see *Chertyuk* above, at paragraph 31). However, it is well established that there is no specific test or set of criteria for determining whether a marriage is genuine or not (see *Zheng v Canada (Minister of Citizenship and Immigration)*, 2011 FC 432, [2011] FCJ No 544 at paragraph 23).

[48] The difficulty in making a determination under section 4 of the Regulations was succinctly described by Mr. Justice David Near in *Valencia* above (at paragraph 24):

> Determining whether a marriage is genuine, and assessing the true intentions of the parties as they entered into that marriage is a difficult task fraught with many potential pitfalls. As I review the record I am cognizant of the challenge faced by the IAD in hearing such an appeal, and am mindful that as long as the IAD draws inferences that are reasonably open to it based on the evidence, it is not appropriate for the Court to interfere, even had I been tempted to come to a contrary conclusion (*Grewal v. Canada (Minister of Citizenship and Immigration)*, 2003 FC 960, 124 A.C.W.S. (3d) 1149 at para 9). [emphasis added]

[49] Based in part on the difficulty of this determination, as well as its highly factual nature, significant deference is owed to an officer's decision. It is not the Court's role to reweigh the evidence, rather, the Court must decide whether the officer's decision was reasonable based on the evidence before it (see *Singh v Canada (Minister of Citizenship and Immigration)*, 2008 FC 673, [2008] FCJ No 864 at paragraph 10).

[50] Further, where there has been an oral hearing, the officer's decision attracts even greater deference. As explained by Mr. Justice Near in *Valencia* above (at paragraph 25):

> Where there has been an oral hearing, and the IAD has had the advantage of hearing the witnesses testify *viva voce*, the IAD's credibility determinations are entitled to even more deference. The IAD's determination cannot be set aside unless the explanations given are clearly irrational or unreasonable, and the IAD's decision must be interpreted as a whole (*Singh v. Canada (Minister of Citizenship and Immigration)*, 2002 FCT 347, 113 A.C.W.S. (3d) 145 at para 18). [emphasis added]

[51] In this case, the applicant's main concerns arise from the officer's treatment of the interview findings as compared to the extensive documentary evidence that the applicant filed in support of his permanent residence application. The applicant submits that the officer dismissed this latter evidence without addressing its content and without explaining the reason for her preference.

[52] Conversely, the respondent submits that the applicant's arguments amount to little more than a critique of the officer's weighing of the evidence. The respondent highlights the established jurisprudence that this Court must show significant deference to an officer's weighing of the evidence. In this case, the respondent submits that the officer's conclusions were reasonably drawn from the evidence before her. This Court should therefore not interfere with the decision.

[53] On review of the officer's decision, the interview notes and the extensive submissions filed by the applicant in support of his permanent residence application, it appears that the officer ignored important evidence in rendering her decision. Although, as stated by the respondent, significant deference is owed to the officer on these types of decisions, the ignoring of important evidence is sufficient grounds on which this Court may interfere with an officer's findings (see *Gao v Canada (Minister of Citizenship and Immigration)*, 2011 FC 368, [2011] FCJ No 478 at paragraph 9).

[54] As acknowledged by the officer, her determination was based predominantly on discrepancies noted in her interview with the applicant and his wife. Issues raised by the officer included:

1. the applicant's strong motivation to remain in Canada;
2. the applicant's delay in filing the permanent residence application;
3. minor evidence that the officer found suggested that the couple were not currently living together (based on interview responses to questions on their mail delivery, the size of their bed and when they last did something together at home);
4. a minor omission from the walk-in clinic note on the wife's pregnancy coupled with the fact that there was an intent for the applicant to father a child for his sponsor before the couple were married;
5. the applicant's failure to mention at the interview that he would miss his wife and child if required to leave Canada;
6. the delay in the applicant moving in with his wife after they were married;
7. the applicant's use of many addresses in Vancouver between February and May 2009;

8. minor inconsistencies in their interview responses regarding when they rise in the morning, the applicant's favourite food and details on his employment, their wedding and their daily routine;

9. the applicant's alleged lack of knowledge about his wife's dating history; and

10. the couple's different vision of their future.

[55] At first glance, some of these inconsistencies, omissions and contradictions appear significant. However, the opposite emerges on review of the interview notes and the evidence on the record. Of particular relevance is the complicated relationship history that the applicant and his spouse had with a third partner prior to 2006 and the applicant's conviction, sentence and CBSA reporting obligations between 2006 and 2010. The former addresses part of the officer's concern about the pregnancy as well as the confusion about the spouse's dating history. The latter helps explain the delay in filing the permanent residence application and the applicant's use of different addresses in Vancouver.

[56] Further, as acknowledged by the officer, the applicant's uncertain immigration status influenced the couple's vision of their future. The fact that the wife's business frequently took her abroad helped explain her absence when he was arrested. It also supported his greater focus on the friends he would miss if required to leave Canada, rather than on the separation from his wife who might in fact be able to accompany him if required to leave Canada as her business already entailed frequent travel to Asia.

[57] These inconsistencies and omissions might have been sufficient to support the officer's finding had it not been for the extensive evidence in support of the genuine nature of their relationship. This evidence included not only lengthy and personal correspondence between the couple spanning several years, but also a number of photographs and letters from various individuals that spoke of the genuine nature of the relationship. Amongst the numerous submissions, the following statements were made about the couple by various close acquaintances:

> In regards to Mr. Doraisamay's relationship with Ms. Jasmine Lysenko, I can personally vouch for Mr. Doraisamay's extended courtship. I witnessed the evolution of their relationship and believe it to be romantic in nature.
>
> As a family member Dana is fully committed to his long-term partner and wife Jasmine Lysenko, and her family with whom he lives.
>
> [The applicant] is a devoted husband to his wife Jasmine and is indispensable to her extended family in many ways, including providing child care for his beloved nephew.
>
> Akka is a fixture at family gatherings, and it's clear that he and Jasmine are very much in love.
>
> From conversations with Jasmine, as well as my own observations, it is clear to me that Jasmine and Danaraj are committed to a shared life and are involved in a permanent relationship that is long-term, genuine and continuing. Jasmine and Danaraj depend on each other emotionally and socially, and are known as a couple to friends and family.
>
> I know that Jasmine and Danaraj are deeply in love and have dreams of raising a family here in Canada.

[58] This evidence was discounted in the decision, where the officer merely stated:

> I accept that the client has strong community support demonstrated by all various support letters written for both his criminal trial and appeal and for the Immigration processing. The letters of support do not outweigh the above noted discrepancies and evidence when assessing the marriage against R4 of IRPA.

[59] It is also notable that the interview notes did show that both spouses provided roughly the same answers on numerous questions posed by the officer including, for example: their first date, their wedding bands and the number of people at the wedding and reception. In her decision, the officer noted that the couple gave contradictory answers on who rises first. However, the interview notes indicate that both the applicant and his wife answered that the applicant rises first; their responses differed on who went to bed first. The officer also highlighted the wife's uncertainty about the applicant's employment, however, the interview notes suggest that his employment is variable and entails different tasks. I therefore do not find that the wife's level of knowledge regarding these jobs was sufficiently inadequate to doubt the genuineness of the relationship.

[60] In summary, I find that in this case, the officer ignored significant evidence of a positive, genuine relationship by unduly focusing on minor inconsistencies in the interview at the expense of other relevant evidence. As such, the officer failed to consider significant evidence against her interview findings. A similar error was found by Mr. Justice Michel Beaudry in *Lin v Canada (Minister of Citizenship and Immigration)*, 2010 FC 659, [2010] FCJ No 797 at paragraphs 10 and 11.

[61] Having carefully considered the officer's decision and the evidence before her, I find the decision fails to address the extensive evidence supporting a positive finding of the genuineness of the applicant's marriage. As such, I find the officer's decision unreasonable based on the record before her. I would therefore allow this judicial review application and set aside the officer's decision.

[62] Neither party wished to submit a proposed serious question of general importance for my consideration for certification.

JUDGMENT

THIS COURT'S JUDGMENT is that the application for judicial review is allowed and the matter is referred to a different officer for redetermination.

"John A. O'Keefe"
Judge

ANNEX

Relevant Statutory Provisions

Immigration and Refugee Protection Act, SC 2001, c 27

12. (1) A foreign national may be selected as a member of the family class on the basis of their relationship as the spouse, common-law partner, child, parent or other prescribed family member of a Canadian citizen or permanent resident.	12. (1) La sélection des étrangers de la catégorie « regroupement familial » se fait en fonction de la relation qu'ils ont avec un citoyen canadien ou un résident permanent, à titre d'époux, de conjoint de fait, d'enfant ou de père ou mère ou à titre d'autre membre de la famille prévu par règlement.
13. (1) A Canadian citizen or permanent resident may, subject to the regulations, sponsor a foreign national who is a member of the family class.	13. (1) Tout citoyen canadien et tout résident permanent peuvent, sous réserve des règlements, parrainer l'étranger de la catégorie « regroupement familial ».
16. (1) A person who makes an application must answer truthfully all questions put to them for the purpose of the examination and must produce a visa and all relevant evidence and documents that the officer reasonably requires.	16. (1) L'auteur d'une demande au titre de la présente loi doit répondre véridiquement aux questions qui lui sont posées lors du contrôle, donner les renseignements et tous éléments de preuve pertinents et présenter les visa et documents requis.
72. (1) Judicial review by the Federal Court with respect to any matter — a decision, determination or order made, a measure taken or a question raised — under this Act is commenced by making an application for leave to the Court.	72. (1) Le contrôle judiciaire par la Cour fédérale de toute mesure — décision, ordonnance, question ou affaire — prise dans le cadre de la présente loi est subordonné au dépôt d'une demande d'autorisation.

Immigration and Refugee Protection Regulations, SOR/2002-227

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 marriage, common-law partnership or conjugal partnership	4. (1) Pour l'application du présent règlement, l'étranger n'est pas considéré comme étant l'époux, le conjoint de fait ou le partenaire conjugal d'une personne si le mariage ou la relation des conjoints de fait ou des partenaires conjugaux, selon le cas :
(a) was entered into primarily for the purpose of acquiring any status or privilege	a) visait principalement l'acquisition d'un statut ou d'un privilège sous le régime de la

under the Act; or

(b) is not genuine.

123. For the purposes of subsection 12(1) of the Act, the spouse or common-law partner in Canada class is hereby prescribed as a class of persons who may become permanent residents on the basis of the requirements of this Division.

124. A foreign national is a member of the spouse or common-law partner in Canada class if they

(a) are the spouse or common-law partner of a sponsor and cohabit with that sponsor in Canada;

(b) have temporary resident status in Canada; and

(c) are the subject of a sponsorship application.

Loi;

b) n'est pas authentique.

123. Pour l'application du paragraphe 12(1) de la Loi, la catégorie des époux ou conjoints de fait au Canada est une catégorie réglementaire de personnes qui peuvent devenir résidents permanents sur le fondement des exigences prévues à la présente section.

124. Fait partie de la catégorie des époux ou conjoints de fait au Canada l'étranger qui remplit les conditions suivantes :

a) il est l'époux ou le conjoint de fait d'un répondant et vit avec ce répondant au Canada;

b) il détient le statut de résident temporaire au Canada;

c) une demande de parrainage a été déposée à son égard.

FEDERAL COURT

SOLICITORS OF RECORD

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APPEARANCES:

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