Federal Court Cour fédérale

Date: 20250919

Docket: IMM-17523-24

Citation: 2025 FC 1544

Ottawa, Ontario, September 19, 2025

PRESENT: Madam Justice Conroy

BETWEEN:

EDLIN GARCIA PUNZALAN

Applicant

and

MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

[1] The Applicant, Ms. Edlin Garcia Punzalan, seeks judicial review of a decision of the Immigration and Refugee Board, Immigration Appeal Division [IAD], which found that she failed to demonstrate that her marriage to Mr. Aly Hassen Abdelwareth Ahmed [Principal Applicant] was genuine and not entered into primarily for immigration purposes.

[2] For the reasons that follow, the application for judicial review is dismissed.

I. Background

[3] The Applicant is a citizen of Canada who was born in the Philippines. Her spouse is Egyptian.

[4] Before the IAD, she testified that she met the Principal Applicant in October 2017 while living in different locations: her in Canada and him in Egypt.

[5] She met the Principal Applicant for the first time in person when she travelled to Egypt in May 2018. She arrived in Egypt on May 1, 2018 and the couple married on May 7, 2018.

[6] The Applicant subsequently applied to sponsor the Principal Applicant and his two dependent children to become permanent residents in Canada.

[7] The Principal Applicant was interviewed on May 31, 2022 by a visa officer at the Embassy in Cairo. The officer refused the application on the basis of section 4(1) of the *Immigration and Refugee Protection Regulations*, SOR/2002-227 [IRPR], which provides:

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 ma-riage ou la relation des conjoints de fait ou des parte-naires conjugaux, selon le cas :
(a) was entered into primarily for the purpose of ac-quiring	**a)** visait principalement l'acquisition d'un statut ou

any status or privilege under the Act; or	d'un privilège sous le régime de la Loi;
(b) is not genuine.	**b)** n'est pas authentique.

[8] The Applicant appealed the visa officer's decision to the IAD. The IAD hearing took place on June 27, 2024. The Minister opposed the appeal.

II. Decision Under Review

[9] The IAD rendered its decision dismissing the appeal on August 23, 2024. In summarizing its decision, the IAD stated:

> The couple do not speak the same language. They had language barriers when their relationship began and within months of meeting, they got marriage [*sic*.]. They vaguely described how they arrived at the point of marriage, and it raises concerns about the genuineness and primary purpose of their relationship. Further key members of the Appellant's family did not attend, and it was not reasonably explained. Additionally, the couple were not credible about when the decision to marry was made. These raise concerns about the foundation of their relationship.
>
> Moreover, the Principal Applicant has pull factors to immigrate to Canada. Two of his siblings live here and it was one of them that introduced him to the Appellant. When taken together with the hastiness of the marriage and the vague information about how the decision to marry was arrived at, it points to a primary purpose of immigration. I find the Appellant has failed to discharge the onus on her to show her marriage to the Principal Applicant is genuine and not entered primarily for immigration purposes.

[10] The IAD also noted that at the time of the hearing (in 2023), the couple had seen each other only twice since marrying (in 2018), and had, in total, spent less than two months together in person.

[11] Further, the IAD addressed procedural fairness concerns about the visa interview, namely that segments of the interview were conducted without an interpreter, and that the Principal Applicant's children were interviewed by the officer without their father's formal consent. The IAD was not persuaded that these issues undermined the fairness of the interview and noted that the IAD determines appeals *de novo*, which provides the couple an opportunity to overcome the officer's concerns.

III. Issues and Standard of Review

[12] The Applicant argues that the IAD decision was unreasonable and tainted by procedural unfairness.

[13] Questions of procedural fairness are reviewed on a standard akin to correctness: *Canadian Pacific Railway Company v Canada (Attorney General)*, 2018 FCA 69 at para 54.

[14] The applicable standard of review for the IAD's decision on the merits is reasonableness: *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at paras 23, 25 [*Vavilov*].

[15] The Supreme Court of Canada has held that absent "exceptional circumstances", a reviewing court will not interfere with the decision-maker's factual findings and will not reweigh the evidence: *Vavilov*, at para 125. A reviewing court is to intervene only if it is demonstrated that the decision-maker "fundamentally misapprehended or failed to account for the evidence before it": *Vavilov* at para 126. It is not up to a reviewing court to substitute its own view of a

preferable outcome: *Newfoundland and Labrador Nurses' Union v Newfoundland and Labrador (Treasury Board)*, 2011 SCC 62 at para 17.

[16] The burden is on the Applicant to show that the IAD decision is unreasonable: *Vavilov* at para 100.

IV. ANALYSIS

A. *Procedural fairness*

[17] The Applicant's written submissions raise an issue of procedural fairness not raised in oral argument. I will briefly address the argument.

[18] The Global Case Management Notes of the visa interview show that following a statement by the Principal Applicant that he spoke English to his wife with the assistance of a translation app when needed, the officer conducted a portion of the interview in English. The notes indicate the Principal Applicant struggled to understand and respond to a handful of questions that followed in English. The officer then went back to conducting the interview in Arabic.

[19] The Applicant has failed to point to an error in the IAD's analysis of this issue. The IAD's hearing is *de novo* and gave the Principal Applicant an opportunity to expand on the answers provided in the visa interview. This cured any breach of procedural fairness at the interview stage: *Khan v Canada (Minister of Citizenship and Immigration)*, 2019 FC 105 at para 15-16; *Singh Bains v Canada (Citizenship and Immigration)*, 2023 FC 892 at 75-83.

B. *The decision was not unreasonable*

[20] The Applicant contends that the IAD's findings are unreasonable because it ignored the evidence provided by the Applicant, the Principal Applicant and the Principal Applicant's brother, and that the IAD's conclusion was not justified with sufficient reasons.

[21] The Applicant also argues the decision failed to consider the proper cultural and socio-political context, citing *Nadasapillai v Canada (Citizenship and Immigration)*, 2015 FC 72 [*Nadasapillai*].

[22] The Respondent argues that the Applicant's submissions amount to a disagreement with the result, and a request for this Court to reweigh the evidence. I agree.

[23] At the outset, it is worth noting that a number of cases from this Court have underlined that decision-makers tasked with determining the *bona fides* of a marriage for the purpose of acquiring status under the *Immigration and Refugee Protection Act* are entitled to considerable deference from reviewing courts, particularly where the decision-maker has the benefit of having questioned the spouses in person: *Boyacioglu v Canada (Citizenship and Immigration)*, 2021 FC 1356 at para 32, and the authorities cited therein.

[24] In the present case, the IAD had the benefit of questioning the Applicant and her spouse, as well as her spouse's brother. Its conclusions relied on their testimony, as well as other evidence on the record.

[25] Regarding the haste with which the marriage was entered into, the IAD reasons refer to evidence provided by the Principal Applicant that in Egypt, it is normal to marry quickly. The Applicant also argued that the marriage was entered hastily because the couple is in their forties.

[26] Ultimately, the IAD found that "[t]here was little to no detail on how their relationship developed to the point of marriage so quickly given the distance and incompatibilities."

[27] The IAD acknowledged that the couple was "advanced in age", but despite this found that it "would expect the couple to allow some time to get to know each other before getting married". It went on to note that "marriage is a big decision in life. Age and inability to travel due to work are not enough reasons to rush into it" (IAD decision at paras 10-11).

[28] Based on the evidence, it was open to the IAD to come to this conclusion.

[29] With respect to the absence of the Applicant's family at the wedding, the Applicant says that she explained why her parents did not attend the ceremony. This may be so, but again, it was open to the IAD to reject her explanation.

[30] The Applicant points to the lack of any previous visa applications to Canada by the Principal Applicant as evidence that it was unreasonable for the IAD to conclude that the Principal Applicant has pull factors to immigrate to Canada, namely, two siblings in Canada. Once again, the Applicant is asking the Court to reweigh the evidence. This is not the role of a court on judicial review.

[31] The Applicant also argues that the affidavits and other documents submitted to the IAD addressed the concerns identified and that the IAD failed to take this evidence into account. She notes that the IAD failed to mention the wedding and other photos submitted and copies of text messages exchanged by the couple.

[32] As this Court has stated, the IAD is not expected to refer to every piece of evidence before them (*Kaur Nahal v Canada (Citizenship and Immigration)*, 2016 FC 81 at para 11). There is a strong presumption that a decision-maker has considered and weighed all the evidence (*Ayala v Minister of Citizenship and Immigration*, 2007 FC 690 at para 23, citing *Yushchuk v Canada (Minister of Employment and Immigration)*, [1994] F.C.J. No. 1324 (QL), at paragraph 17). The Applicant has not rebutted this presumption.

[33] As well, I am not persuaded that the IAD failed to consider the proper cultural and socio-political context as submitted by the Applicant. The IAD did in fact consider the cultural context and noted that the couple do not share the same religion so gave the evidence of marriage practices in Egypt little weight. The IAD also noted that the testimony about this was "not supported by any objective evidence before me" (IAD decision at para 10). As stated by the Respondent, the onus was on the Applicant to provide objective evidence on cultural norms or practices, and she failed to do so.

[34] While the Applicant relies on *Nadasapillai*, I find the decision to be distinguishable from the present case. *Nadasapillai* involved an arranged marriage and "both parties gave consistent answers that they had decided to pursue the relationship and commitment within about 3 days of

their first meeting" (at para 16). Conversely, in the present case, the IAD found that the Applicant and her spouse provided inconsistent evidence on when the decision to marry was made.

[35] The Applicant also relies on *Nadasapillai* to argue that the "[IAD] was under a duty to give its reasons for casting doubt upon the appellant's credibility in clear and unmistakable terms" (*Nadasapillai*, at para 11 citing *Hilo v Canada (Minister of Employment and Immigration)*, 1991 CanLII 14469 (FCA)). I find that the IAD did, in fact, give clear reasons for its finding that the couple was not credible: it summarized their oral evidence in its decision and clearly articulated the discrepancies (IAD decision at paras 18-20).

[36] Overall, I find that the Applicant's arguments amount to an invitation to reweigh and reinterpret the evidence before the IAD. The Applicant is in effect asking the Court to replace the IAD's credibility findings with her own explanations. As confirmed numerous times by this Court, this is not our role on judicial review (*Thavarathinam v Canada (Minister of Citizenship and Immigration)*, 2003 FC 1469 at para 10; *Jovinda v Canada (Citizenship and Immigration)*, 2016 FC 1297 au para 38).

[37] The IAD found that the evidence submitted by the Applicant was insufficient to support the existence of a genuine marriage. This was a conclusion reasonably open to the IAD based on the evidence before it. Even if I might have weighed the evidence differently, it is not my role on judicial review to substitute our own view for that of the IAD.

[38] The Applicant has not identified any reviewable error and has not discharged her burden to demonstrate that there were sufficient shortcomings to warrant the Court's intervention (Vavilov at paras 100, 102).

THIS COURT'S JUDGMENT is that

1. The application for judicial review is dismissed.
2. There is no question for certification.

"Meaghan M. Conroy"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	IMM-17523-24
STYLE OF CAUSE:	EDLIN GARCIA PUNZALAN v. MCI
PLACE OF HEARING:	TORONTO, ON
DATE OF HEARING:	AUGUST 27, 2025
JUDGMENT AND REASONS:	CONROY J.
DATED:	SEPTEMBER 19, 2025

APPEARANCES:

Mohsin Sattar	FOR THE APPLICANT
Michelle Brar	FOR THE RESPONDENT

SOLICITORS OF RECORD:

Sattar Law Scarborough, Ontario	FOR THE APPLICANT
Attorney General of Canada Toronto, Ontario	FOR THE RESPONDENT