

Date: 20071207

Docket: IMM-152-07

Citation: 2007 FC 1288

Ottawa, Ontario, December 7, 2007

PRESENT: The Honourable Mr. Justice Phelan

BETWEEN:

XIN YE

Applicant

and

**THE MINISTER OF CITIZENSHIP
AND IMMIGRATION**

Respondent

REASONS FOR JUDGMENT AND JUDGMENT

I. INTRODUCTION

[1] This is a case which is very similar to that of *Shuo Yang v. The Minister of Citizenship and Immigration*, 2007 FC 1287, except that this was Ms. Ye's second visa application and her banking records were current.

II. BACKGROUND

[2] The Applicant, a 25-year old pianist from China, was accepted into the diploma program in piano at the Toronto School of Music. She filed evidence of payment of her tuition and moneys for her living expense fund.

[3] In the Visa Officer's decision, there is particular concern for the fact that there was a lack of a banking history, that the bank deposit certificates were recent (suggesting a short-term loan) and that the father's income was modest (\$5,700.00 Canadian) and the mother's income was unstated.

[4] From these facts, the Visa Officer drew the conclusion that there was inadequate financial documentation leading to a further conclusion that the Applicant wished to enter Canada for reasons other than educational study and would not leave Canada at the end of the period of study.

III. ANALYSIS

[5] The legal framework and the applicable standard of review are the same as that in the *Yang* case and need not be repeated.

[6] The Applicant, wisely in my view, withdrew the motion to file an affidavit from Colin Yip, the President of the School. It was in any event unnecessary as all the pertinent facts were before the Court.

[7] Despite the able arguments of counsel for the Applicant, I am not convinced that this is a case for the Court's intervention. For reasons given in *Yang*, the Applicant was not deprived of procedural fairness by the absence of an interview.

[8] As to the adequacy of the documentation and the Visa Officer's conclusions, the concerns expressed had a rational basis and the conclusions drawn were open to the Officer. The requirement to submit a bank history is disclosed in the government's application kit. There is a rational connection between that information and the stability or security of deposits.

[9] I cannot find that the Visa Officer's conclusions following from the evidence or lack thereof is unreasonable.

[10] Lastly, I take nothing from the fact that in one instance in the decision the Visa Officer uses the word "he" instead of "she". This is insufficient to establish that the Officer was confused as to which applicant's file was at issue. The CAIPS notes clearly refer to the specific facts including amounts and parents' details which are unique to this Applicant.

[11] There was no requirement for the Officer to refer to either the Study Plan or the receipt of funds where these facts do not undermine the basis of the Officer's conclusion.

IV. CONCLUSION

[12] Therefore, this application for judicial review will be dismissed. No question will be certified.

JUDGMENT

THIS COURT ORDERS AND ADJUDGES that this application for judicial review is dismissed.

“Michael L. Phelan”

Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET: IMM-152-07

STYLE OF CAUSE: XIN YE

and

THE MINISTER OF CITIZENSHIP AND
IMMIGRATION

PLACE OF HEARING: Toronto, Ontario

DATE OF HEARING: December 4, 2007

**REASONS FOR JUDGMENT
AND JUDGMENT:** Phelan J.

DATED: December 7, 2007

APPEARANCES:

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FOR THE APPLICANT

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