Federal Court  Cour fédérale

Date: 20171106

Docket: IMM-445-17

Citation: 2017 FC 999

Ottawa, Ontario, November 6, 2017

PRESENT: The Honourable Mr. Justice Gascon

BETWEEN:

WAQAS SHAHZAD

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

I. Overview

[1] The applicant, Mr. Waqas Shahzad, is from Pakistan. He wished to be sponsored by his spouse, a first cousin who had previously hosted him at her home, for permanent residence in Canada. In a decision dated January 12, 2017 [Decision], an immigration officer [Officer] dismissed Mr. Shahzad's application on the grounds that the marriage was not genuine, and that

the couple had entered into their relationship primarily for the purpose of obtaining status or privilege under the *Immigration and Refugee Protection Act*, SC 2001, c 27 [IRPA]. Following the interview of the couple, the Officer found Mr. Shahzad not to be credible as a result of various discrepancies and omissions comparing his evidence and that of his spouse, as well as from the details he provided regarding the transition of the relationship from one between first cousins into a primarily romantic one. Therefore, he could not qualify as a member of the spouse or common-law partner in Canada class and be eligible for sponsorship by his cousin, as provided by subsection 4(1) of the *Immigration and Refugee Protection Regulations*, SOR/2002-227.

[2] Mr. Shahzad has applied to this Court for judicial review of the Decision. He argues that the decision is unreasonable because it erroneously assessed the evidence he had provided on the genuineness of his marriage, misconstrued the facts and evidence presented, and notably erred in considering the evidence on his spouse's miscarriage, the development of their relationship and their cohabitation. Mr. Shahzad asks this Court to quash the Decision and to send it back for redetermination by a different immigration officer.

[3] The only issue raised by Mr. Shahzad's application is whether the Officer's Decision is unreasonable. However, as a preliminary matter, Mr. Shahzad also claims that the affidavit of Officer Gail Ross [Ross Affidavit] submitted by the Minister does not constitute admissible evidence in the context of this judicial review.

[4] Having considered the evidence before the Officer and the applicable law, I can find no basis for overturning the Officer's Decision. The Decision was responsive to the evidence and the outcome is defensible based on the facts and the law. It falls within the range of possible, acceptable outcomes. In my opinion, the reasons for the Decision adequately explain how the Officer concluded that Mr. Shahzad's marriage is not genuine and was entered into primarily for the purpose of obtaining immigration status in Canada. I must therefore dismiss Mr. Shahzad's application for judicial review. However, I agree with Mr. Shahzad that the Ross Affidavit is inadmissible, and it has not been considered for the purpose of this decision.

II. Background

A. *The factual context*

[5] Mr. Shahzad entered Canada in January 2010, originally sponsored by his current spouse's ex-husband.

[6] Mr. Shahzad spent two years living with his spouse-to-be and her ex-husband, before moving out on his own. He claims to have witnessed domestic abuse during his stay with them. It is apparently once his first cousin and her husband separated that Mr. Shahzad became close to her. After spending more extensive amounts of time together, the relationship eventually grew romantic (though seemingly platonic until the day of the wedding), and Mr. Shahzad proposed a marriage. Mr. Shahzad's spouse has three children from her previous marriage.

B. *The Decision*

[7] In her Decision, the Officer analyzed the genuineness of Mr. Shahzad's marriage through several factors before finding that the marriage was not genuine and was entered into primarily for the purpose of acquiring status or privilege under the IRPA. In her interview notes (which form part of the Decision), the Officer described her credibility concerns and noted many discrepancies between the testimony given by Mr. Shahzad and that of his spouse.

[8] First, Mr. Shahzad was unable to corroborate where the children slept in the home. The Officer judged that it was reasonable to expect that a person who states that he resides in a home with his wife and three stepdaughters would know facts such as where each child sleeps, whether a bed has been moved, whether the eldest child would have her own bedroom, and whether or not the youngest sleeps with Mr. Shahzad and his spouse.

[9] Second, the Officer noted a discrepancy regarding whether the eldest child was at home or college the day before the interview. In his defense, Mr. Shahzad said he had misunderstood the questions and that it was hard for him to keep track of time and dates because of stress. However, the Officer determined that it was reasonable to expect a person to describe activities having taken place on the day prior to the interview, particularly when both he and his spouse were home that day.

[10] Third, there was a discrepancy as to the time and reasons why Mr. Shahzad's spouse had stopped working. Again, the Officer thought it was reasonable to expect a husband to know that

his wife effectively stopped working in January 2016, as opposed to July 2016 as recalled by Mr. Shahzad. Furthermore, the Officer noted that Mr. Shahzad's spouse stopped working because of health concerns relating to a stone in the pancreas, and not because of a miscarriage, as mentioned by Mr. Shahzad. According to the Officer, the details Mr. Shahzad did remember about his wife's miscarriage, like the name of her physician, were probably gleaned from his review of his spouse's medical notes. Yet, as the Officer noted, he could not recall the timeframe of this event.

[11] Fourth, the Officer also referred to the vague recollection that Mr. Shahzad had of his spouse's miscarriage. Mr. Shahzad initially indicated that the miscarriage occurred in December 2016, whereas it effectively happened two years before, in 2014. The Officer also noted the discrepancy between Mr. Shahzad's and his spouse's recollection of the timing and means of transportation to go to the hospital when the miscarriage occurred.

[12] Finally, the Officer observed that, according to their testimonies, Mr. Shahzad and his spouse had not expressed any romantic feelings between them until the proposal. The Officer did not find the relationship development as described by Mr. Shahzad to be credible.

[13] The Officer further mentioned in her notes that Mr. Shahzad and his spouse had submitted various documents showing mail going to the same address as well as the addition of Mr. Shahzad to the housing contract. However, given the serious credibility concerns, the Officer was not satisfied that Mr. Shahzad and his spouse had demonstrated that they resided together or that the marriage was not entered primarily for the purpose of gaining immigration status.

C. *The standard of review*

[14] The Court has consistently held that a large degree of deference is owed to the decision-makers of Immigration, Refugee and Citizenship Canada given the immigration officers' expertise and experience in immigration matters. As such, the Decision must be examined under the standard of reasonableness (*Truong v Canada (Citizenship and Immigration)*, 2017 FC 422 at para 12; *Nguyen v Canada (Citizenship and Immigration)*, 2016 FC 1207 at para 11; *Burton v Canada (Citizenship and Immigration)*, 2016 FC 345 [*Burton*] at para 13). More specifically, whether a marriage is genuine or is entered into for the primary purpose of immigration is a question of mixed facts and law and a highly factual determination, subject to review on a reasonableness standard (*Burton* at para 15; *Bercasio v Canada (Citizenship and Immigration)*, 2016 FC 244 at para 17).

III. Analysis

A. *The Ross Affidavit is not admissible*

[15] I will first deal with the preliminary objection raised by Mr. Shahzad against the Ross Affidavit filed in support of the Minister's response to this application for judicial review.

[16] In the Ross Affidavit, the Officer first confirmed that her notes portrayed her assessment of the most significant factors relating to her Decision. She then provided additional details on some aspects of her Decision, notably her treatment of the miscarriage, the weight she attached to it, and the reasons why she concluded as she did on this point. The Officer also recounted how

ten years' experience as an immigration officer taught her that there will likely be some sort of outward manifestation of a relationship beyond what Mr. Shahzad and his spouse alleged, no matter what part of the world an applicant and his spouse come from, except in cases of arranged marriages.

[17] The Minister argues that the Ross Affidavit should be given its proper weight as it provides context for the Court. The Minister claims that the Officer is not trying to bolster her written reasons with new explanations, as each comment in the Ross Affidavit is directly tied to something written in the reasons. Relying on *Leahy v Canada (Citizenship and Immigration)*, 2012 FCA 227 [*Leahy*], the Minister submits that it was legitimate for the Officer to explain in an affidavit why she chooses the word "miscarriage" instead of "pregnancy". The Minister also pleads that an immigration officer's experience is a valid factor to consider, as it directly shapes the reasonableness of her choices, and that it is practical for the Court to benefit from the Officer's experience.

[18] I do not agree with the Minister and find that the Ross Affidavit cannot be admitted.

[19] The submission of affidavits from administrative tribunals in the context of applications for judicial review has been met with caution by the courts. The case law has clearly established that a judicial review application strictly relates to the decision under review and that "the record before the reviewing court must be that which was before the decision-maker" (*Bernard v Canada (Revenue Agency)*, 2015 FCA 263 at paras 13-28; *Sedighi v Canada (Citizenship and Immigration)*, 2013 FC 445 at para 14; *Mahouri v Canada (Citizenship and Immigration)*, 2013

FC 244 at para 14). The general rule is that a reviewing court should not receive, from a decision-maker, new evidence going beyond the tribunal record and the decision itself (*Association of Universities and Colleges of Canada v Canadian Copyright Licensing Agency (Access Copyright)*, 2012 FCA 22 [*AUCC*] at para 20; *Qin v Canada (Citizenship and Immigration)*, 2013 FC 147 at para 18). This rule is based on the principle of finality of tribunal decisions: a tribunal cannot use judicial review as an opportunity to "amend, vary, qualify or supplement" its reasons (*Canada (Attorney General) v Quadrini*, 2010 FCA 246 at para 31).

[20] Exceptions to this general rule exist, but they are limited. In *Connolly v Canada (Attorney General)*, 2014 FCA 294 at para 7, the Federal Court of Appeal, citing the words of Mr. Justice Stratas in *AUCC*, outlined the recognized exceptions to this general prohibition. These exceptions "tend to facilitate or advance the role of the judicial review court without offending the role of the administrative decision-maker" (*AUCC* at para 20). They include: (i) an affidavit providing general background assisting in understanding the issues relevant to the judicial review; (ii) an affidavit necessary to bring evidence on procedural defects or a breach of procedural fairness; and (iii) an affidavit highlighting the complete absence of evidence before the administrative decision-maker (*AUCC* at para 20). In order to be admissible, an affidavit from a decision-maker cannot venture outside these areas.

[21] The Minister contends that the Officer's affidavit falls within the first "background information" exception. I am not persuaded that this is the case. Under that exception, an affidavit from a decision-maker can only be accepted when it provides general background information that may assist the court in understanding the issues relevant to the judicial review,

such as how the task of assessment was conducted, how a request for information was handled, and how documents were gathered (*Leahy* at para 145; *Sellathurai v Canada (Public Safety and Emergency Preparedness)*, 2008 FCA 255 [*Sellathurai*] at paras 46-47). However, an affidavit from a decision-maker cannot be used as an after-the-fact means of augmenting or bootstrapping the reasons of the decision-maker. Affidavit evidence going to the merits of the matter already decided by the decision-maker should instead be struck out as they invade the role of the initial decision-maker as fact-finder and merits-provider (*AUCC* at para 20). When an affidavit goes beyond this point of no return, it shall not be considered by the reviewing court.

[22] In this case, the Ross Affidavit crossed the Rubicon and manifestly went farther than simply providing background and context. In her affidavit, the Officer restated and reviewed the grounds and reasoning for her conclusions on the miscarriage, and indicated why she believed some questions remained unanswered. Here, the bulk of the Ross Affidavit elaborates on the Officer's reasons for the decision, and offers further explanations for her own treatment of the miscarriage. In my view, this form of affidavit is inappropriate and cannot be given any weight by the reviewing court. Decision-makers are obliged to state and disclose the complete bases for their decision in the decision itself, at the time of the decision and, as such, they cannot be permitted to fill in the gaps in the record or supplement the grounds for decision (*Stemijon Investments Ltd v Canada (Attorney General)*, 2011 FCA 299 at para 41). On judicial review, courts can look at the reasons of the decision-maker, and even at the record itself, in order to determine the reasonableness of a decision. But enabling decision-makers to bolster their decision or remedying it by writing better reasons in the form of an affidavit would be like asking the applicant to "hit a moving target" (*Sellathurai* at para 47; *Sapru v Canada (Citizenship and Immigration)*, 2011 FCA 35 at para 52;

Oliinyk v Canada (Citizenship and Immigration), 2016 FC 756 at para 18). This cannot be allowed.

[23] I accept that a reviewing court can consider implied reasons to justify the reasonableness of an administrative tribunal's decision. In fact, not only does the court have the ability to do that on judicial review, but the court is indeed required, further to *Newfoundland and Labrador Nurses' v Newfoundland and Labrador (Treasury Board)*, 2011 SCC 62 [*Newfoundland Nurses*], to find implied reasons in its assessment of the reasonableness of a decision. But what is problematic is allowing the administrative tribunal itself to define what those implied reasons are. A tribunal's decision is final and the reasons grounding that decision should speak for themselves, with the assistance of the record, but without the aid of further explanation by the tribunal itself. Implied reasons are no longer implied if the decision-maker needs to set out in an affidavit what these are. By doing this, the decision-maker is in fact adding to the decision by making explicit what was once implied. It is not for the decision-maker to say what he or she really meant; this is the task of the reviewing court.

[24] For those reasons, I conclude that the Ross Affidavit is inadmissible and it has therefore not been considered for the purpose of this judgment.

[25] I make one other observation. Counsel for the Minister ably argued that the decision-maker's expertise is an important element to be considered by the Court, and that the Ross Affidavit provided helpful background on the Officer's particular experience. I agree that an administrative decision-maker's expertise and experience are at the very heart of the standard of

reasonableness that I need to apply in this case, and that this is something a reviewing court should always be mindful of on judicial review. Indeed, the Supreme Court has recently affirmed that "[t]he presumption of reasonableness is grounded in the legislature's choice to give a specialized tribunal responsibility for administering the statutory provisions, and the expertise of the tribunal in so doing" (*Edmonton (City) v Edmonton East (Capilano) Shopping Centres Ltd*, 2016 SCC 47 [*City of Edmonton*] at para 33). The deferential approach dictated by the standard of reasonableness thus embodies recognition of the administrative decision-maker's particular expertise and experience in dealing with matters within the boundaries of its functions.

[26] However, there is no need for an affidavit from the decision-maker to establish or reassert such expertise or experience. In the context of judicial reviews, an administrative tribunal's expertise or experience are not measured against each individual officer's own knowledge and background. True, officers always bring their own experience and expertise in their respective decision-making, but deference is an acknowledgment of the *institutional* expertise and experience held by an administrative tribunal. It would be strange if the deference to be shown to a decision-maker by a reviewing court were to fluctuate with the identity and specific level of experience of each particular officer involved, or with the exposure that an officer may have had to the particular issue raised before him or her. It is worth citing again the Supreme Court on this point: "as with judges, expertise is not a matter of the qualifications and experience of any particular tribunal member. Rather, expertise is something that inheres in a tribunal itself as an institution" (*City of Edmonton* at para 33).

[27] For that reason, it is unnecessary to have an affidavit to lay out the experience of a particular decision-maker whose decision is subject to challenge on judicial review.

B. *The decision is reasonable*

[28] Mr. Shahzad argues that the Decision is unreasonable because the Officer omitted to consider the totality of the evidence, improperly assessed the development of the couple's relationship, and erred by basing her credibility findings on irrelevant considerations. I do not agree.

[29] Throughout his submissions, Mr. Shahzad proposes alternative interpretations of the evidence before the Officer and submits that his reading of the evidence should have prevailed. The arguments put forward by Mr. Shahzad simply express his disagreement with the Officer's assessment of the evidence and ask the Court to prefer his own assessment and interpretation to that of the decision-maker. In essence, Mr. Shahzad is inviting the Court to reweigh the evidence that he has presented before the Officer. However, in conducting a reasonableness review of factual findings, it is not the role of the Court to do so or to reassess the relative importance given by the decision-maker to any relevant factor or piece of evidence (*Kanthasamy v Canada (Citizenship and Immigration)*, 2014 FCA 113 at para 99). It suffices to conclude that the reasoning process of the Officer is not flawed and is supported by the evidence. Mr. Shahzad's explanations were all dealt with and considered, but they were just not retained by the Officer.

[30] When reviewing a decision on the standard of reasonableness, the analysis is concerned "with the existence of justification, transparency and intelligibility within the decision-making

process", and the Officer's findings should not be disturbed as long as the decision "falls within a range of possible, acceptable outcomes which are defensible in respect of the facts and law" (*Dunsmuir v New Brunswick*, 2008 SCC 9 at para 47). Under a reasonableness standard, as long as the process and the outcome fit comfortably with the principles of justification, transparency and intelligibility, and the decision is supported by acceptable evidence that can be justified in fact and in law, a reviewing court should not substitute its own view of a preferable outcome (*Newfoundland Nurses*, at para 17).

[31] This standard requires deference to the decision-maker as it "fosters access to justice [by providing] parties with a speedier and less expensive form of decision making", and as the reasonableness standard is "grounded in the legislature's choice to give a specialized tribunal responsibility for administering the statutory provisions, and the expertise of the tribunal in so doing" (*City of Edmonton* at paras 22 and 33). The question is not whether another outcome or interpretation might have been possible. The question is whether the conclusion reached by the Officer falls within the range of acceptable, possible outcomes. A decision is not unreasonable because the evidence could have supported another conclusion. The fact that there could be other plausible options, and that one of them could support the genuineness of Mr. Shahzad's marriage, does not imply that the interpretation retained by the Officer was unreasonable.

[32] Under the reasonableness standard, deference to the decision-maker is a legal obligation for the reviewing court. Reasonableness dictates that the reviewing court must start from the decision and the recognition that the administrative decision-maker has the primary responsibility to make the determination. The Court shall look at the reasons and the outcome

and, if there is a justifiable explanation for the outcome reached, it shall refrain from intervening. In this case, I do not find that evidence was ignored by the Officer. The evidence was instead properly reviewed and analyzed by the Officer on every issue raised by Mr. Shahzad.

(1) Failure to take into account the miscarriage

[33] Mr. Shahzad first claims that the Officer failed to properly take into account the miscarriage of his spouse and to determine whether it weighed favourably in the assessment of the relationship, thus ignoring the case law stating that significant weight must be given to the birth of a child after a marriage in evaluating a *bona fide* relationship (*Chen v Canada (Citizenship and Immigration)*, 2016 FC 61 at para 23).

[34] I am not persuaded that the Officer ignored the issue of the miscarriage in her Decision. On the contrary, she dealt with it through the vague and inconsistent recollection that Mr. Shahzad had of it. I observe that Mr. Shahzad did not really insist on this issue of miscarriage and only brought it up in response to questions from the Officer on the reasons why his wife had left her employment. In other words, the miscarriage was not invoked by Mr. Shahzad as a primary ground to support the genuineness of his marriage. Furthermore, a child, or a miscarriage, is a significant marker of a *bona fide* relationship only if it is accompanied by a paternity test or follows a suitable period of cohabitation. In this case, there was no evidence proving paternity, and the evidence of cohabitation was non-credible. In addition, the mere existence of a child does not, in and of itself, establish the genuineness of a relationship (*Singh v Canada (Minister of Citizenship and Immigration)*, 2006 FC 565 at para 12).

(2) Dismissal of corroborative evidence

[35] Relying on *Iqbal v Canada (Minister of Citizenship and Immigration)*, 2006 FC 1219 at para 8 and *Kalsi v Canada (Minister of Citizenship and Immigration)*, 2004 FC 407 at paras 9-12, Mr. Shahzad submits that the Officer had a duty to assess the corroborative documentary evidence of Mr. Shahzad's cohabitation with his spouse before making a conclusion on credibility based on the testimony given at the interview. He contends that credible and relevant evidence concerning their common address since 2014 was erroneously dismissed by the Officer.

[36] Again, Mr. Shahzad is asserting that the corroborating addresses should have outweighed his non-credible evidence, and is asking the Court to reweigh the evidence. The Officer simply found that the evidence submitted by Mr. Shahzad did not rise above the many negative credibility findings she had noted. Mr. Shahzad indeed fails to point to any occurrences where the Officer overlooked or ignored key corroborating facts. The Officer referred to the fact that Mr. Shahzad and his spouse had submitted documents showing mail going to the same address, as well as the addition of Mr. Shahzad to the housing contract. The fact that the Officer did not explicitly refer to bank statements or letters from the stepchildren's school is not, in and of itself, unreasonable. The Officer did not have to list every piece of evidence in her Decision. A "decision-maker is not required to make an explicit finding on each constituent element, however subordinate, leading to its final conclusion" (*Newfoundland Nurses* at para 16).

(3) Failure to consider the totality of the evidence

[37] Mr. Shahzad also pleads that the Officer failed to consider the totality of the evidence before her, and ignored some of the explanations given by Mr. Shahzad and his wife. However, in each case, the Officer took note of the explanations as to why Mr. Shahzad might have contradicted his spouse. The fact that the Officer did not reproduce in her reasons every word of Mr. Shahzad's explanations does not diminish her Decision's transparency and logical justification.

[38] It is trite law that a reviewing court owes particular deference to the Officer on credibility, which is central to the analysis of the genuineness of the relationship (*Keo v Canada (Citizenship and Immigration)*, 2011 FC 1456 at para 24). It is also well-recognized that an officer is presumed to have weighed and considered all the evidence unless the contrary is shown (*Sing v Canada (Minister of Citizenship and Immigration)*, 2005 FCA 125 at para 90; *Florea v Canada (Employment and Immigration)*, [1993] FCJ No 598 (FCA) (QL) at para 1). It is only when a tribunal is silent on evidence clearly pointing to an opposite conclusion that the Court may intervene (*Ozdemir v Canada (Minister of Citizenship and Immigration)*, 2001 FCA 331 at paras 9-10; *Cepeda-Gutierrez v Canada (Minister of Citizenship and Immigration)*, [1998] FCJ No 1425 (QL) at para 16). Mr. Shahzad has not identified any such evidence.

(4) Unreasonable assessment of the development of the couple's relationship

[39] Mr. Shahzad also relies on *Sandhu v Canada (Citizenship and Immigration)*, 2014 FC 1061 [*Sandhu*] to state that the Officer erred by not giving due consideration to the couple's cultural context when assessing the merits of the couple's *bona fide* relationship.

[40] I do not agree. Culture is beside the point. The Officer simply found the evidence provided insufficient to support the existence of a genuine marriage. The onus is on the applicant to put his "best case forward", and Mr. Shahzad had the burden to present an application that is not only "complete", but also relevant, convincing and unambiguous (*Obeta v Canada (Citizenship and Immigration)* 2012 FC 1542 at para 25; *Oladipo v Canada (Citizenship and Immigration)* 2008 FC 366 at para 24). The Officer's findings on the absence of a *bona fide* relationship were anchored on numerous factors and grounded in the evidence on the record.

[41] The situation of Mr. Shahzad is materially different from the *Sandhu* precedent where the officer disregarded an overwhelming amount of evidence indicating that the marriage was genuine such as scores of telephone calls, letters and postcards between the couple (*Sandhu* at para 31). In Mr. Shahzad's case, there is not much the Officer could speculate on regarding the romantic, or even conjugal, foundation of the relationship. Evidence of genuine conjugality was lacking as there was virtually no evidence of cohabitation. The burden laid on Mr. Shahzad to provide the Officer with sufficient evidence of conjugality, but he failed to do so (*Kaur v Canada (Citizenship and Immigration)*, 2010 FC 417 at para 17; *Sharma v Canada (Citizenship and Immigration)*, 2009 FC 1131 at para 16). In light of the evidence, it was open to the Officer to conclude that the development of Mr. Shahzad's relationship with his spouse did not reflect the existence of a genuine marriage.

(5) Error in basing credibility findings on irrelevant considerations

[42] Mr. Shahzad finally argues that the Officer failed in basing her credibility findings on the fact that Mr. Shahzad did not correctly remember the dates of his wife's miscarriage and end of

employment, and the medical reasons for the latter. He argues that refugee claims should not be determined on the basis of a memory test.

[43] Again, I do not share Mr. Shahzad's views. I accept the principle that an officer should not turn its review into a memory test (*Shabab v Canada (Citizenship and Immigration)*, 2016 FC 872 at para 39; *Sheikh v Canada (Minister of Citizenship and Immigration)*, [2000] FCJ No 568 (QL) at para 28). However, singling out contradictions regarding everyday matters such as the living arrangements in the home Mr. Shahzad shares with his spouse and her three children, or what activities he and his spouse were up to the day before the interview, as well as more important topics such as whether his wife had a miscarriage in 2016 or two years before, or when she had to stop working because of illness, do not amount to a simple memory test. Rather, they point to major inconsistencies in Mr. Shahzad's story that support the negative credibility inferences drawn by the Officer regarding the genuineness of the marriage.

[44] The Officer's concerns about Mr. Shahzad's lack of knowledge about the miscarriage and his spouse's employment were far from being an improper memory test. I underline that Mr. Shahzad's recollection of these important dates did not miss the mark by a small margin. Far from being minor, the discrepancies were of serious magnitude, expressed in terms of months and years instead of weeks or days. Mr. Shahzad was off by <u>two years</u> on the date of his wife's miscarriage! Not only were these discrepancies significant in terms of dates but they did not relate to peripheral or minor issues; they instead went to fundamental events at the very heart of the *bona fide* relationship Mr. Shahzad claimed to have with his spouse.

[45] In sum, the Decision of the Officer is justifiable, transparent and intelligible, it allows the reviewing court to understand how the Officer came to her conclusions, and the outcome is consistent with the evidence before her. Reasons are to be read as a whole, in conjunction with the record (*Agraira v Canada (Public Safety and Emergency Preparedness)*, 2013 SCC 36 at para 53; *Construction Labour Relations v Driver Iron Inc*, 2012 SCC 65 at para 3). When read as a whole, the Officer's Decision is reasonable and does not fall outside the realm of possible, acceptable outcomes. The Officer properly assessed all the necessary factors and provided an analysis of the evidence presented. The intervention of this Court is not warranted.

IV. Conclusion

[46] The Officer's dismissal of Mr. Shahzad's application on the ground that his marriage is not genuine and that the couple has entered into their relationship primarily for the purpose of obtaining immigration status represents a reasonable outcome based on the law and the evidence before the Officer. On a standard of reasonableness, it suffices if the decision subject to judicial review falls within a range of possible, acceptable outcomes which are defensible in respect of the facts and law. This is the case here. Therefore, I must dismiss Mr. Shahzad's application for judicial review.

[47] Neither party has proposed a question of general importance for me to certify. I agree there is none.

JUDGMENT in IMM-445-17

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is dismissed, without costs.

2. No question of general importance is certified.

"Denis Gascon"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

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