Federal Court  Cour fédérale

Date: 20180612

Docket: IMM-3614-17

Citation: 2018 FC 610

Ottawa, Ontario, June 12, 2018

PRESENT: The Honourable Mr. Justice Pentney

BETWEEN:

LIYE SHAO and LING DING

Applicants

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

[1] This is an application for judicial review of a decision by a Visa Officer to refuse Liye Shao's (the Applicant) Family Class permanent residence application under the sponsorship of her daughter, Ling Ding (the Sponsor). (When referring to Ms. Shao and Ms. Ding together, they shall be referred to as the Applicants.) The refusal follows a procedural fairness letter (PFL) expressing concerns that the Applicant had provided false information about her marital status. Ultimately, the Officer found that the Applicant had directly or indirectly misrepresented or withheld material information and thus refused her permanent resident application.

[2] For the reasons that follow, I am granting this application for judicial review.

I. Style of Cause

[3] The Respondent asked this Court to modify the style of cause to reflect the proper Respondent. The style of cause will be amended, on consent of the parties – the proper Respondent here is the Minister of Citizenship and Immigration: *Immigration and Refugee Protection Act*, SC 2001, c 27 [*IRPA*], subsection 4(1); *Department of Citizenship and Immigration Act*, SC 1994, c 31, subsection 2(1); *Immigration and Refugee Protection Regulations*, SOR/2002-227, section 2 [*IRPR*].

II. Decision under Appeal

[4] On January 5, 2015, the Applicant's application for permanent residence was received in the visa office in Hong Kong.

[5] In a PFL sent to the Applicant on March 24, 2017, the visa office expressed concern that she had provided false information about her marital status in her application for permanent residence, and that the original notarized copy of the divorce certificate she had submitted was fraudulent. The concerns arose because the application stated the Applicant was divorced since 1998, whereas her 2007 and 2009 temporary resident visa (TRV) applications listed her as married to Mr. Ding.

[6] The Applicant's response was received on March 31, 2017, explaining that the inconsistencies were due to her asking a friend with better English to assist her in completing her

2007 application, which then formed the basis for her 2009 application. The Applicant indicated that she had not noticed this mistake on the earlier documents, and she further stated that the sponsorship application was based on correct information because she had prepared it with the assistance of her daughter (the Sponsor), who had taken great care to ensure it was accurate and complete. The Officer found this explanation to be neither reasonable nor credible and, on a balance of probabilities, concluded the Applicant directly or indirectly misrepresented or withheld material information, and was thus inadmissible. Her permanent residence application was refused on June 24, 2017.

III. Issues and Standard of Review

[7] Two issues arise in this case:

A. Was there a breach of procedural fairness in the decision refusing the Applicant's permanent resident application?

B. Was the decision to refuse the application reasonable?

[8] The standard of review for breach of procedural fairness is correctness, while the standard regarding the decision to refuse the application involves a question of mixed fact and law, which is to be assessed against a standard of reasonableness: *Mission Institution v Khela*, 2014 SCC 24 at para 79; *Canadian Pacific Railway Company v Canada (Attorney General)*, 2018 FCA 69; *Dunsmuir v New Brunswick*, 2008 SCC 9 at para 79; *Ge v Canada (Citizenship and Immigration)*, 2017 FC 594 [*Ge*].

IV. Analysis

A. *Was there a breach of procedural fairness?*

[9] The Applicants argue that there were several breaches of procedural fairness. First, the PFL was vague as it did not specify the particular concerns, or the documents necessary to respond to the Officer's concerns. It follows that rejecting the response was unfair as the Applicants were unable to know the concerns they were to address. Therefore, the Applicants should have been given a further opportunity to provide information that addressed the concerns of the Officer. Second, the Officer, upon finding a further TRV application from 2011 which also indicated that the Applicant was married, ought to have provided a separate PFL. Third, the Officer rejected the application based in part on credibility findings without informing the Applicant that her credibility was in issue. Fourth, the Officer erred by ignoring evidence and failing to address the issue of materiality. I will consider each of these arguments in turn.

(1) Was the procedural fairness letter vague or misleading?

[10] The Applicants submit that the Officer owed a higher duty of fairness than is generally owed to visa applicants because the outcome of the family sponsorship application affected the interests of the Applicant as well as the Sponsor and her Canadian family. Furthermore, the finding of inadmissibility resulted in a five-year bar on re-applying which added to the gravity of the decision for the Applicants: *Baker v Canada (Citizenship and Immigration)*, [1999] 2 SCR 817 at 837-841 [*Baker*]; *Ge*; *Iqbal v Canada (Citizenship and Immigration)*, 2016 FC 533; *Menon v Canada (Citizenship and Immigration)*, 2005 FC 1273. The Applicants contend that this higher duty was not met here because: (a) the letter did not specify with sufficient precision

the concerns that the Officer had about the application, (b) it did not state clearly that the Applicant could provide further documentation, and (c) it failed to specify the particular documents that were required to address the Officer's concerns. This was a breach of procedural fairness, in that it denied the Applicants' right to know the case they had to meet, and thus denied them a fair hearing.

[11] The requirements of procedural fairness vary with the nature of the decision and its impact on the individual, and must be assessed in the context of the legislative scheme: *Baker*. The law is clear that procedural fairness requires that applicants for permanent residence be provided a meaningful opportunity to respond to perceived material inconsistencies or credibility concerns with respect to their files: *Chawla v Canada (Citizenship and Immigration)*, 2014 FC 434 at para 14 [*Chawla*]. This is generally done through a PFL. The Applicants rely on Immigration, Refugees and Citizenship Canada's (IRCC) Operational Guidelines which provide the following instructions to officers as they relate to procedural fairness:

> To ensure that the applicant has a meaningful opportunity to participate, decision-makers must give sufficient notice about any process or interview that could result in a decision on their application and must give the applicant a reasonable opportunity to bring evidence or make arguments supporting their application. Decision-makers should tell applicants which documents may be required in order to address concerns.

[12] The Applicants argue that the PFL in this case failed to give them sufficient information to "know the case to meet", and it did not tell them which documents were required to address the Officer's concerns. I do not agree, since I find that the letter was explicit and direct in telling the Applicants about the specific concern of the Officer, and in signalling that this was a serious matter that could have important ramifications for them.

[13] The PFL, dated March 24, 2017, refers to subsections 11(1) and 16(1) of *IRPA*, regarding the application process and the obligation to answer truthfully all questions put to the individual for the purposes of the examination of admissibility, and states "I have concerns that you have not fulfilled the requirement put upon you by section 16(1) of the Immigration and Refugee Protection Act…". It then specifies the concern:

> You submitted a PRC divorce certificate indicating you had divorced your ex-husband (Ding) Yanwei on 24 August 1998. You did not indicate in your completed and signed IMM00008 form submitted that you had re-married someone else after you had divorced your ex-husband (Ding) in 1998.
>
> However, based on information available in our immigration database, you declared in your past Canadian visitor visa applications submitted in December 2007 and in May 2009 that you are married and has (sic) a spouse in the PRC. You further declared in your past Canadian visitor visa application dated December 2007 that you are living in the (sic) with your spouse in the PRC, who is not accompanying you on your trip. Based on all the documentation and information available, I have concerns that you have provided untruthful personal background information/marital status and marital history, and also a fraudulent PRC divorce certificate to this office in support of your immigration application.
>
> …
>
> I would like to give you an opportunity to respond to this information.

[14] It is difficult to conceive of what could have been added to this letter to make it clearer to the Applicants. The argument that it did not specify which documents may be required to address the Officer's concerns is misplaced in these circumstances. The Officer's letter indicated that rather than a lack of documentation, there was an inconsistency in the material he or she had found in the system regarding the marital status of the Applicant. This cast doubt upon the truth

of the statements in the application for permanent residency and the validity of the divorce certificate. The letter invited the Applicant to provide a response.

[15] In support of their argument for a higher duty of fairness, the Applicants state that the decision on the sponsorship application had a significant impact on them, which is aggravated by the finding of inadmissibility for misrepresentation which leads to a five-year bar on re-applying. On this point, I would observe that the Applicants were warned of this – it is all set out explicitly in the PFL itself:

> Please note that if it is found that you have engaged in misrepresentation in submitting your application, you may be found to be inadmissible under section 40(1)(a) of the Immigration and Refugee Protection Act. A finding of such inadmissibility would render you inadmissible to Canada for a period of five years according to section 40(2)(a) and according to section 40(3) you would not be eligible to apply for permanent resident status during the period of inadmissibility.

[16] Once again, the letter is specific and direct. It is a clear indication to the Applicants that this is a serious matter, and that the possible impact went beyond a denial of this application and could result in a five-year bar on re-applying. Furthermore, the letter states that any documents submitted must be in either English or French, and any documents originally in any other language must be accompanied by a certified translation. It provides that the Applicants can explain why they may be unable or unwilling to submit any documentation, it sets out the 30-day time limit for receipt of the response, and then it specifies how the submission could be made.

[17] All of this surely informed the Applicants that the PFL called for more than a perfunctory response, yet all that was provided was a one-page letter which simply explained that the

discrepancy was due to the fact that the 2007 and 2009 TRV applications had been prepared by a friend of the Applicant, whose command of English was better than the Applicant's. She explains that the error committed in 2007 was repeated in the 2009 application because the earlier application was used as a reference for the latter one. The Applicant states "I didn't check the form carefully enough because I trust her." The Applicant also states that the January 2015 sponsorship application is accurate, because it was completed with the assistance of her daughter who was careful to make sure all of the documents and information were accurate.

[18] The Officer found this explanation to be insufficient: "I do not find the PFL response credible or reasonable especially [*sic*] you made more than one application to Canada indicating the same information around 10 years after you state to have been divorced."

[19] I find no breach of procedural fairness in the circumstances of this case. The Officer clearly identified that she or he had concerns regarding the marital status of the Applicant, in view of the discrepancies between the TRV applications from 2007 and 2009, and the 2015 application. The Officer further indicated that this was a very serious matter, which could have significant consequences for the Applicant. She was invited to provide a response, and the letter clearly indicated that any documents submitted must be in either English or French. The fact that the Applicants did not submit a complete or thorough response to this letter cannot be blamed on any inadequacies in the PFL.

(2) Did procedural fairness require the Officer to provide a PFL for the 2011 application?

[20] The Applicants argue that it was unfair for the Officer not to provide a separate PFL in regard to the discovery of another TRV application from 2011 which indicated that the Applicant was married. In the GCMS Notes on the application, the Officer states:

> In reviewing SHAO Liye's FOSS history, I note that in fact there was another TRV application submitted in March 2011 in which she also indicated she was married. Applicant was not informed and provided procedural fairness to respond to this concern so it has not been considered in this decision but I note it here for completeness sake as that application was also for the purpose of visiting the sponsor but applicant's date of birth on the application was incorrect so it was not matched to SHAO Liye's complete history until now.

[21] The Applicants rely on *Ardiles v Canada (Citizenship and Immigration)*, 2002 FCT 1323 [*Ardiles*] as authority for the proposition that a PFL is required when potentially damaging evidence is discovered, even if the officer states that the evidence was not relied upon. In *Ardiles* the officer discovered an earlier H&C application record that was originally thought to have been destroyed. The officer discovered that the earlier H&C application had been refused, but did not disclose this to the applicants. The Court found a breach of procedural fairness, since it was not clear whether the officer had drawn a negative credibility assessment in part based on this information. The key findings are stated in the following paragraphs:

> [35] The fact remains however that the mere mention by the Immigration Officer in her notes that "I do not consider this to be extrinsic information which requires a response from the client" is not sufficient. This is particularly so considering that she went out of her way to gather the information which, in her own words, was clearly relevant to establish whether the Applicants were telling the truth with respect to their claim. In *Redman v. Canada (Minister of*

> *Citizenship and Immigration)* (1998), 157 F.T.R. 120 (F.C.T.D.), Rothstein J. (as he then was) stated the following at paras. 4-5:
>
> > When an anonymous letter prejudicial to an applicant is received by an Immigration Officer, such letter must be disclosed. The alternative - non-disclosure discovery by an applicant after a negative decision has been made and then an assertion by the Immigration Officer that the letter was not relied upon - leads to a perception of unfairness.
> >
> > Of course, apparent irregularities discovered after a negative decision is made are often explained or justified. In some circumstances, however, such after the fact explanation or justification will not satisfactorily meet the requirements of fairness. In the immigration context, anonymous prejudicial letters are particularly nasty and offensive. In most cases, the contents of such communications will rightly be disregarded. However, fairness requires that when such potentially damaging information is received it must be disclosed so that an applicant may be satisfied, before a decision is made, that it will be disregarded, or that he or she has had an opportunity to respond to it.
>
> See also *Haouari v. Canada (Minister of Citizenship and Immigration)*, [1996] F.C.J. No. 925 (QL) (F.C.T.D.) at paras. 10-11.
>
> [36] This is clearly a borderline case. Even though the Immigration Officer stated that she did not consider the information to be "extrinsic" and that, in any event, she did not rely on it, the non-disclosure of this relevant information leads to a perception of unfairness and breach of duty. Further, I cannot conclude that the breach of natural justice was so minor in extent and could not have appreciably affected the final decision.

[22] The Respondent argues that the *Ardiles* decision should be distinguished on its facts. I agree. In *Ardiles* the officer conducted her own investigation to discover documents of which the applicants were not aware. They had been led to believe that the documents no longer existed, and had they been provided with an opportunity to comment on these records they could have

addressed any concerns that the officer may have had about the contents. Furthermore, it was not entirely clear what impact these newly-discovered documents had on the final outcome.

[23] In the case before me, the Officer did find a new TRV application, but it was one submitted by the Applicant; she would have been aware of it. The Officer also indicates expressly that this did not influence the final decision.

[24] The Applicants submit that had the Officer drawn this 2011 TRV application to their attention, it would have provoked a response which would have further bolstered their claim that the Applicant was divorced. They say that had they received a second PFL, they would have pointed to an application to extend the Applicant's visitor visa from 2010, and this document – which was also completed with the assistance of the Sponsor – stated that the Applicant is divorced. So, the failure to provide a second PFL denied the Applicants the opportunity to fully answer the concerns of the Officer.

[25] I would observe that this is consistent with the GCMS notes in the record before me, in which an entry that appears to date from January 2010 indicates that the Applicant is divorced.

[26] Unlike the situation in *Ardiles*, where the applicants had no way of knowing that the other records still existed, or *Redman* (cited in the quote from *Ardiles*, above), where the applicants were unaware of the anonymous letter, in this case the Applicants contend that they were denied procedural fairness because the Officer did not advise them of the existence of documents that one or both of them had completed and submitted. This simply cannot be right. Upon receipt of the first PFL, which stated clearly that the Officer had concerns that the Applicant had

misrepresented her marital status, the Applicants had the onus to provide a complete and truthful response. They complain that the failure to provide a second PFL denied them procedural fairness, because that second letter might have triggered their memories in regard to the 2010 visa extension application, which would have bolstered their claim that the Applicant was indeed divorced. The problem with this argument, however, is that the first PFL should have been sufficient to indicate to the Applicants that they needed to provide any and all information available to them as to the Applicant's marital status. They did not need a second PFL to be encouraged to provide a fulsome response, and it was not a denial of procedural fairness for the Officer simply to include this for completeness in the GCMS notes.

(3) Did the Officer advise the Applicants of credibility concerns?

[27] The Applicants submit that the Officer erred in failing to inform them that he or she had credibility concerns before rejecting the sponsorship application. This argument is based on the decision letter, which states: "I do not find the PFL response credible or reasonable…" The Applicants ask that I overturn the decision because they were never given the opportunity to address the Officer's concerns regarding credibility. I am not persuaded.

[28] Here, the concerns of the Officer arise from discrepancies in official application forms signed and submitted by the Applicants pursuant to *IRPA*, seeking immigration status to Canada. In addition to the decision letter, there are several references in the GCMS notes which indicate that the Officer had a concern about the Applicant's credibility, and each of these refers to her marital status – no other issue appears to have raised questions regarding her credibility. For

example, under the heading “Officer’s Review”, the following notes set out the core of the Officer’s analysis:

> - I am not satisfied with the [primary applicant’s] explanation about having provided untruthful marital status repeatedly on her 2 TRV applns [(temporary residence visa applications)] in DEC07 and again in MAY09.
>
> …
>
> - PA failed to submit reliable evidence to support her explanation about someone else having made the mistake on her TRV appln in DEC07 and again 2 yrs later in MAY09.
>
> - the fact remains that PA provided a PRC divorce [certificate] dated 1998, which contradicts the marital status info provided by her to this office in DEC07 abd [*sic*] MAY09.
>
> - I, therefore, [have] concerns with PA’s credibility in general and with the reliability of all docs and info submitted to this officer by her in support of her immig appln [(immigration application)].
>
> - based on all the docs and info available, I am not satisfied that PA has provided truthful information concerning her marital status to this office in support of her immig appln.

[29] The law is clear that an applicant for immigration bears the onus of ensuring that the documents submitted are complete and accurate: *IRPA* section 16; *Haque v Canada (Citizenship and Immigration)*, 2011 FC 315 at para 15; *Khedri v Canada (Citizenship and Immigration)*, 2012 FC 1397 at paras 22-27. The law is also clear that where an officer has concerns regarding the credibility of an applicant, or the validity of a document submitted in support of an application, the officer must advise the applicant of these questions and provide an opportunity to respond. This does not require that the officer provide a “running commentary” on the progress of the analysis at each step; rather, it is a requirement to meet the basic duty of fairness – to allow the applicant to know the substance of the concerns in sufficient detail to be able to provide an explanation or further information. Fairness requires that documents, reports, or

opinions of which the applicant is not aware, nor deemed to be aware, must be disclosed (*Adewole v Canada (Citizenship and Immigration)*, 2014 FC 112; *Haghighi v Canada (Citizenship and Immigration)*, [2000] 4 FC 407 (FCA) at paras 26-27).

[30] In this case, the PFL provided to the Applicant states the nature and basis of the issue and makes clear that the Officer has concerns that she has not been truthful; *i.e.* that her credibility is in doubt. The following key sentence sets this out clearly: "Based on all documentation and information available, I have concerns that you provided untruthful personal background information/marital status and marital history, and also a fraudulent PRC divorce certificate."

[31] This put the Applicant on notice of the issue, and provided an opportunity for her to provide further explanations and other information. That is what procedural fairness requires in these circumstances. There is no indication in the decision letter, or the GCMS notes, to suggest that the Officer had other credibility concerns of which the Applicant was not aware. This can be contrasted with the situation where either no notice is provided, or it is not sufficiently informative to enable the applicant to provide a meaningful reply: see, for example, *Chawla* at para 19.

[32] Here the Officer's concerns about the Applicant's credibility, and the authenticity of the divorce certificate, were stated and the Officer found that the response provided did not provide a sufficient answer to these concerns. On the basis of this, the Officer rejected the application for misrepresentation. I find that the Applicants were advised in sufficiently clear terms that credibility was an issue, and were provided with an opportunity to respond. That is all that was required in the circumstances.

(4) Did the Officer err by ignoring evidence?

[33] The Applicants argue that the Officer's decision must be set aside because it was reached without consideration of all of the pertinent evidence. In particular, they note that while the Officer referred to the 2007 and 2009 TRV applications which listed the Applicant as married, there is no reference to several other documents which either list her as divorced or are consistent with that conclusion. In particular, they point to the notarized translation of the 2015 Hukou (household registration), which lists the Applicant as divorced, as well as the notarized translation of the 2007 Certificate of Relationship, which shows that the Applicant and her ex-husband reside at separate addresses. These documents were submitted in support of the sponsorship application, and were not referred to or re-submitted in response to the PFL. The Applicants argue that the Officer had a duty to consider all of the information they had submitted before reaching a conclusion on the application. The failure to do so renders the decision unintelligible, because it means that the Court is left to speculate as to whether or not these documents were taken into account by the Officer: *Newfoundland and Labrador Nurses' Union v Newfoundland and Labrador (Treasury Board)*, 2011 SCC 62; *Leahy v Canada (Citizenship and Immigration)*, 2012 FCA 227.

[34] The case-law from this Court is clear that the failure to refer to key evidence that contradicts the conclusion reached by the Officer may result in the decision being overturned. While the decision-maker is not required to recite all of the evidence filed, the Court has ruled that "the more important the evidence that is not mentioned specifically and analyzed in the agency's reasons, the more willing a court may be to infer from the silence that the agency made an erroneous finding of fact 'without regard to the evidence'…" (*Cepeda-Gutierrez v Canada*

(Citizenship and Immigration), [1998] FCJ No 1425 (QL), 157 FTR 35 (FC) at para 17; *Zhong v Canada (Citizenship and Immigration)*, 2017 FC 223 [*Zhong*]).

[35] The Respondent argues that the Applicants had the onus to provide all relevant and pertinent information to the Officer, and that it is wrong to switch the onus to the Officer to scour the entire immigration file to hunt for relevant information. The Hukou and Certificate of Relationship were submitted in support of the sponsorship application to establish the relationship between the Applicant and the Sponsor, not to establish her marital status. The Applicants did not refer to these documents in their response to the PFL, although the Applicants would have been aware that they were relevant to the very concern raised in the PFL. In addition, neither the Hukou nor the Certificate of Relationship were conclusive evidence of this fact, as the Hukou indicated the daughter – currently living in Canada – lived at the same address as the Applicant in China, and the Certificate of Relationship did not in fact establish the Applicant was divorced, it merely indicated that the Applicant lived at a different address than her "spouse". The Respondent contends that this calls into question how persuasive these documents actually are, and thus it was not an error for the Officer to fail to refer to them.

[36] I agree with the Respondent that the onus lies on the Applicant to provide all required information to support an application for permanent residency. The issue here is whether the Applicants, having provided this information, were entitled to expect that the Officer would consider it in its entirety before reaching a conclusion on their case. The matter is further complicated by the failure of the Applicants to refer to this, and other, information when they were provided an opportunity to address the Officer's concerns regarding the Applicant's marital status. Had they taken the opportunity to provide a more thorough and complete response, they

could have contrasted the 2007 and 2009 (and 2011) TRV applications with the 2010 visa extension application, the sponsorship application, as well as the notarized translations of the divorce certificate, the Hukou and the Certificate of Relationship. However, the Applicants did not do that, and so the question is whether the Officer's decision is unreasonable because it does not indicate that there was any consideration of much of this information.

[37] Having considered the submissions of the parties, the relevant provisions of *IRPA* and the *IRPR*, as well as the relevant case-law (see *Chi v Canada (Citizenship and Immigration)*, 2002 FCT 126), I find that this decision is unreasonable in the circumstances of this case. The Applicants did meet their onus of submitting the relevant documentation, and while the response to the PFL was inadequate, that cannot excuse the Officer from his or her obligation to consider the record in its entirety. I would observe that the Officer examined the computer records regarding the Applicant to discover the 2007 and 2009 TRV applications, and subsequently found a 2011 record as well. So the Officer clearly did go beyond the sponsorship application itself, and in doing so the Officer committed no error. However, there is no mention in the decision or the GCMS notes to indicate that the Officer considered the 2010 visa extension application, the Hukou or the Certificate of Relationship. I am left to speculate as to whether the complete record of the sponsorship application was considered; in addition, there is no indication that the Applicant's complete immigration record was considered, since the only references are to the 2007, 2009 and 2011 TRV applications.

[38] This case is similar to *Zhong*, where an officer's determination that the applicant was not eligible for inclusion as a family member in an application for permanent residency because she was not the biological child of her sponsor was overturned because the officer did not indicate

whether or not several key documents had been considered. The evidence in that case showed that the applicant's parents had taken her in as a baby, and had obtained a fraudulent birth certificate and Hukou naming her as their child. Their evidence was that they did not formally adopt the applicant, nor did they advise her that she was not their biological child, in order to avoid causing her distress. The question before the officer in that case was whether the evidence established that the applicant was the "*de facto*" child of the sponsor. Justice Keith Boswell found that the officer had erred in failing to consider several key documents which had been submitted by the applicant, and which supported her claim of a long-standing relationship and dependency. The absence of any reference to these particularly relevant documents in the decision or the GCMS notes rendered the decision unintelligible and therefore unreasonable (see paras 25-30).

[39] For the same reasons, I find that the absence of any reference to the Hukou and Certificate of Relationship renders the decision unreasonable. I am left to speculate whether or not the Officer considered these documents in reaching the decision to reject the application. The Hukou, together with the 2010 visa extension application, directly contradicts the Officer's finding of misrepresentation regarding marital status, and the Certificate of Relationship casts doubt upon it since it shows the Applicant and her ex-husband resided at different addresses. At the very least, these documents called for further investigation or inquiry by the Officer. I would further observe that there is no indication that the Officer had any other basis for questioning the validity of the divorce certificate, other than doubts about the Applicant's credibility. Neither the decision letter nor the GCMS notes indicate that the Officer had any basis for questioning whether it was fraudulent arising from the document's appearance or contents.

[40] The finding of misrepresentation here related to the sponsorship application which lists the Applicant as divorced. The Officer's doubts on that arose from a review of the 2007 and 2009 TRV applications, which list her as married. I find that it is unreasonable to conclude that there has been a misrepresentation regarding marital status without considering the other documents in the file which show that she is divorced, or which are consistent with that conclusion, in the case of the Certificate of Relationship. These documents, together with the 2010 visa extension, were part of the Applicant's file. It is true that the Applicants should have pointed to all of this in their response to the PFL, but I cannot conclude that their failure to do so relieves the Officer from his or her obligation to consider all of the information in the record before reaching a decision on the application. The Hukou and Certificate of Relationship formed part of the application for sponsorship, while the 2010 visa extension application was presumably part of the larger immigration file – a file which the Officer clearly examined in part because that is how the 2007, 2009 and 2011 TRV applications were discovered.

[41] In view of my findings on this issue, it is not necessary to address the question of whether the Officer erred by failing to analyze the issue of materiality.

V. Conclusion

[42] In view of the particular circumstances of this case, I find the decision unreasonable. The matter is remitted for consideration by a different Visa Officer. No question for certification was raised by the parties, and none arises from this case.

JUDGMENT in IMM-3614-17

THIS COURT'S JUDGMENT is that:

1. The Application for judicial review is allowed and the matter is to be sent back for redetermination by a different Visa Officer.

2. There is no serious question of general importance to be certified.

3. The Style of Cause is amended to reflect the correct respondent, the Minister of Citizenship and Immigration.

"William F. Pentney"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	IMM-3614-17
STYLE OF CAUSE:	LIYE SHAO AND LING DING v THE MINISTER OF CITIZENSHIP AND IMMIGRATION
PLACE OF HEARING:	TORONTO, ONTARIO
DATE OF HEARING:	FEBRUARY 14, 2018
JUDGMENT AND REASONS:	PENTNEY J.
DATED:	JUNE 12, 2018

APPEARANCES:

Raymond Lo	FOR THE APPLICANTS
Sally Thomas	FOR THE RESPONDENT

SOLICITORS OF RECORD:

Raymond Lo Barrister and Solicitor Richmond Hill, Ontario	FOR THE APPLICANTS
Attorney General of Canada Toronto, Ontario	FOR THE RESPONDENT