

Federal Court



Cour fédérale

Date: 20191202

Docket: IMM-1313-19

Citation: 2019 FC 1544

Ottawa, Ontario, December 2, 2019

PRESENT: The Honourable Madam Justice Kane

BETWEEN:

FA YING LI

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

[1] The Applicant, Fa Ying Li, [Ms. Li] seeks judicial review of the decision of the Immigration Appeal Division [IAD] dated January 23, 2019 which dismissed her appeal of the Immigration Division's decision refusing the application of Ms. Li's husband, Huachun Zhang [Mr. Zhang], for a permanent resident visa. The IAD found that Ms. Li could not sponsor Mr. Zhang because Mr. Zhang could not be considered a spouse in accordance with section 4.1 of the *Immigration and Refugee Protection Regulations* (SOR/2002-227) [Regulations].

[2] The IAD found that Ms. Li and Mr. Zhang, who were married in 2003, entered into a divorce of convenience, for the purpose of Ms. Li obtaining status in Canada in order to sponsor Mr. Zhang.

[3] For the reasons that follow, the Application is dismissed.

I. Background

[4] Ms. Li married Mr. Zhang in China in 2003. Their first daughter was born in China in June 2004. In April 2005, they separated and Ms. Li moved to her parents' home. On August 29, 2005, Ms. Li and Mr. Zhang divorced. Ms. Li cited Mr. Zhang's drinking, gambling, and inattentiveness to his daughter as the primary reasons for the divorce. Mr. Zhang also noted that he was an inattentive parent and was nagged by Ms. Li.

[5] In May 2006, Ms. Li met Benny Lau [Mr. Lau], a Canadian citizen, while he was visiting China. Ms. Li recounts that she acted as a tour guide for Mr. Lau and spent four days with him in person and they continued to communicate online after Mr. Lau returned to Canada. In May 2007, Ms. Li married Mr. Lau in China.

[6] Ms. Li and her daughter arrived in Canada as permanent residents in November 2008, sponsored by Mr. Lau. They lived for the first month with Ms. Li's parents, who had come to Canada as permanent residents in 2007. They then moved in with Mr. Lau's parents.

[7] In December 2009, Ms. Li and Mr. Lau separated. In March 2011, their divorce was finalised. Ms. Li recounts that the friction with Mr. Lau's mother undermined her relationship with Mr. Lau.

[8] Ms. Li returned to China for visits of several months beginning in 2010. In February 2012, Ms. Li again travelled to China where she liaised with her first husband, Mr. Zhang. Following a night of heavy drinking in or around April 2012, they engaged in sex, which resulted in Ms. Li becoming pregnant. Ms. Li returned to Canada and gave birth to her second daughter in December 2012.

[9] In September 2013, Ms. Li and her first daughter obtained Canadian citizenship.

[10] In January 2014, Ms. Li travelled to China with her younger daughter and her mother to visit Mr. Zhang. Mr. Zhang proposed marriage to Ms. Li. In November 2014, Ms. Li and Mr. Zhang were re-married in China.

[11] Ms. Li made two unsuccessful attempts to sponsor Mr. Zhang for permanent resident status in Canada: on January 11, 2016, and September 22, 2017. Ms. Li appealed the September 2017 decision to the IAD. The IAD's decision to dismiss the appeal is the subject of this Application for Judicial Review.

II. The Decision under Review

[12] The IAD found that, on a balance of probabilities, Ms. Li's divorce from Mr. Zhang and marriage to Mr. Lau were undertaken in order to obtain permanent residence in Canada for herself and her first daughter.

[13] The IAD found that based on the documentary evidence, the statements at Mr. Zhang's visa interview and the testimony of Ms. Li and Mr. Zhang at the hearing, there were gaps in the evidence that undermined their credibility regarding the breakdown of their first marriage, Ms. Li's second marriage and its breakdown, and the circumstances of Ms. Li's renewed relationship with Mr. Zhang.

[14] The IAD noted that there was limited credible evidence and no satisfactory explanation about why Ms. Li and Mr. Zhang ended their marriage so quickly after their first child was born, and in the face of their families' claimed attempts at encouraging their reconciliation. The IAD also noted that the timing of their divorce raised concerns about its genuineness, given that Ms. Li's parents were in the process of immigrating to Canada at that time.

[15] The IAD found that Ms. Li's second marriage to Mr. Lau in 2007 was more likely a marriage of convenience. The IAD noted that there was limited credible evidence about what Ms. Li and Mr. Lau had in common, how their relationship developed so quickly into a marriage after their brief in-person meeting and soon after Ms. Li's divorce from Mr. Zhang, noting their

limited personal contact, the fact that Ms. Li had a young child, and that Mr. Lau's mother did not approve of the marriage.

[16] The IAD further noted that Ms. Li's marriage to Mr. Lau ended relatively soon after she arrived in Canada (as a permanent resident), allegedly because of issues with her mother-in-law. The IAD noted that Ms. Li had other family members in Canada to whom she could have looked to for support.

[17] The IAD added that the circumstances surrounding the conception of Ms. Li and Mr. Zhang's second child raised concerns given the reasons they had provided for the breakdown of their initial marriage.

[18] The IAD further noted that Ms. Li returned to China shortly after her divorce from Mr. Lau and continued to visit China regularly.

[19] The IAD acknowledged that Ms. Li and Mr. Zhang had provided documentary evidence about their relationships before and after Ms. Li's immigration to Canada. The IAD found, based on the evidence, and on a balance of probabilities, that Ms. Li and Mr. Zhang were in genuine spousal relationship prior to Ms. Li's immigration to Canada and that Ms. Li's sponsorship by her second husband, Mr. Lau, was primarily for immigration purposes. The IAD further found that Ms. Li and Mr. Zhang are currently in a genuine spousal relationship.

[20] In summary, the IAD found that based on the evidence, Mr. Li and Mr. Zhang dissolved their first marriage to enable Ms. Li and their child to gain admission to Canada. As a result, Ms. Li is caught by section 4.1 of the Regulations. Mr. Zhang is not considered Ms. Li's spouse because Ms. Li's initial marriage to Mr. Zhang was dissolved primarily to allow Ms. Li and their child to acquire permanent resident status in Canada. The IAD points to Ms. Li's relative speed in marrying Mr. Lau, her sponsor, following her divorce from Mr. Zhang, her separation from Mr. Lau relatively quickly after gaining admission to Canada, her return to China after her separation from Mr. Lau and her subsequent regular visits to China, noting that this supports the conclusion that Ms. Li dissolved the initial marriage to gain admission to Canada as a step toward reuniting with Mr. Zhang and their child in Canada in the future.

III. Section 4.1 of the Regulations

[21] Section 4.1 states:

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 foreign national has begun a new conjugal relationship with that person after a previous marriage, common-law partnership or conjugal partnership with that person was dissolved primarily so that the foreign national, another foreign national or the sponsor could acquire any status or privilege under the Act.

4.1 Pour l'application du présent règlement, l'étranger n'est pas considéré comme l'époux, le conjoint de fait ou le partenaire conjugal d'une personne s'il s'est engagé dans une nouvelle relation conjugale avec cette personne après qu'un mariage antérieur ou une relation de conjoints de fait ou de partenaires conjugaux antérieure avec celle-ci a été dissous principalement en vue de lui permettre ou de permettre à un autre étranger ou au répondant d'acquérir un statut ou un privilège aux termes de la Loi.

IV. Issue and Standard of Review

[22] The issue is whether the IAD's finding that Ms. Li dissolved her marriage to Mr. Zhang in order to gain status or privilege under the *Immigration and Refugee Protection Act* (SC 2001, c 27), is reasonable.

[23] Ms. Li characterizes the IAD's findings as implausibility findings and submits that the IAD failed to support the findings with reference to the evidence. Ms. Li further argues that the IAD's brief decision refers to gaps in the evidence and limited credible evidence, but fails to identify the gaps and ignores the extensive evidence submitted.

[24] The standard of review of the IAD's decision, which engages issues of fact – including credibility – and mixed fact and law, is reasonableness (*Zhi v Canada (Minister of Citizenship and Immigration)*, 2013 FC 1126 at para 38.).

[25] The IAD's decision is owed deference 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 paras 47, 53, 55, [2008] 1 SCR 190; *Canada (Citizenship and Immigration) v Khosa*, 2009 SCC 12 at para 59, [2009] 1 SCR 339). To determine whether a decision is reasonable, the Court looks for “the existence of justification, transparency and intelligibility within the decision-making process” and considers “whether 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, [2008] 1 SCR 190).

[26] In addition to the general principles regarding the assessment of reasonableness, it is well established that boards and tribunals, such as the IAD, are best placed to assess credibility (*Aguebor v Canada (Minister of Employment and Immigration)*, [1993] FCJ No 732 (QL) at para 4, 160 NR 315 (CA)) and that their credibility findings should be given significant deference (*Lin v Canada (Minister of Citizenship and Immigration)*, 2008 FC 1052 at para 13, [2008] FCJ No 1329 (QL); *Fatih v Canada (Minister of Citizenship and Immigration)*, 2012 FC 857 at para 65, 415 FTR 82; *Lubana v Canada (Minister of Citizenship and Immigration)*, 2003 FCT 116 at para 7, 228 FTR 43); *Rahal v Canada (Minister of Citizenship and Immigration)*, 2012 FC 319, at para 42, [2012] FCJ No 369 (QL)).

[27] In *Newfoundland and Labrador Nurses' Union v Newfoundland and Labrador (Treasury Board)*, 2011 SCC 62, [2011] 3 SCR 708 [*Newfoundland Nurses*], the Supreme Court of Canada elaborated on the requirements of *Dunsmuir*, noting at paragraphs 14-16, that reasons are not required to set out all the arguments, statutory provisions, jurisprudence or other details that a reviewing court might prefer. Nor is the decision-maker required to make an explicit finding on each element that leads to the final conclusion. The reasons are to “be read together with the outcome and serve the purpose of showing whether the result falls within a range of possible outcomes” (*Newfoundland Nurses*, at para 14). In addition, where necessary, courts may look to the record to assess the reasonableness of the outcome (*Newfoundland Nurses*, at para 15).

[28] In *Delta Air Lines Inc. v Lukács*, 2018 SCC 2, [2018] 1 SCR 6 [*Delta Air Lines*], at para 24, the Supreme Court of Canada cautioned that a reviewing court cannot ignore the reasons of

the decision-maker and substitute its own, noting that the reasons can be supplemented by the record, but not supplanted.

V. The Applicant's Submissions

[29] Ms. Li submits that there were no inconsistencies in her evidence and that of Mr. Zhang which would justify negative credibility findings; the only conclusion is that the IAD found the events not plausible. Ms. Li argues that plausibility findings should only be made in the clearest of cases and with clear reference to the evidence. Ms. Li submits that the evidence shows that it is plausible that she would reunite with Mr. Zhang, despite their previous genuine divorce.

[30] Ms. Li further submits that the IAD's reasons are so sparse that they do not permit the Court to find that the decision is reasonable. Ms. Li submits that the Court cannot rely on the record to supplement the reasons because this would amount to supplanting them. Ms. Li further argues that the Respondent is attempting to offer new and additional reasons for the IAD's decision, which the IAD did not state.

[31] Ms. Li disputes the IAD's findings that there were gaps in the evidence, noting that no specific gaps were identified. She also disputes that there was limited credible evidence and no satisfactory explanation for the relevant events with respect to her first marriage, divorce, and re-marriage to Mr. Zhang. She submits that she and Mr. Zhang provided several consistent reasons for their divorce and re-marriage, all of which were corroborated by the other documentary evidence.

[32] Ms. Li also challenges the IAD's finding that her credibility was undermined by the timing of her divorce which coincided with her parents' immigration to Canada noting that the IAD failed to explain how this is relevant.

[33] Ms. Li also challenges the IAD's finding that the circumstances of the conception of her second child undermined her credibility regarding the reasons for her divorce from Mr. Zhang. She submits that the IAD failed to explain how this is relevant.

[34] Ms. Li argues that the IAD ignored the documentary evidence which corroborates that her divorce from Mr. Zhang was for *bona fide* reasons unrelated to any attempt to acquire status in Canada. Other witnesses confirmed the causes of the divorce as stated by Ms. Li (e.g. Mr. Zhang's drinking, gambling, absence from home etc.) and, generally, the timeline of events leading up to the divorce.

[35] With respect to the plausibility of her second marriage to Mr. Lau, Ms. Li submits that it is now not uncommon for relationships to develop through online communication and even lead to marriage.

[36] Ms. Li argues that divorcing and later reuniting with Mr. Zhang for genuine reasons is plausible given that they had two children and he had changed his behaviour. Ms. Li submits that her return to China in 2012 was not to reunite with Mr. Zhang but to attend a class reunion. She adds that she did not rush into her second marriage to Mr. Zhang, rather she waited until 2014 when she was certain of her decision.

VI. The Respondent's Submissions

[37] The Respondent submits the IAD's reasons are adequate, although brief. The reasons, read together with the record, support the reasonableness of the outcome. The Respondent submits that Ms. Li is asking the Court to reweigh the evidence.

[38] The Respondent acknowledges that some of the IAD's adverse credibility inferences were not based on inconsistencies in the evidence, noting that the evidence of Ms. Li and Mr. Zhang at the IAD hearing was generally consistent with respect to the reasons for their divorce. Rather, the IAD's findings were based more globally on the whole of the evidence and of Ms. Li and Mr. Zhang's conduct, which was unexplained or unsatisfactorily explained.

[39] The Respondent notes, however, that there were examples of inconsistency between Ms. Li and Mr. Zhang's testimony, including with respect to when Mr. Zhang allegedly stopped drinking, the frequency with which Mr. Zhang visited their daughter after divorcing Ms. Li in 2005, and the circumstances surrounding the conception of their second child.

[40] The Respondent submits that the IAD's reference to the timing of her divorce and the circumstances of the conception of her second child are relevant considerations. The Respondent notes that the immigration to Canada of Ms. Li's parents resulted in Ms. Li remaining in China without her extended family. The circumstances of the conception of her second child, i.e. her reuniting with Mr. Zhang and engaging in heavy drinking with him, raised red flags for the IAD because Ms. Li stated that Mr. Zhang's drinking was a primary reason for their divorce. It is

reasonable for the IAD to question why Ms. Li would overlook this behaviour if it was the cause of her divorce.

[41] The Respondent also acknowledges that some of the IAD's findings are based on the implausibility of the events. The Respondent submits that the IAD considered the series of events together and reasonably concluded that the divorce from Mr. Zhang was for the purpose of permitting Ms. Li to gain status in Canada.

[42] The Respondent submits that the IAD's finding that there were gaps in the evidence is based on the IAD's consideration of the whole story. The Respondent points to the vague evidence, including about the contact between Ms. Li and Mr. Zhang from 2007 to 2011, whether he was in contact with their daughter, why Ms. Li's sister's evidence differed regarding Ms. Li's contact with Mr. Zhang, and the lack of evidence regarding Ms. Li's marriage to Mr. Lau.

[43] The Respondent notes that the IAD acknowledged the documentary evidence about the relationship between Mr. Li and Mr. Zhang, however the statements from friends and Ms. Li's sister did not provide direct evidence about the reasons for the divorce, rather they recounted what Ms. Li or Mr. Zhang had described.

VII. The Decision is Reasonable

[44] Ms. Li submits that it is plausible for her to have divorced Mr. Zhang due to his heavy drinking, gambling and lack of attentiveness to their child, then marry a Canadian citizen after a

four-day meeting and only online communication, then move to Canada as a permanent resident with her young child to live with her mother-in-law, who did not approve of the marriage, then separate from her second husband a year later, and soon after, return to China to visit and later rekindle her relationship with Mr. Zhang precipitated by an evening of heavy drinking, despite her evidence that he had “quit” or “stopped” drinking, have a second child, and ultimately remarry Mr. Zhang, and seek to sponsor him to come to Canada. Although these events spanned over 10 years and, if an ultimate reunion was planned, this would have required a great deal of patience, and although serendipitous events with happy endings do occur, the IAD’s conclusion that Ms. Li’s divorce from Mr. Zhang was not genuine still falls within the range of reasonable outcomes.

[45] The IAD’s reasons are brief but are sufficiently clear and intelligible to convey why the IAD found Ms. Li’s divorce from Mr. Zhang to not be genuine.

[46] The principles of *Newfoundland Nurses* and *Delta Air Lines* permit the Court to look to the record to support the outcome, where necessary, and to supplement the reasons with regard to the record, but the Court cannot go so far as to substitute its own reasons.

[47] As noted in *Komolafe v Canada (Minister of Citizenship and Immigration)*, 2013 FC 431 at paras 10-11, [2013] FCJ No 449:

Where readily apparent, evidentiary *lacunae* may be filled in when supported by the evidence, and logical inferences, implicit to the result but not expressly drawn. A reviewing court looks to the record with a view to upholding the decision.

Newfoundland Nurses is not an open invitation to the Court to provide reasons that were not given, nor is it licence to guess what

findings might have been made or to speculate as to what the tribunal might have been thinking [...] *Newfoundland Nurses* allows reviewing courts to connect the dots on the page where the lines, and the direction they are headed, may be readily drawn.

[48] In the present case, the IAD conveys why it found that Ms. Li had not met her onus to establish that her divorce from Mr. Zhang in 2005 was genuine. There are many “dots on the page” to connect which elaborate and support the IAD’s reasons for its findings that there were both gaps and limited credible evidence regarding the marriage, its breakdown and subsequent events and that Ms. Li’s second marriage was likely a marriage of convenience.

[49] The IAD reasonably found that there were gaps in the evidence with respect to Ms. Li’s and Mr. Zhang’s marriage breakdown, Ms. Li’s second marriage and its breakdown, and the circumstances Ms. Li and Mr. Zhang’s subsequent relationship which undermined their credibility regarding their marriage breakdown.

[50] Similarly, the IAD reasonably found that there was limited credible evidence and no satisfactory explanation regarding why Ms. Li and Mr. Zhang ended their marriage so quickly after their first child was born, in the face of their families’ claimed attempts at encouraging their reconciliation and at the same time as Ms. Li’s parents’ immigration to Canada.

[51] The transcript of the hearing demonstrates that Ms. Li and Mr. Zhang were questioned by the IAD extensively about the whole sequence of events from their first marriage in 2003 to their second marriage in 2014. Their evidence, while generally consistent about Mr. Zhang’s inattentiveness to their child and his drinking and gambling, did not sufficiently explain why

they divorced so quickly rather than resolve these problems. As noted by the IAD, Ms. Li failed to satisfactorily explain the timing of her divorce from Mr. Zhang, given that they had recently had a child. Ms. Li stated, in response to the IAD's questions, that she left Mr. Zhang and moved to her parents' home with her baby in April 2005 and they divorced in August 2005. Ms. Li was asked about her parents' immigration to Canada, which was in process in the same time period. Her answers were evasive and inconsistent about when her parents were sponsored to come to Canada by her sister and when they left China and became permanent residents in Canada. It is not clear from her evidence whether this occurred before she married Mr. Lau or after. However, her evidence was that upon arrival in Canada in 2008, as a permanent resident sponsored by Mr. Lau, she moved in with her parents in Canada for at least a month.

[52] Although Ms. Li questions the relevance of the IAD's finding that her divorce coincided with the immigration of her parents to Canada, the timing of events is part of the overall context to assess the genuineness of the divorce. The timing is relevant given that Ms. Li's extended family was in the process of immigrating to Canada at the time she divorced Mr. Zhang and met Mr. Lau, which left Ms. Li in China without her family until Mr. Lau sponsored her.

[53] Nor is there a sufficient explanation of other events in Ms. Li and Mr. Zhang's overall story, including the extent of the contact they had after their divorce.

[54] The interview by the Visa Officer of Mr. Zhang in China for his sponsorship application, flagged the Officer's concerns about the marriage, and the reasons for his divorce, and as a result, Ms. Li and Mr. Zhang were well aware that the genuineness of their divorce was a key

issue. Mr. Zhang stated that they divorced because they married at a young age, soon had a baby and because he was not attentive to the child after a long day of work, which made Ms. Li angry. He stated that she suggested a divorce. Contrary to Ms. Li's submission that Mr. Zhang's evidence was consistent with his testimony at the IAD about the reasons for their divorce, Mr. Zhang provided far less detail to the Visa Officer and a different reason, being their marriage at a young age.

[55] There was also a significant gap in the evidence about why Ms. Li married Mr. Lau and separated from him soon after arriving in Canada. There was little explanation about why this relationship progressed so quickly given the very limited personal contact and only online communication. Ms. Li did not explain why she would marry Mr. Lau after only four days together in China acting as his tour guide. Her evidence was only that they became friends online and she trusted him. There was no evidence about what Ms. Li and Mr. Lau had in common. There was no explanation why Ms. Li would move to Canada with a young child, taking the child from its father in China, to be with a man she barely knew. Nor was there any evidence about why Ms. Li and Mr. Lau separated so quickly after Ms. Li obtained permanent resident status, apart from her explanation that there was friction with her mother-in-law, which was known to Ms. Li before she married Mr. Lau. Moreover, Ms. Li's evidence was that she soon rented an apartment for herself and her child and moved out of Mr. Lau's parents' home, which would have ended the friction with her mother-in-law. She explained that Mr. Lau did not move with her, but spent some nights at the apartment. Mr. Lau, did not testify before the IAD or provide any affidavit to explain their relationship or the reasons for their divorce. The only *viva voce* witnesses were Ms. Li and Mr. Zhang.

[56] In addition, there was no sufficient explanation about why Ms. Li returned to China for significant periods of time even before she divorced Mr. Lau, particularly since all her family was in Canada at this time, except Mr. Zhang.

[57] The record shows that the IAD raised its concerns about Ms. Li's marriage to Mr. Lau at the hearing. Ms. Li's answers were not responsive. The IAD's conclusion that this was likely a marriage of convenience is reasonable. Ms. Li's marriage to Mr. Lau is the event that gave Ms. Li and her daughter their status in Canada, which led to their citizenship and Ms. Li's opportunity to sponsor Mr. Zhang. This is a key event, for which there was little evidence, leaving many questions not answered.

[58] The IAD did not ignore the documentary evidence. Although the IAD did not address each statutory declaration individually, the IAD stated that it "considered together all the documentary evidence, the statements at the interview and the testimony at the hearing". There is no basis to suggest that the IAD did not do so. Moreover, the IAD is presumed to have considered all the evidence unless the contrary is shown (*Nguyen v Canada (Minister of Citizenship and Immigration)*, 2016 FC 1207 at para 23, [2016] FCJ No 1216; *Florea v Canada (Minister of Employment and Immigration)*, [1993] FCJ No 598 at para 1).

[59] The IAD specifically noted that Ms. Li and Mr. Zhang submitted documentary evidence and testified about their relationships both prior to Ms. Li's immigration to Canada and after her immigration. This refers to the statements from Ms. Li's sister and her friend about the alleged reason for Ms. Li's divorce from Mr. Zhang, the statements from Mr. Zhang's friend about the

reason for the divorce and the statements from another friend who described that Mr. Zhang had a girlfriend after his divorce. This documentary evidence is not compelling evidence of the reasons for the divorce. The statements simply recounted the reasons for the divorce as described by Ms. Li and Mr. Zhang to their friends. Ms. Li's sister and friend did not describe their observations of Mr. Zhang's gambling, drinking or other conduct. Mr. Zhang's relationship with another woman while his former wife was living in Canada with her second husband does not address the reasons for his divorce from Ms. Li.

[60] The statutory declaration from Ms. Li's sister, which stated that Ms. Li did not have any contact with Mr. Zhang from the time of their divorce until 2012 was not reliable given that this information was contradicted by Ms. Li, who explained that she did not tell her sister everything, and that she had been in contact with Mr. Zhang from time to time between 2005 and 2008 and subsequently on specific occasions. Therefore, her sister's statement, which purported to be based on the sister's personal knowledge, could not be relied on.

[61] The other documentary evidence, such as bank statements did not address the reasons for the divorce, the circumstances of Ms. Li's marriage to Mr. Lau or its breakdown, or the rekindling of Ms. Li's relationship with Mr. Zhang. The IAD was not required to provide reasons for discounting evidence that was not relevant to the key issues.

[62] Contrary to Ms. Li's position that the IAD made plausibility findings without explanation, the IAD's findings that there were gaps in the evidence and limited credible evidence support the IAD's overall finding that Ms. Li's divorce from Mr. Zhang was not

genuine. In other words, it was not plausible that they would divorce for the reasons cited and later reunite. Although the IAD did not specifically make a finding of implausibility, the result is the same. Contrary to Ms. Li's submission, to the extent that the IAD made plausibility findings, these findings are supported by the evidence on the record and the reasons are sufficiently clear.

[63] As noted in *Zacarias v Canada (Minister of Citizenship and Immigration)*, 2012 FC 1155, [2012] FCJ No 1252 (QL), by Justice Gleason, following a review of the jurisprudence on plausibility and related credibility findings, at para 11:

An allegation may thus be found to be implausible when it does not make sense in light of the evidence before the Board or when (to borrow the language of Justice Muldoon in *Valtchev*) it is “outside the realm of what reasonably could be expected”. In addition, this Court has held that the Board should provide “a reliable and verifiable evidentiary base against which the plausibility of the Applicants’ evidence might be judged”, otherwise a plausibility determination may be nothing more than “unfounded speculation” (*Gjelaj v Canada (Minister of Citizenship and Immigration)*, 2010 FC 37 at para 4, [2010] FCJ No 31; see also *Cao v Canada (Minister of Citizenship and Immigration)*, 2012 FC 694 at para 20, [2012] FCJ No 885 [*Cao*]).

[Emphasis added]

[64] As the Respondent notes, Ms. Li's divorce from Mr. Zhang, taken on its own, without the other events, would not raise any concerns. However, the divorce cannot be looked at in isolation because the context for the decision under review includes the series of events that followed the divorce.

[65] In *Mai v Canada (Citizenship and Immigration)*, 2018 FC 304 at paras 29-30, 290 ACWS (3d) 154 – a case with a very similar fact pattern – Justice McVeigh considered the

implausibility finding of an Immigration Officer in the context of an application for spousal sponsorship refused on the basis of section 4.1 of the Regulations. Justice McVeigh acknowledged that plausibility findings should be made with caution, but found that taking a global view of all of the evidence, the Officer's conclusion was reasonable. The same approach applies in the present case; the IAD took a global view of the sequence of events, weighed all the evidence, and found that the divorce was not genuine.

[66] The IAD's reasons support the conclusion that the IAD also reasonably found that the events described, taken as a whole, were "outside the realm of what could be expected". The IAD's reasons convey that it found Ms. Li's relatively quick and short marriage to be outside the realm of the expected given that Ms. Li spent only four days in Mr. Lau's presence, and married him and moved to Canada despite having a young child whose father remained in China and despite Mr. Lau's mother's disapproval. It was also not reasonable to expect Ms. Li to end her marriage to Mr. Lau one year after becoming a permanent resident of Canada, allegedly due to problems with her mother-in-law given that she was aware of her mother-in-law's disapproval and that she had her parents and sister in Canada at that time to offer support.

[67] The IAD's reasons also convey that it found the circumstances of Ms. Li's reunion with Mr. Zhang and the conception of their second child to be outside the realm of the expected given that Ms. Li claimed to have divorced him primarily due to his heavy drinking and gambling, yet reunited with him following an evening of heavy drinking. The IAD questioned Ms. Li extensively about her awareness of if and when Mr. Zhang had quit drinking and although her responses were somewhat evasive, she contended that Mr. Zhang had quit drinking in 2007,

although she only became aware of this later. Ms. Li's evidence was that on the evening that resulted in the conception of their second child, they had consumed 7-8 bottles of beer, and each bottle was 750 ml. The IAD reasonably noted that resuming their relationship in these circumstances was questionable. If Ms. Li had divorced Mr. Zhang because of his drinking, which she described as alcoholism, and if she thought he had changed his ways, the plausibility of reconciling with him reasonably arises.

[68] Ms. Li's argument at the hearing of this Application that there is a difference in the meaning of stopped drinking and quit drinking is not a reasonable explanation. Moreover, no concerns were raised about the quality of the interpretation at the hearing or about any other aspect of her testimony. In addition, Mr. Zhang's evidence at his visa interview differed; he referred to meeting for "a drink".

VIII. Conclusion

[69] The IAD reasonably concluded that Ms. Li had not established, on a balance of probabilities, that her divorce from Mr. Zhang was genuine. As a result, by operation of section 4.1, Mr. Zhang could not be considered a "spouse". The IAD considered all the evidence and reached a decision which falls within the range of reasonable outcomes. The IAD's reasons are sufficient for the Court to find that the decision is justified, transparent and intelligible.

JUDGMENT in file IMM-1313-19

THIS COURT'S JUDGMENT is that

1. The Application for Judicial Review is dismissed.
2. There is no question for certification.

"Catherine M. Kane"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-1313-19

STYLE OF CAUSE: FA YING LI v THE MINISTER OF CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: TORONTO, ONTARIO

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REASONS FOR JUDGMENT AND JUDGMENT: KANE J.

DATED: DECEMBER 2, 2019

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