

Federal Court



Cour fédérale

Date: 20220223

Docket: IMM-6800-20

Citation: 2022 FC 247

Ottawa, Ontario, February 23, 2022

PRESENT: Mr. Justice Sébastien Grammond

BETWEEN:

JIFANG QIAO

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

[1] Ms. Qiao seeks judicial review of the refusal of her application for permanent residence in the Quebec investor class. I am dismissing her application. The visa officer took into account all the relevant circumstances in deciding that Ms. Qiao had not demonstrated her intention to reside in Quebec, including her lack of a concrete plan for establishing herself in Quebec and the fact that she never visited Quebec despite undertaking twice to do so. In considering these

factors, the officer did not improperly add to the regulatory requirements; nor did the officer fail to consider relevant evidence. The decision was reasonable.

I. Background

[2] Ms. Qiao is a citizen of China. She has been employed in various multinational corporations in South East Asia, most recently in Singapore. In 2010, she applied for a *Certificat de sélection du Québec* [CSQ] in the investor class. Her husband and son are also included in her application. She received her CSQ in 2015.

[3] She then applied for permanent residence in the Quebec investor class. As we will see below, this requires her to show her intention to reside in Quebec. The processing of her application took a long time. In September 2016, the visa section of the Canadian embassy in Singapore asked her to update her application and to provide proof of her intention to reside in Quebec.

[4] Ms. Qiao replied with a two-page statement in which she writes that it is “regrettable and shameful” that she had not been able to visit Quebec, and explains her omission by her busy work schedule. She expressed her intention to apply for a Canadian visitor visa after renewing her passport in the following few months and to visit Montreal. She indicated that she had learned more about Quebec from her immigration consultant and other applicants who had immigrated to Quebec. She also highlighted the fact that her son would be able to learn French. She named certain high schools and universities in Montreal and noted that McGill was one of

the top 20 universities in the world. She stated that she had begun preparing for her new life in Quebec and that she planned “to learn French in the coming days” [*sic*].

[5] Two years later, in 2018, the visa office in Singapore requested another update. She included an updated statement of intention that reproduces significant portions of her earlier statement, including that it was “regrettable and shameful” that she had not been able to visit Quebec, this time because of recent developments at her work. She announced that she would travel to Montreal “this year” to visit schools for her son and to explore the market for housing.

[6] Ms. Qiao was called for an interview with a visa officer in October 2020. At the interview, she declared that she had never visited Canada, she has no friends in Canada, and she would start preparing when her application for permanent residence was granted. She stated that her son was studying French as a second language. She also stated that she had done some “brief research” for schools for her son. To a question regarding her international travel, she replied that she had gone on vacation to California and to Australia. The officer warned Ms. Qiao of their concerns that she may not intend to reside in Quebec and provided her with the opportunity to file written submissions.

[7] Three days after the interview, Ms. Qiao provided a further revised version of her statement. She wrote that her passport was missing the two blank pages required when applying for a Canadian visitor visa, that she obtained a new passport only in December 2019 and that the COVID-19 pandemic then prevented her from travelling. She also mentioned that her son was enrolled in a Canadian international school in Singapore, and that he was “deeply influenced

culturally and attracted to Canada.” After repeating the comments regarding knowledge about Quebec gained from the immigration consultant and other applicants, she declared that “Canada is the country known for its beauty and freedom, advanced science and technology, perfect education system, all of which are deeply attracted to us to Canada as our life destination.”

[8] The visa officer then refused Ms. Qiao’s application. He found that she had not demonstrated her intention to reside in Quebec. The GCMS notes provide the gist of the officer’s reasoning:

At interview, I was concerned that the applicant did not present a concrete plan to establish, and no concrete steps had been taken to prepare for life in Canada. In response, the applicant stated that she had a plan, but provided no details. [...]

I raised concerns that the applicant had never been to Canada or Quebec in the 10 years that her application was in process. It would appear reasonable to expect that someone seriously considering residing in Quebec would take the opportunity to visit. The applicant explained that she was too busy, and post-interview, that she didn’t have the required two blank pages in her passport. I am not satisfied that it was not possible for the applicant to visit Canada or Quebec. The explanation that there were not sufficient pages in her passport is certainly not satisfactory. The applicant indicated to this office that she would go to Quebec. However she did not go. As well, the applicant was in North America after applying for PR, which would have been an opportunity to demonstrate her intentions. Overall, she is well travelled and recently spent 1.5 weeks in Australia for vacation, despite saying she had no time to visit Quebec.

II. Analysis

[9] Ms. Qiao now applies for judicial review of the visa officer’s negative decision. She argues that the officer, without any footing in the statutory framework, effectively imposed a requirement to visit Quebec and to make plans to find work before obtaining permanent

residence. She also submits that the officer ignored her explanations for not visiting Quebec and her son's enrolment in a Canadian school in Singapore, where he studies French. As there was no indication that she would reside in a Canadian province or territory other than Quebec, the officer should have been satisfied with her declaration of intent.

[10] On judicial review, my role is not to substitute my decision for that of the officer. Rather, it is to ensure that the officer's decision is reasonable, having regard to the evidence and the statutory framework. To assess whether this is so, I can look not only to the reasons given by the officer, but also to the record.

[11] The officer's decision was reasonable. To explain why, I will begin by setting out the statutory requirements and indicate how this Court has interpreted them. I will then analyze Ms. Qiao's grounds for challenging the decision.

A. *Statutory Framework*

[12] The *Immigration and Refugee Protection Regulations*, SOR/2002-227 [Regulations], define, among other things, the classes of economic immigrants. For several of these classes, the selection process is delegated to certain provinces. The purpose of this mechanism is to confer greater powers to these provinces over immigration.

[13] In Ms. Qiao's case, the relevant class is the Quebec investor class, defined as follows in subsection 90(2) of the Regulations:

(2) A foreign national is a member of the Quebec investor class if they	(2) Fait partie de la catégorie des investisseurs (Québec) l'étranger qui satisfait aux exigences suivantes :
(a) intend to reside in Quebec; and	a) il cherche à s'établir dans la province de Québec;
(b) are named in a Certificat de sélection du Québec issued by Quebec.	b) il est visé par un certificat de sélection du Québec délivré par cette province.

[14] It bears emphasizing that the intention to reside in Quebec is a condition separate from being selected by Quebec. The intention to reside in the province is also a separate condition for the other provincial nominee classes. See, for instance, sections 86(2), 87(2), 87.3(2) and 101(2) of the Regulations. The purpose of this condition is obvious: provincial control over immigration would be undermined if immigrants selected by one province established themselves in another province. Because this condition is separate from the selection certificate issued by the relevant province, visa officers must themselves assess whether an applicant intends to reside in that province: *Ransanz v Canada (Public Safety and Emergency Preparedness)*, 2015 FC 1109.

[15] In assessing an applicant's intention to reside in a province, visa officers are not bound by the applicant's statements. Rather, in *Dhaliwal v Canada (Citizenship and Immigration)*, 2016 FC 131 at paragraph 31 [*Dhaliwal*], my colleague Justice Alan Diner stated:

The assessment of intention, since it is a highly subjective notion, may take into account all indicia, including past conduct, present circumstances, and future plans, as best as can be ascertained from the available evidence and context.

[16] Ms. Qiao relies on another excerpt from *Dhaliwal*, at paragraph 20, where Justice Diner noted that visa officers may be satisfied by a mere declaration, such as the one found in the application form. It is true that this may be so if the totality of the supporting materials provide a basis for the declaration. However, I do not take Justice Diner to have expressed any hard-and-fast rule that officers must accept a declaration of intention in certain categories of cases, despite the lack of evidentiary support.

B. *Application to this Case*

[17] Ms. Qiao's main submission is that the Quebec investor program does not require applicants to visit Quebec or to provide any plan for establishing themselves. The visa officer's decision would be unreasonable for effectively imposing such requirements.

[18] I do not read the decision in this fashion. The officer was looking for a concrete basis for Ms. Qiao's declared intention, and found none. This does not amount to imposing requirements not provided for in the definition of the class.

[19] First, with respect to the failure to visit, the officer considered the time elapsed since the application was submitted, Ms. Qiao's repeated undertaking to visit Quebec and the fact that, during this period, she went on vacation to Australia and California instead of Quebec. On this basis, the officer reasonably found that Ms. Qiao did not have a genuine interest in Quebec. Because she twice recognized that she ought to visit Quebec, she can hardly argue that the officer imposed an unwarranted requirement.

[20] The same is true regarding the lack of a concrete plan. The officer did not say that Ms. Qiao needed to find employment or accommodation before her application could be granted. Rather, the officer observed the total lack of substantiation of Ms. Qiao's abstract statements concerning Quebec. The excerpts from her written statement I quoted above support this finding. Naming a few schools in Montreal or lauding Canada's natural beauty or educational system does not demonstrate any serious intention to reside in Quebec.

[21] In her post-interview letter, Ms. Qiao stated to the visa officer that she could not obtain a Canadian visitor visa due to the missing two blank pages in her passport. Yet, if there were not enough blank pages in her current passport, nothing prevented her from obtaining a new passport. Therefore, the officer reasonably rejected this explanation.

[22] Likewise, the officer's failure to mention explicitly the schooling of Ms. Qiao's son is of no consequence. The officer could reasonably conclude that the son's elective French courses at the Canadian school in Singapore does not demonstrate the mother's intention to reside in Quebec. I also note that Ms. Qiao undertook to learn French in 2016. She provided no report of her progress in this regard. Rather, the undertaking was omitted in subsequent versions of her written statement.

[23] Ms. Qiao argues that the lack of "pull factors" suggesting that she would reside in a different province or territory prevented the officer from questioning her intention to reside in Quebec. In the context of visa applications, "pull factors" refer to links attracting a person to a specific place, for example, having family members in British Columbia or owning real property

in Ontario. Yet, applicants are not relieved of the burden of demonstrating their intention to reside in Quebec by the absence of “pull factors” pointing to another province or territory. The question of intention to reside in Quebec may present itself differently when the applicant has no links whatsoever to Canada, but it remains a relevant question and a regulatory requirement.

[24] Therefore, the visa officer applied the test laid out in *Dhaliwal* and considered all the relevant circumstances in assessing whether Ms. Qiao intends to reside in Quebec. The decision is thus reasonable. I would simply add that when appraised of the officer’s concerns, Ms. Qiao could do no better than provide yet another version of her bland statement of intention and further excuses for not following through with her undertaking to visit Quebec. There was simply no concrete evidence supporting her intention to reside in Quebec.

[25] In her application, Ms. Qiao did not challenge the decision on procedural fairness grounds. At the hearing, some of her counsel’s submissions could be interpreted as implying that the process was unfair. Regardless, it was enough for the visa officer to give Ms. Qiao notice of their concerns at the interview and to allow her to provide written submissions in response: *Tran v Canada (Citizenship and Immigration)*, 2021 FC 721 at paragraph 53. Counsel also made insinuations regarding the visa officer’s conduct and motives, which have no basis whatsoever in the evidence.

III. Disposition

[26] For these reasons, the application for judicial review will be dismissed.

JUDGMENT in IMM-6800-20

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is dismissed.
2. No question is certified.

"Sébastien Grammond"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

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