

Date: 20091110

Docket: IMM-1352-09

Citation: 2009 FC 1148

Ottawa, Ontario, November 10, 2009

PRESENT: The Honourable Mr. Justice O'Reilly

BETWEEN:

YAN SUN

Applicant

and

**MINISTER OF CITIZENSHIP
AND IMMIGRATION**

Respondent

REASONS FOR JUDGMENT AND JUDGMENT

I. Overview

[1] Mr. Yan Sun came to Canada in 2002 on a student visa. His visa has been renewed a number of times since then but, in March 2009, an immigration officer decided not to extend it further as she was not satisfied that Mr. Sun was a genuine student. Mr. Sun argues that he was treated unfairly and asks me to order another officer to consider his renewal application.

[2] I cannot conclude that Mr. Sun was treated unfairly and must, therefore, dismiss this application for judicial review.

II. Analysis

[3] First, Mr. Sun argues that the officer failed to provide reasons for rejecting his application. In a letter dated March 10, 2009, the officer informed Mr. Sun that she was “not satisfied that you are a genuine student, and that you will leave Canada by the end of the period authorized for your stay.” In notes to file, the officer mentions that:

- Mr. Sun was under academic probation and no longer in good standing at his college;
- his visa required him to attend school full-time but his transcripts showed that he had missed some semesters and had withdrawn from a number of courses;
- Mr. Sun attributed his absences to headaches; and
- Mr. Sun disclosed that he was a partner in a small business but had not received any income from it.

[4] In my view, these reasons are adequate in the circumstances. They inform Mr. Sun of the basis for the officer’s finding that Mr. Sun was not a genuine student.

[5] Second, Mr. Sun submits that the officer should have given him a chance to address the officer’s concerns. Mr. Sun points out that an officer is obliged to give an applicant a chance to address any extrinsic evidence that the officer relies on. Although there was a suggestion that the officer had consulted a business registration document and had relied on it to conclude that Mr. Sun

was involved in a small business, it is clear that Mr. Sun referred to the business himself in his renewal application. The officer did not consult any extrinsic evidence and, therefore, did not have a duty to give Mr. Sun a chance to comment on it.

[6] Generally speaking, the onus is on an applicant to provide evidence supporting his application. Mr. Sun was clearly aware of his tenuous academic standing. He knew that he had missed many classes. He could have provided a letter from his doctor if there was a valid medical reason for his absences. He could have provided a note from his business partner explaining what his role was in that enterprise. His failure to do so is not attributable to any unfair treatment on the officer's part.

III. Conclusion and Disposition

[7] I cannot find any basis for Mr. Sun's claim that he was treated unfairly. I must, therefore, dismiss this application for judicial review. No question of general importance arises.

JUDGMENT

THIS COURT’S JUDGMENT IS that:

1. The application for judicial review is dismissed;
2. No question of general importance is stated.

“James W. O’Reilly”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-1352-09

STYLE OF CAUSE: YAN SUN v. MCI

PLACE OF HEARING: Toronto, Ontario

DATE OF HEARING: October 29, 2009

**REASONS FOR JUDGMENT
AND JUDGMENT:** O'REILLY J.

DATED: November 10, 2009

APPEARANCES:

Mr. Peter Lulic FOR THE APPLICANT

Ms. Sharon Stewart-Guthrie FOR THE RESPONDENT

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