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# Canada (Citizenship and Immigration) v. Howard, 2024 FC 111

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Federal Court  Cour fédérale

**Date: 20240123**

**Docket: IMM-3858-23**

**Citation: 2024 FC 111**

2024 FC 111 (CanLII)

**Ottawa, Ontario, January 23, 2024**

**PRESENT: The Honourable Madam Justice Aylen**

**BETWEEN:**

**THE MINISTER OF CITIZENSHIP AND IMMIGRATION**

**Applicant**

**and**

**DONNA JUDITH HOWARD**

**Respondent**

## JUDGMENT AND REASONS

[1] The Applicant, the Minister of Citizenship and Immigration, seeks judicial review of a decision of the Immigration Appeal Division [IAD] dated March 8, 2023, granting the Respondent's spousal sponsorship application pursuant to subsection 4(1) of the *Immigration and Refugee Protection Regulations*, SOR/2002-227 [*IRPR*]. The IAD concluded that the relationship was genuine and was not entered into primarily for the purpose of acquiring a status under the *Immigration and Refugee Protection Act*, S.C. 2001, c. 27 [*IRPA*].

[2] The sole issue for determination is whether the IAD's decision was reasonable. The parties agree and I concur that the applicable standard of review is reasonableness. When reviewing for reasonableness, the Court must take a "reasons first" approach and determine whether the decision under review, including both its rationale and outcome, is transparent, intelligible and justified [see *Mason v Canada (Citizenship and Immigration)*, 2023 SCC 21 at para 8]. A reasonable decision is one that is based on an internally coherent and rational chain of analysis and that is justified in relation to the facts and law that constrain the decision-maker [see *Canada (Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at paras 15, 85]. The Court will intervene only if it is satisfied there are sufficiently serious shortcomings in the decision such that it cannot be said to exhibit the requisite degree of justification, intelligibility and transparency [see *Adenjij-Adele v Canada (Minister of Citizenship and Immigration)*, 2020 FC 418 at para 11].

[3] The Applicant asserts that the IAD unreasonably concluded that the marriage at issue is genuine and not entered into primarily for the purpose of acquiring a status under the *IRPA* due to its flawed treatment of the text communications provided by the spouses in support of their application. There is no dispute between the parties that the spouses included hundreds of pages of texts in support of their application and that upon review of the texts, it is apparent that alterations were made to the texts to remove portions thereof. The alterations became apparent as the spouses included multiple copies of the same text exchanges that differed in numerous respects. No satisfactory explanation was provided by the spouses as to how or why the text messages came to be altered.

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[4] The Applicant asserts that, despite having found that the spouses made numerous alterations to the texts, the IAD unreasonably relied on these communications in granting the appeal. Specifically, the Applicant asserts the IAD improperly relied on the altered text messages as a "central basis" for its finding that the Respondent's marriage was genuine when some of the alterations in the text communications clearly call into question the genuineness of the marriage. The Applicant points to deleted text messages from the husband where he mentions he is talking about the visa "all the time" and asserts that the IAD failed to address these deletions in its assessment of the genuineness of the marriage.

[5] Moreover, the Applicant asserts that the IAD erred by treating certain portions of the text communications as "original" communications and as if the full extent of the conversation was known. At several places in their reasons, the IAD refers to "complete transcripts" and "original communications," but the Applicant maintains that there is no such original on the record and the IAD lacked the requisite evidence to determine which portions of the communications were edited and which were not.

[6] However, contrary to the Applicant's submissions, the text communications did not form the "central basis" of the IAD's decision. The IAD provided detailed reasons for their decision, which canvassed a variety of factors, including the genesis of the spouses' relationship, the couple's behaviour before their marriage, their past relationships, their communications and interactions before and after their marriage, the depth of knowledge they had of each other and the wife's financial support for her spouse, among others. In addition to the text communications, the IAD considered the spouses' testimony, letters of support and numerous photos of the couples'

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time together, which provided additional evidence of the genuine nature of the union. As such, I find that the IAD performed a global assessment of the evidence and determined that, in light of all the factors and circumstances and without a centralized focus on the text messages, the marriage was genuine.

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[7] Moreover, the IAD explicitly addressed the issue of the altered text communications, including the extent of the alterations that the Applicant brought to their attention and the impact of the alterations on the reliability of the husband's evidence. The IAD refers to certain text messages as originals or the complete version and I accept that it is impossible to know, based on the evidence available to it, whether the IAD did in fact have the original or complete versions. However, I am not satisfied that any such mischaracterizations were material to the IAD's treatment of the evidence. Rather, I agree with the Respondent that the Applicant's argument amounts to a request for this Court to engage in a line-by-line treasure hunt for errors, contrary to the Supreme Court's ruling in *Vavilov*.

[8] Further, I find that the Applicant's assertion that the IAD failed to address the materiality of the deleted text messages where the Respondent's spouse referred to talking about the visa all the time also lacks merit. While it was open to the IAD to find that any deleted text messages referring to immigration matters were material to the question of whether the marriage was genuine, the IAD explained that the altered text messages did not "counterbalance the Panel's findings regarding the genuineness and intention underlying this marriage." Based on a global assessment of the evidence, I find it was reasonable for the IAD to find that the altered text messages did not outweigh the other factors supporting the IAD's conclusion that the marriage

was genuine. I agree with the Respondent that the Applicant's argument amounts to a request for this Court to reweigh the evidence that was before the IAD, which is not this Court's role on an application for judicial review [see *Vavilov*, *supra* at para 125].

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[9] The Applicant has advanced a number of additional arguments in support of their assertion that the IAD's decision is unreasonable, including that: (a) the IAD engaged in speculation with respect to the reason why the text communications were altered; and (b) the IAD unreasonably dismissed contradicting evidence as to where the spouses' children would live when the husband came to Canada. I find that neither of these submissions have merit, as it was reasonably open to the IAD to make the evidentiary findings that it made.

[10] I am not satisfied that the Applicant has demonstrated that the IAD's decision was unreasonable. Accordingly, the application for judicial review shall be dismissed.

[11] No question for certification was raised and I agree that none arises.

**JUDGMENT in IMM-3858-23**

**THIS COURT'S JUDGMENT is that**:

1. The application for judicial review is dismissed.

2. The parties proposed no question for certification and none arises.

"Mandy Aylen"
Judge

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**FEDERAL COURT**

**SOLICITORS OF RECORD**

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|---|---|
| **DOCKET:** | IMM-3858-23 |
| **STYLE OF CAUSE:** | THE MINISTER OF CITIZENSHIP AND IMMIGRATION v DONNA JUDITH HOWARD |
| **PLACE OF HEARING:** | OTTAWA, ONTARIO |
| **DATE OF HEARING:** | JANUARY 22, 2024 |
| **JUDGMENT AND REASONS:** | AYLEN J. |
| **DATED:** | JANUARY 23, 2024 |

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**APPEARANCES:**

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|---|---|
| Sonia Bédard | FOR THE APPLICANT |
| Taiwo Olalere | FOR THE RESPONDENT |

**SOLICITORS OF RECORD:**

| | |
|---|---|
| Attorney General of Canada<br>Montreal, Quebec | FOR THE APPLICANT |
| Olalere Law Office<br>Ottawa, Ontario | FOR THE RESPONDENT |