

Federal Court



Cour fédérale

**Date: 20190812**

**Docket: IMM-5289-18**

**Citation: 2019 FC 1069**

[CERTIFIED ENGLISH TRANSLATION, REVISED BY THE AUTHOR]

**Montréal, Quebec, August 12, 2019**

**PRESENT: Mr. Justice Sébastien Grammond**

**BETWEEN:**

**XIAOHENG SUN**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP AND  
IMMIGRATION**

**Respondent**

**JUDGMENT AND REASONS**

**(Delivered from the Bench at Montréal, Quebec, on August 12, 2019)**

[1] Ms. Xiaoheng Sun seeks judicial review of her application for permanent residence. The application was submitted in the self-employed class. Ms. Sun states that she has experience as a Chinese calligraphy teacher and wants to set up her own calligraphy school in Vancouver.

[2] A visa officer refused her application because she speaks neither English nor French, her business plan is vague and she has submitted insufficient evidence as to the possibility of successfully establishing a Chinese calligraphy school in Vancouver.

[3] Decisions such as this are reviewed according to the standard of reasonableness. Although the officer is required to provide reasons for his decision, GCMS notes are generally considered sufficient. According to the Supreme Court's decision in *Newfoundland and Labrador Nurses' Union v Newfoundland and Labrador (Treasury Board)*, 2011 SCC 62, [2011] 3 SCR 708, this Court must read these reasons in a generous rather than exacting way.

[4] The visa officer was required to apply section 88 of the *Immigration and Refugee Protection Regulations*, SOR/2002-229 [the Regulations], which provides, among other things, that a self-employed person is a person "who has relevant experience and has the intention and ability to be self-employed in Canada". To determine whether a person has the "ability to be self-employed", the case law of this Court has established that the visa officer may consider the person's ability to express himself or herself in one of the official languages and the seriousness of the person's business plan (*Singh v Canada (Immigration, Refugees and Citizenship)*, 2018 FC 84; *Wang v Canada (Citizenship and Immigration)*, 2019 FC 284; *Shang v Canada (Citizenship and Immigration)*, 2019 FC 341).

[5] This is precisely what the visa officer did in this case. Although brief, his reasons show that the refusal of Ms. Sun's application was based on her inability to express herself in either

official language and on the vagueness of her business plan. The visa officer concluded that Ms. Sun would not be able to create her own job.

[6] Based on the evidence submitted, such a conclusion appears to be entirely reasonable. Ms. Sun did not submit any written business plans. During her interview with the visa officer, she merely gave a brief description how she would spend \$100,000 to start her school. Reading the transcript of this interview is sufficient to demonstrate the lack of any serious business plan. In addition, the visa officer could reasonably conclude that the steps taken by Ms. Sun during her exploratory trip to Canada in 2017 were insufficient to demonstrate that she would be able to create her own job.

[7] In addition, Ms. Sun's interview with the visa officer was conducted with the assistance of an interpreter, and Ms. Sun's statements that she was learning English support the visa officer's conclusions about the lack of sufficient language proficiency.

[8] I will simply add that the visa officer was not required to address each criterion mentioned in the operational guide for the application of section 88 of the Regulations.

[9] For all these reasons, the application for judicial review is dismissed.

**JUDGMENT in IMM-5289-18**

**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**

**DOCKET:** IMM-5289-18

**STYLE OF CAUSE:** XIAOHENG SUN v THE MINISTER OF  
CITIZENSHIP AND IMMIGRATION

**PLACE OF HEARING:** MONTRÉAL, QUEBEC

**DATE OF HEARING:** AUGUST 12, 2019

**JUDGMENT AND REASONS:** GRAMMOND J.

**DATED:** AUGUST 12, 2019

**APPEARANCES:**

Andrey Leshyner (student-at-law)  
Hugues Langlais

FOR THE APPLICANT

Suzanne Trudel

FOR THE RESPONDENT

**SOLICITORS OF RECORD:**

Cabinet M<sup>c</sup> Hugues Langlais  
Montréal, Quebec

FOR THE APPLICANT

Attorney General of Canada  
Montréal, Quebec

FOR THE RESPONDENT