

**Date: 20070731**

**Docket: T-1463-06**

**Citation: 2007 FC 800**

**Ottawa, Ontario, July 31, 2007**

**PRESENT: The Honourable Madam Justice Simpson**

**BETWEEN:**

**ZHI QIANG YANG**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP AND IMMIGRATION**

**Respondent**

**REASONS FOR JUDGMENT AND JUDGMENT**

[1] Zhi Qiang Yang (the Applicant) is appealing a decision by a Citizenship Judge, dated June 16, 2006, which denied his application for Canadian citizenship. The Citizenship Judge found that Mr. Yang did not meet the residency requirement (the Decision). The appeal is brought pursuant to subsection 14(5) of the *Citizenship Act*, R.S. 1985, c. C-29 (the Act).

## **BACKGROUND**

[2] The Applicant is a citizen of China. He is 43 years old. With his wife and young daughter he first came to Canada on January 19, 2002 as a permanent resident. The couple had a second daughter while in Canada.

[3] On February 23, 2005, Mr. Yang and his wife applied for Canadian Citizenship. Mr. Yang's application and his passport show that he was present in Canada from the time he landed to the day he applied for Citizenship. In other words, he declared no absences from Canada in a period of three years and approximately one month.

[4] On February 28, 2005, five days after applying for Citizenship, Mr. Yang and his family returned to China to care for his father and they have lived there since then. Mr. Yang and his wife returned to Canada to write the citizenship exam in November 2005. However, they flew back to China four days later.

[5] The Citizenship Judge was troubled by the passive nature of the Applicant's evidence of residence. It included a driver's license, a social insurance card, Revenue Canada statements showing no income and no tax paid and bank statements showing that he and his wife had a joint account.

[6] The Citizenship Judge concluded that the Applicant had organized his affairs so that he was “virtually invisible” in that he did not demonstrate any economic, social or cultural activity in Canada. The Judge noted that, although this was the Applicant’s right, his conduct left open the possibility that he had been spending extended periods outside Canada without declaring them.

[7] The Applicant relied heavily on his People’s Republic of China (PRC) passport (the First Passport) because it was the only documentary evidence which showed an entry to Canada on January 19, 2002 as a permanent resident and no subsequent absences. If believed, this evidence meant that the Applicant had been in Canada for 1130 days thereby exceeding the 1095 day requirement under paragraph 5(1)(c) of the Act.

[8] However, the Citizenship Judge noticed that the Applicant’s passport included a stamp which said:

This passport is to be used simultaneously with passport No.  
149078204 of the P.R.C.

I will refer to this as the Second Passport.

[9] When asked about the Second Passport, the Applicant initially denied that it existed. Then he changed his explanation and said that since the Second Passport was full he had left it in China. He also indicated that it had disappeared and speculated that his father had thrown it away.

[10] The Citizenship Judge did not accept this explanation. He thought it unlikely that an important document would be thrown away and was concerned that the Applicant had not been forthright about the Second Passport until he was pressed.

[11] The Citizenship Judge concluded that if the Second Passport was to be used simultaneously with the First Passport, then the Second Passport must have been used to enter Canada and therefore should have been produced in response to the Respondent's written requests of February 3 and May 15, 2006.

#### **STANDARD OF REVIEW**

[12] In this case, the issue on appeal can be stated as follows: *Was the Citizenship Judge, in the unusual circumstances of this case, entitled to make a negative credibility finding resulting in the rejection of the Applicant's explanation for his inability to produce his Second Passport?* In my view, credibility findings are entitled to considerable deference and would only be reversed if patently unreasonable.

#### **THE EVIDENCE**

[13] Since the First Passport was a critical component of the Applicant's case, the Applicant should have been prepared to explain the stamp it contained which disclosed the existence of the

Second Passport and indicated that the two passports were to be used simultaneously. He should also have adduced other evidence to corroborate his presence in Canada.

[14] The Applicant offered such evidence before this hearing but I declined to accept it as it was not new and could have been brought before the Citizenship Judge.

[15] For all these reasons, I have found that the Citizenship Judge's conclusions were reasonable.

**JUDGMENT**

**THIS COURT ORDERS AND ADJUDGES that** the appeal is dismissed.

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"Sandra J. Simpson"  
JUDGE

**FEDERAL COURT**  
**SOLICITORS OF RECORD**

**DOCKET:** T-1463-06

**STYLE OF CAUSE:** ZHI QIANG YANG v. MCI

  

**PLACE OF HEARING:** Vancouver, BC

**DATE OF HEARING:** April 5, 2007

**REASONS FOR JUDGMENT:** SIMPSON J.

**DATED:** July 31, 2007

**APPEARANCES:**

Mr. Lewis Grenier FOR THE APPLICANT

Ms. Marjorie Double FOR THE RESPONDENT

**SOLICITORS OF RECORD:**

Mr. Anthony M. M. Remedios FOR THE APPLICANT

Mr. John H. Sims, Q.C. FOR THE RESPONDENT