Federal Court  Cour fédérale

Date: 20131106

Docket: IMM-7613-12

Citation: 2013 FC 1126

Ottawa, Ontario, November 6, 2013

PRESENT: The Honourable Mr. Justice O'Keefe

BETWEEN:

YAN DA ZHI

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

REASONS FOR JUDGMENT AND JUDGMENT

[1] This is an application pursuant to subsection 72(1) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 (the Act) for judicial review of a decision of the Immigration and Refugee Board, Immigration Appeal Division (the Board), dated June 15, 2012, wherein the Board upheld a visa officer's rejection of an application for permanent residence.

[2] The applicant requests that the Board's decision be set aside and the application be referred back to the Board for redetermination by a different panel.

Background

[3] The applicant is a permanent resident of Canada and his current spouse, Jin Dai Liao, is a citizen of China. The applicant immigrated to Canada from China with his former wife and their daughter. The applicant and Ms. Liao have a seven-year-old son.

[4] The applicant married Ms. Liao on June 30, 2008. She applied for permanent residence in Canada under the family class category and was sponsored by the applicant. A visa officer in Hong Kong interviewed Ms. Liao in October 2009. The officer was concerned that the applicant and Ms. Liao were involved in a conjugal relationship that was dissolved for the applicant and his former wife to immigrate to Canada. The applicant and his former wife had not been on good terms prior to their immigration to Canada, but had not separated until six weeks after their landing. The officer also noted the applicant's income and assets were low and that Ms. Liao had limited employment prospects.

[5] The application was denied on October 8, 2009 on the basis of section 4.1 of the *Immigration and Refugee Protection Regulations*, SOR/2002-227 (the Regulations), which indicates that "a foreign national shall not be considered a spouse, a common-law partner or a conjugal partner of a person if the foreign national has begun a new conjugal relationship with that person after a previous marriage, common-law partnership or conjugal partnership with that person was dissolved primarily so that the foreign national, another foreign national or the sponsor could acquire any status or privilege under the Act". The officer concluded their marriage was not genuine.

[6] The officer also refused the application on the separate grounds that Ms. Liao was unable or unwilling to support herself and her dependent and that adequate arrangements for her and her son's care had not been made pursuant to section 39 of the Act.

[7] The applicant appealed from that decision to the Immigration Appeal Division. The Board held a hearing over two days on November 1, 2011 and April 26, 2012. Both the applicant and Ms. Liao gave oral testimony.

Board's Decision

[8] The Board denied the appeal on June 15, 2012. The Board's reasons began by summarizing the background to the case and indicating it reviewed the officer's decision on a *de novo* basis. It held that the applicant had not established that section 4.1 of the Regulations did not apply to him and therefore the Board need not consider other grounds for refusing the application.

[9] The Board noted that the term "conjugal relationship" was not defined in the Act but that it had relied on the factors laid out in *M v H*, [1999] 2 SCR 3 at paragraphs 59 and 60. In determining whether the conjugal relationship had been dissolved primarily for the purpose of acquiring status under the Act, the Board considered the indicia set out in *Wen v Canada (Minister of Citizenship and Immigration)*, [2007] IADD No 272 (QL) at paragraph 11:

- when the divorce occurred;
- the reason for the divorce;
- the temporal relationship between the ending of the relationship and the forming of a new relationship with the subsequent spouse;

- evidence that the former spouses did not separate or end contact with each other;
- the intent of the spouses upon remarrying;
- the length of the subsequent relationship;
- the temporal connection between the dissolving of the subsequent relationship and the re-establishment of a new relationship with the previous spouse; and
- the intentions of the parties to the new relationship in respect of immigration.

[10] The Board acknowledged that sworn testimony is considered truthful unless there is good reason to doubt its veracity but found that there were sufficient grounds in this case to discount the credibility of the testimony of the applicant and Ms. Liao.

[11] The Board summarized the evidence provided by the couple detailing the chronology of their relationship. They met on February 14, 2005. The applicant was experiencing marital troubles with his then-wife during this time and Ms. Liao did not want to pursue a romantic relationship while he was still married. However, they eventually did have a single sexual encounter in December 2005 and Ms. Liao became pregnant. The applicant immigrated to Canada on February 27, 2006 and maintained telephone contact with Ms. Liao after March 2006. He proposed marriage to her on a visit to China in August 2007.

[12] The applicant had testified that he had been committed to saving his marriage with his former wife until their separation in April 2006. He had applied for permanent residence nine to eleven years ago and the application had been approved in January 2006. He had hoped the move to

Canada would improve his marriage. The applicant's evidence was that he did not tell Ms. Liao he was intending to leave China until he reached Canada and telephoned her.

[13] The Board concluded that the applicant's interactions with Ms. Liao before his immigration to Canada were not consistent with his claim that he wanted to remain in a monogamous marriage.

[14] The Board held that it was not satisfied on a balance of probabilities with the evidence surrounding the timeline of the deterioration of his first marriage and the development of his relationship with Ms. Liao. The claim that he wanted to save his failing marriage prior to his immigration to Canada conflicted with the fact that he pursued a relationship with Ms. Liao. The claim that he immigrated in order to save his marriage conflicted with the fact that he telephoned Ms. Liao several weeks after arriving.

[15] The applicant had testified he had contacted Ms. Liao because he was upset with his former wife's habits such as gambling, lack of care for the family and sexual incompatibility. In the Board's view, had he been serious about saving his marriage, he would not have contacted Ms. Liao so quickly and frequently after arriving in Canada. The Board agreed with submissions by counsel for the Minister that the applicant had remained married to his first wife on paper while they were actually separated.

[16] The Board weighed inconsistencies in the applicant's description of his relationship with his former wife against his credibility. His former wife has custody of their daughter and the applicant claimed that although she had gambling problems and did not care for the family, he had given her

custody in order to put pressure on her to reform her ways. He claimed he gave clothes and gifts to his daughter in lieu of support payments. The evidence indicated the applicant's former wife had been supporting and caring for their daughter since the time of separation, contrary to the applicant's claims she was a gambler and a neglectful mother.

[17] In his Sponsor Questionnaire completed in October 2008, the applicant had declared he did not know his former wife's address. The Board found that his oral testimony on this point undermined his credibility, as he claimed he kept in regular contact with his daughter and met with her outside of her home with her mother. The Board was not satisfied he would be unaware of his daughter's residence given the ongoing contact.

[18] The Board considered notes from an interview with the applicant's daughter when she had returned to Canada from a visit to China with her parents. She told immigration authorities that her parents had separated prior to their immigration to Canada and that her father had lived with his new wife in China prior to their immigration. The applicant argued that his daughter was confused, but the Board found that a 12-year-old child would be able to recall which parents she lived with four years beforehand.

[19] The Board catalogued other contradictory evidence. In the hearing, the applicant testified he paid no child support to his first wife but at his visa interview in Hong Kong, he had told the officer he paid $500 per month. The Board rejected his explanation that he had only paid child support when his income was higher. The evidence indicated that the applicant and his former wife had declared the same address at various points in time. The applicant had travelled with his daughter to

China three times and with his wife as well on the latter two trips. The Board concluded his wife did not completely trust the applicant as she had refused to permit him to travel to China alone with their daughter after the first trip. Both the applicant and his former wife gained a benefit from immigrating together, as it prevented the applicant from needing his former wife's permission to bring his daughter to Canada and it allowed her to immigrate when she would not otherwise be able to.

[20] The Board held that the applicant and Ms. Liao were not credible and concluded that the couple were involved in a conjugal relationship prior to the applicant's immigration to Canada. The Board noted the couple had romantic feelings for each other, maintained regular contact and went on regular outings together. There was evidence that they lived together. The Board found this conjugal relationship was dissolved solely for the purpose of the applicant's immigration to Canada with his first wife. The Board also found that the applicant had maintained his marriage with his first wife only so that she could join his permanent residence application.

[21] The Board therefore concluded the applicant had not proven on a balance of probabilities that his previous conjugal relationship with the applicant was not dissolved primarily so that he and his former spouse could gain status in Canada. Ms. Liao was therefore excluded from being a spouse of the applicant by operation of section 4.1 of the Regulations.

Issues

[22] The applicant submits that the following points are at issue:

1. Has the applicant demonstrated that an extension of time under paragraph 72(2)(c) of the Act should be granted?

2. Did the respondent err in failing to establish that there was a conjugal relationship between the applicant and the spouse?

[23] I would rephrase the issues as follows:

1. Is the applicant out of time?

2. What is the appropriate standard of review?

3. Did the Board err in dismissing the appeal?

Applicant's Written Submissions

[24] The applicant argues he should be granted an extension of time under paragraph 72(2)(c) of the Act, as he has explained the delay, shown a *bona fide* intention to pursue the application and has demonstrated there is an arguable case on the merits. His affidavit indicates he wanted to seek review of the Board's decision, but was unsure of how he could do this until he met his current counsel, who he retained immediately for this purpose.

[25] The applicant argues the appropriate standard of review is correctness, as the Board violated procedural fairness by not relying on oral testimony.

[26] The applicant argues the Board did not properly apply the test from *Wen* above, to determine whether a conjugal relationship existed. The applicant argues the Board has engaged in

pure speculation as to the existence of such a relationship as the only evidence of a conjugal relationship before the Board was the testimony of a twelve year old adduced by a port of entry officer. The applicant concedes he was a married man who had an affair, but argues that it has not been established that he was in a conjugal partnership with Ms. Liao.

Respondent's Written Submissions

[27] There was some dispute at the hearing and in submissions afterward over whether the respondent's memorandum of argument was received by the Court on time. It appears that it was initially filed on October 1, 2012, which was 33 days after the applicant's record was filed and served on August 29, 2012. Pursuant to Rule 11 of the *Federal Courts Immigration and Refugee Protection Rules*, SOR/93-22, a respondent only has 30 days to file a memorandum of argument after the applicant's record is served. A notation in the Court's Proceedings Management System says that counsel for the Minister was told about this but chose not to seek an extension of time, though counsel denied this at the hearing. Whatever the situation, the applicant filed a reply on October 11, 2012 and fully addressed the respondent's arguments at the hearing. In this case, no harm has come from the procedural irregularity and I will consider the submissions.

[28] The respondent argues the application is out of time, as it was initiated 25 days after the expiration of the 15 day period mandated by paragraph 72(2)(b) of the Act. The respondent initially argued that the applicant has not accounted for the delay, has not demonstrated a *bona fide* intention to pursue the application and has not shown the application raises a fairly arguable case. However,

the respondent conceded at the hearing that there was an arguable case and only maintained its opposition on the first two points.

[29] The respondent further argues that the fact that Mr. Justice Simon Noël granted leave for this matter to proceed to a hearing does not render the question of timeliness moot. Rather, where a leave decision is silent on timeliness, the application judge has jurisdiction to consider it (see *Deng Estate v Canada (Minister of Public Safety and Emergency Preparedness)*, 2009 FCA 59, [2009] FCJ No 243 (QL)).

[30] On the merits of the application, the respondent argues the standard of review is reasonableness. The respondent argues the focus of the examination under section 4.1 of the Regulations is the intent behind the dissolution of the first relationship, if that same relationship is subsequently resumed. In this case, the Board found that the applicant and Ms. Liao had a conjugal relationship prior to the applicant's immigration to Canada. This was based on romantic feelings, regular contact and outings and the declaration by the daughter that they lived together.

[31] The Board further found that this conjugal relationship was dissolved solely for the purposes of the applicant's immigration to Canada with his former wife as an accompanying spouse. The Board considered the timing of the material events and rejected the applicant's testimony explaining it as not credible.

Applicant's Further Submissions

[32] On the point of timeliness, the applicant points out that Rule 6(2) of the *Federal Courts Immigration and Refugee Protection Rules*, SOR/93-22, requires that a request for an extension of time shall be determined at the same time and on the same materials as the application for leave. The applicant argues that the Court's recorded entries for this file indicate that the extension of time was granted by Mr. Justice Noël and also that the respondent's memorandum was not before Mr. Justice Noël as it had not been properly filed with the Court. The applicant's affidavit explains the reason for the delay and there is no reason to question it as the respondent chose not to cross-examine the applicant on that affidavit.

[33] The applicant argues that the line of jurisprudence cited by the respondent was developed because of cases where applicants failed to request an extension of time in their materials. This is not the case here, where the applicant raised the issue all along. Therefore, Mr. Justice Noël had the question before him when he granted leave.

Analysis and Decision

[34] **Issue 1**

Is the applicant out of time?

I have reviewed the parties' submissions in relation to an extension of time in which to file the judicial review application.

[35] The applicant argues that the authorities relied on by the respondent only deal with leave applications that contain no request for an extension of time. However, Mr. Justice Russel Zinn recently considered a leave decision that was equally silent on such an extension, when it had been raised by the applicant (see *Construction and Specialized Workers' Union, Local 1611 v Canada (Minister of Citizenship and Immigration)*, 2013 FC 512 at paragraph 45, [2013] FCJ No 553 (QL)). Mr. Justice Zinn held at paragraph 49 that the holding in *Deng Estate* above, still applied:

> Absent the decision of the Court of Appeal in *Deng*, I would have thought that it would be proper to presume, in the absence of contrary evidence, that a leave judge considering an application that includes a request for an extension of time, properly applied the provisions of Rule 6 of the *Immigration Rules* and did not exceed his jurisdiction by granting leave when no extension of time had been granted. Absent *Deng*, I would also have thought, given the express wording of Rule 6 that a request for an extension of time is to be heard "at the same time" as the leave application, that it is the leave judge alone and not the judge hearing the application that has jurisdiction to grant the extension of time. However, I feel that I am bound by the Court of Appeal's decision in *Deng Estate* and will thus determine whether to grant an extension of time because Justice Russell did not specifically address this request in his Order granting leave.

I agree with his comments and therefore must decide the issue of the extension of time.

[36] I am satisfied based on the applicant's unopposed affidavit that he had a continuing intention to pursue the application and that the delay has been explained (see *Patel v Canada (Minister of Citizenship and Immigration)*, 2011 FC 670, [2011] FCJ No 860 (QL)). The other two factors in the test for an extension of time were conceded by the respondent's counsel at the hearing.

[37] **Issue 2**

What is the appropriate standard of review?

Where previous jurisprudence has determined the standard of review applicable to a particular issue before the court, the reviewing court may adopt that standard (see *Dunsmuir v New Brunswick*, 2008 SCC 9, [2008] 1 SCR 190 at paragraph 57).

[38] In the only decision interpreting section 4.1 that I am aware of, this Court applied the reasonableness standard to an Immigration Appeal Division's finding concerning the dissolution of a marriage (see *Gengiah v Canada (Minister of Citizenship and Immigration)*, Court file IMM-4110-07 (unreported)). This is appropriate given that the Board's finding was a mixed question of fact and law. I disagree with the applicant's characterization of his argument as a matter of procedural fairness, as it concerns the Board's assessment of evidence.

[39] As well, in oral submissions, the applicant raised an issue regarding the definition of "conjugal partner" in section 2 of the Regulations which could potentially be considered a question of law. However, it is a matter of interpreting a regulation closely connected to the Board's function and it is well within their expertise. As such, it presumptively attracts a reasonableness standard (see *Alberta (Information and Privacy Commissioner) v Alberta Teachers' Association*, 2011 SCC 61 at paragraph 34, [2011] 3 SCR 654). Further, in *Canada (Citizenship and Immigration) v Khosa*, 2009 SCC 12, [2009] 1 SCR 339, the Supreme Court of Canada has already applied the reasonableness standard to a decision of the Immigration Appeal Division. Although that concerned a different type of question, the majority found at paragraphs 52 to 58 that all of the other standard of review factors

also pointed toward reasonableness for this decision-maker. Therefore, nothing disturbs the presumption and I will apply the reasonableness standard.

[40] In reviewing the Board's decision on the standard of reasonableness, the Court should not intervene unless the Board came to a conclusion that is not transparent, justifiable, intelligible and within the range of acceptable outcomes based on the evidence before it (see *Dunsmuir* above, at paragraph 47; *Khosa* at paragraph 59). As the Supreme Court held in *Khosa* above, it is not up to a reviewing court to substitute its own view of a preferable outcome, nor is it the function of the reviewing court to reweigh the evidence (at paragraph 59).

[41] **Issue 3**

Did the Board err in dismissing the appeal?

In the Board's reasons, it referred to the factors set out in *Wen* above:

- when the divorce occurred;
- the reason for the divorce;
- the temporal relationship between the ending of the relationship and the forming of a new relationship with the subsequent spouse;
- evidence that the former spouses did not separate or end contact with each other;
- the intent of the spouses upon remarrying;
- the length of the subsequent relationship;
- the temporal connection between the dissolving of the subsequent relationship and the re-establishment of a new relationship with the previous spouse; and
- the intentions of the parties to the new relationship in respect of immigration.

[42] The first two points make it clear that the *Wen* test assumes there was an initial relationship that was dissolved. In this case, the applicant alleged there was no such relationship. Therefore, the Board referred to *M v H* above, for the definition of "conjugal relationship" as contemplated in section 4.1. The Supreme Court noted in that decision that the generally accepted characteristics of conjugal relationships "include shared shelter, sexual and personal behaviour, services, social activities, economic support and children, as well as the societal perception of the couple" (at paragraph 59).

[43] Sections 2 and 4.1 of the Regulations read in part as follows:

2. The definitions in this section apply in these Regulations.	2. Les définitions qui suivent s'appliquent au présent règlement.
…	…
"conjugal partner" means, in relation to a sponsor, a foreign national residing outside Canada who is in a conjugal relationship with the sponsor and has been in that relationship for a period of at least one year.	« partenaire conjugal » À l'égard du répondant, l'étranger résidant à l'extérieur du Canada qui entretient une relation conjugale avec lui depuis au moins un an.
4.1 For the purposes of these Regulations, a foreign national shall not be considered a spouse, a common-law partner or a conjugal partner of a person if the foreign national has begun a new conjugal relationship with that person after a previous marriage, common-law partnership or conjugal partnership with that person was dissolved primarily so that the foreign national, another foreign national or the sponsor could acquire any status or privilege under the Act.	4.1 Pour l'application du présent règlement, l'étranger n'est pas considéré comme l'époux, le conjoint de fait ou le partenaire conjugal d'une personne s'il s'est engagé dans une nouvelle relation conjugale avec cette personne après qu'un mariage antérieur ou une relation de conjoints de fait ou de partenaires conjugaux antérieure avec celle-ci a été dissous principalement en vue de lui permettre ou de permettre à un autre étranger ou au répondant d'acquérir un statut ou un privilège aux termes de la Loi.

[44] Since section 4.1 applies to the dissolution of a conjugal partnership, it appears that a conjugal relationship must have lasted for at least one year before its dissolution could attract this exclusion. Although the respondent argued at the hearing that such an interpretation defeats the section's purpose, I think it would be unreasonable to ignore the plain distinction the legislation draws between conjugal partnerships and conjugal relationships.

[45] Applied to the present case, the applicant sponsor must have been in a conjugal relationship with Ms. Liao for at least one year before ending it so that he could sponsor his then-wife and daughter. If this was the case, then by section 4.1, he could not sponsor Ms. Liao.

[46] The decision of the Board did not address the one year requirement. However, in order to comply with the law, the Board would have had to consider whether there was a conjugal relationship with Ms. Liao for at least one year.

[47] My review of the evidence does not disclose to me how the Board could have found that there was a conjugal relationship for at least one year. Ms. Liao and the sponsor met for the first time on February 14, 2005. They had one sexual encounter in December 2005, from which she became pregnant. The sponsor, his former wife and daughter came to Canada on February 27, 2006. Apparently, the sponsor left China without telling Ms. Liao of his departure. He did not phone Ms. Liao until March 12, 2006 and it was not until a second phone call later in March 2006 that she told him she was pregnant. The applicant sponsor separated from his first wife in April 2006 and divorced her in June 2007. He married Ms. Liao in June 2008.

[48] There was some evidence from the applicant sponsor's daughter that her father lived with Ms. Liao prior to coming to Canada. It is not clear when or for how long this was.

[49] I am not satisfied from the evidence or from the reasons of the Board that the finding that section 4.1 applied to the applicant was reasonable with respect to whether the applicant sponsor was in a conjugal relationship for at least one year.

[50] As a result, the decision of the Board must be set aside and the matter is referred to a different panel of the Board for redetermination.

[51] Neither party proposed a serious question of general importance for certification.

JUDGMENT

THIS COURT'S JUDGMENT is that:

1. The applicant is granted an extension of time in which to file the application for leave and for judicial review until its date of filing.

2. The application for judicial review is allowed and the matter is referred to a different panel of the Board for redetermination.

"John A. O'Keefe"

Judge

ANNEX

Relevant Statutory Provisions

***Immigration and Refugee Protection Regulations*, SOR/2002-227**

2. The definitions in this section apply in these Regulations.	2. Les définitions qui suivent s'appliquent au présent règlement.
…	…
"conjugal partner" means, in relation to a sponsor, a foreign national residing outside Canada who is in a conjugal relationship with the sponsor and has been in that relationship for a period of at least one year.	« partenaire conjugal » À l'égard du répondant, l'étranger résidant à l'extérieur du Canada qui entretient une relation conjugale avec lui depuis au moins un an.
4.1 For the purposes of these Regulations, a foreign national shall not be considered a spouse, a common-law partner or a conjugal partner of a person if the foreign national has begun a new conjugal relationship with that person after a previous marriage, common-law partnership or conjugal partnership with that person was dissolved primarily so that the foreign national, another foreign national or the sponsor could acquire any status or privilege under the Act.	4.1 Pour l'application du présent règlement, l'étranger n'est pas considéré comme l'époux, le conjoint de fait ou le partenaire conjugal d'une personne s'il s'est engagé dans une nouvelle relation conjugale avec cette personne après qu'un mariage antérieur ou une relation de conjoints de fait ou de partenaires conjugaux antérieure avec celle-ci a été dissous principalement en vue de lui permettre ou de permettre à un autre étranger ou au répondant d'acquérir un statut ou un privilège aux termes de la Loi.

***Immigration and Refugee Protection Act*, SC 2001, c 27**

72. (1) Judicial review by the Federal Court with respect to any matter — a decision, determination or order made, a measure taken or a question raised — under this Act is commenced by making an application for leave to the Court.	72. (1) Le contrôle judiciaire par la Cour fédérale de toute mesure — décision, ordonnance, question ou affaire — prise dans le cadre de la présente loi est subordonné au dépôt d'une demande d'autorisation.
(2) The following provisions govern an application under subsection (1):	(2) Les dispositions suivantes s'appliquent à la demande d'autorisation :
(a) the application may not be made until any right of appeal that may be provided by this Act is exhausted;	a) elle ne peut être présentée tant que les voies d'appel ne sont pas épuisées;

(b) subject to paragraph 169(f), notice of the application shall be served on the other party and the application shall be filed in the Registry of the Federal Court ("the Court") within 15 days, in the case of a matter arising in Canada, or within 60 days, in the case of a matter arising outside Canada, after the day on which the applicant is notified of or otherwise becomes aware of the matter;

b) elle doit être signifiée à l'autre partie puis déposée au greffe de la Cour fédérale — la Cour — dans les quinze ou soixante jours, selon que la mesure attaquée a été rendue au Canada ou non, suivant, sous réserve de l'alinéa 169f), la date où le demandeur en est avisé ou en a eu connaissance;

(c) a judge of the Court may, for special reasons, allow an extended time for filing and serving the application or notice;

c) le délai peut toutefois être prorogé, pour motifs valables, par un juge de la Cour;

(d) a judge of the Court shall dispose of the application without delay and in a summary way and, unless a judge of the Court directs otherwise, without personal appearance; and

d) il est statué sur la demande à bref délai et selon la procédure sommaire et, sauf autorisation d'un juge de la Cour, sans comparution en personne;

(e) no appeal lies from the decision of the Court with respect to the application or with respect to an interlocutory judgment.

e) le jugement sur la demande et toute décision interlocutoire ne sont pas susceptibles d'appel.

***Federal Courts Immigration and Refugee Protection Rules*, SOR/93-22**

6. (1) A request for an extension of time referred to in paragraph 72(2)(*c*) of the Act shall be made in the application for leave in accordance with Form IR-1 set out in the schedule.

6. (1) Toute demande visant la prorogation du délai au titre de l'alinéa 72(2)*c*) de la Loi, se fait dans la demande d'autorisation même, selon la formule IR-1 figurant à l'annexe.

(2) A request for an extension of time shall be determined at the same time, and on the same materials, as the application for leave.

(2) Il est statué sur la demande de prorogation de délai en même temps que la demande d'autorisation et à la lumière des mêmes documents versés au dossier.

11. A respondent who opposes an application for leave

11. Le défendeur qui s'oppose à la demande d'autorisation :

(a) may serve on the other parties one or more affidavits, and

a) peut signifier un ou plusieurs affidavits aux autres parties,

(b) shall serve on the other parties a memorandum of argument which shall set out concise written submissions of the

b) doit signifier aux autres parties un mémoire énonçant succinctement les faits et les règles de droit qu'il invoque,

facts and law relied upon by the respondent,

and file them, together with proof of service, within 30 days after service of the documents referred to in subrule 10(2).

et les dépose, avec la preuve de leur signification, dans les 30 jours suivant la signification des documents visés au paragraphe 10(2).

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	IM-7613-12
STYLE OF CAUSE:	YAN DA ZHI - and - THE MINISTER OF CITIZENSHIP AND IMMIGRATION
PLACE OF HEARING:	Toronto, Ontario
DATE OF HEARING:	May 7, 2013
REASONS FOR JUDGMENT AND JUDGMENT OF:	O'KEEFE J.
DATED:	November 6, 2013

APPEARANCES:

Wennie Lee	FOR THE APPLICANT
Brad Gotkin	FOR THE RESPONDENT

SOLICITORS OF RECORD:

Lee & Company Toronto, Ontario	FOR THE APPLICANT
William F. Pentney Deputy Attorney General of Canada Toronto, Ontario	FOR THE RESPONDENT