



IAD File No. / N° de dossier de la SAI : VA6-03476  
Client ID no. / N° ID client : 5625-7433

## Reasons and Decision – Motifs et décision

### *Sponsorship*

**Appellant(s)**

**CINDY MAY ANN AHMED**

**Appelant(s)**

**Respondent**

The Minister of Citizenship and Immigration  
Le Ministre de la Citoyenneté et de l'Immigration

**Intimé**

**Date(s) and Place  
of Hearing**

24 August 2007  
Winnipeg, Manitoba  
Vancouver, BC Via Videoconference

**Date(s) et Lieu de  
l'audience**

**Date of Decision**

24 August 2007 (rendered orally)  
11 September 2007 (written decision)

**Date de la Décision**

**Panel**

Renee Miller

**Tribunal**

**Appellant's Counsel**

R. Reis Pagtakhan  
Barrister & Solicitor

**Conseil de l'appelant(s)**

**Designated Representative**

Nil

**Représentant désigné**

**Minister's Counsel**

Leonard Offrowich  
Barrister & Solicitor

**Conseil de l'intimé**

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## Oral Reasons for Decision

[1] These are the reasons and decision in the appeal of Cindy May Ann AHMED (the “appellant”), who appeals the refusal to approve the permanent resident application made by her spouse, Khurshid AHMED (the “applicant”), to immigrate to Canada as a member of the family class.

[2] The appellant and applicant married on December 6, 2006, in Pakistan and the appellant subsequently filed an application to sponsor her husband for immigration to Canada. The applicant was interviewed by a Visa Officer at the Canadian Embassy in Islamabad, Pakistan, on June 1, 2006. On June 5, 2006 the application for permanent residence in Canada was refused, pursuant to section 4 of the *Immigration and Refugee Protection Regulations* (the “*Regulations*”),<sup>1</sup> because the Visa Officer concluded that the marriage was not genuine and had been entered into primarily for the purpose of the applicant gaining status or privilege under the *Immigration and Refugee Protection Act* (the “*Act*”).<sup>2</sup>

[3] The Visa Officer set out the specific reasons for refusing this application in a letter<sup>3</sup> and stated that he was concerned about the genuineness of this marriage because the application for sponsorship was not submitted until two years after the marriage occurred without a sufficient explanation; the wedding itself was not well publicized or held within the normal customs in Pakistan; and important family members from Pakistan had not attended the wedding. The appellant contends that the refusal was not valid in law, while the appellant asks me to dismiss this appeal.

[4] I heard testimony today from both the appellant and the applicant. As well, I have reviewed the documentary evidence that was disclosed by the appellant,<sup>4</sup> which forms three volumes containing 475 tabs and I do not know how many pages. I will just summarize that the documentary material included information such as photographs of the appellant and the applicant in Pakistan, telephone records, cards and letters, receipts for monetary transfers, photocopies of an airline ticket (although it was illegible in my photocopy), receipts for purchases made in Pakistan, letters of support, email correspondence between the couple,

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<sup>1</sup> *Immigration and Refugee Protection Regulations*, SOR/2002 – 227.

<sup>2</sup> *Immigration and Refugee Protection Act*, S.C. 2001, c. 27.

<sup>3</sup> Record, Refusal letter, pp, 5 and 6.

<sup>4</sup> Exhibit A-1.

affidavits, documents relating to the appellant's conversion to Islam and confirmation of her visit to Pakistan in December 2003 and December 2004.

## **ISSUE AND DECISION**

[5] In order to succeed on her appeal, the appellant must show either that this marriage is genuine or that it was not entered into primarily for the purpose of the applicant coming to Canada. In my view, she has succeeded in meeting the burden of proof and I will allow her appeal.

## **ANALYSIS**

[6] In assessing the genuineness of this marriage, I have considered a broad range of factors, including: how the couple met, how the relationship evolved, the duration of the relationship, the amount of time that was spent together after the wedding, the nature of the ceremonies that were conducted, the intention of the couple in marrying, evidence of ongoing contact and communication between the couple in the post-marital period, their conduct after the wedding, the depth of knowledge that they possess about each other's past, present and daily lives, their involvement of their families in their relationship, the provision of financial support, and as well I have also looked at their plans for the future.

[7] I accept the evidence of the genesis of this relationship as described by the appellant and the applicant in their oral testimony. Their evidence was consistent, both between the two witnesses and also with the voluminous documentary evidence provided to me. It is clear from their evidence and the documentary materials that this relationship began in 2000 and developed slowly over time until they began discussing and agreed to marriage. The relationship was known to their family members well in advance of their marriage, as their relationship grew and became more serious. They have performed all of the rites and ceremonies necessary to perfect a legal marriage.

[8] I acknowledge that the manner of their marriage, being a small ceremony taking place in Lahore instead of Rawalpindi and without the family members of the applicant present, is unusual and the unusual nature of that marriage required explanation. But, in my view, they did provide a reasonable explanation and I am prepared to accept that when there are two people

who are marrying from different cultural backgrounds compromises can be made with regard to the arrangements that take place for ceremonies.

[9] I did take into consideration the documentary evidence that was provided to corroborate the nature and development of this relationship. I note that there was voluminous documentary evidence that showed very frequent internet contact between the parties over the course of many years. I note that there have not been frequent visits by the appellant to the applicant; a span of several years between 2004 and 2007. That was not a factor in her favour and that was a factor I take seriously into account. However, I am persuaded by the argument of counsel for the appellant that the appellant's financial circumstances constrained her ability to visit the applicant more frequently and I did note that the appellant was a frequent traveller outside of Canada and she has not taken any trips other than to visit her husband in the years since her marriage. Therefore, I found those factors mitigated the negative effect of the lack of visitation by the appellant and applicant since the marriage.

[10] I also looked at the depth of knowledge between the spouses and I have to say, frankly, it was not the kind of intimate knowledge that I would typically expect to see from spouses. But, I also took into consideration the explanation of the appellant that this is her nature. It is her nature to have a more vague and general conversation; that she has that same general sort of reference about her own life in her conversations with people in Canada. I accept her explanation as reasonable because when I went back and looked at the email and chat correspondence between these two people, their correspondence corroborates and reflected her testimony. In my view, this explanation was corroborated in the sense that there were not a lot of really specific details being included in those internet conversations. Partly that may be because these two people do not fluently speak the same language and perhaps it is the appellant's nature, but I felt that the email correspondence corroborated the appellant's explanation and, therefore, I accepted it as being reasonable. I also noted that the conversations between these two spouses have been taking place over the course of seven years and that is a long time for people to recall specifics.

[11] Overall, I found that the evidence presented to me today in the oral testimony was basically consistent. They might not know all of the details about each other, but they appear to know essential elements, such as where they live, what they do for work, the essential elements of that work, their family members' names, relative ages, the relationship between those people,

their own personal histories, their plans for each other, gifts, pets, health issues of various family members, their likes and dislikes, their hobbies and pastimes, the names, occupation and location of various friends. All of that was indicative to me that there has been a level of intimate conversation between these two spouses that is in the nature of a genuine husband/wife relationship.

[12] I also noted that they were consistent in terms of their plans for the future and have also gone to the extent to look for an alternative location where they could live together permanently in the event that this application is refused. I felt that that was an aspect in favour of the appellant.

[13] I did look at the concerns of the Visa Officer. The first is the delay in the submission of the application and I accepted the explanation of the appellant and applicant in that regard, but also I noted that this is a relationship of seven years duration, a marriage of four years duration, and that basically, is not consistent with a marriage of convenience. That is not just my opinion, but that is the case law; that a delay in submitting an application on a relationship of many years duration is not consistent with what we typically see with a marriage of convenience.

[14] I also accepted the explanation of the couple as being reasonable with regard to why family members had not been invited to their wedding. Therefore, I felt that the Visa Officer's concerns had been adequately addressed in the oral testimony before me.

[15] There were some inconsistencies in the evidence, I acknowledge that. The evidence was not perfect, but when I looked at the totality of the evidence, I found that it was basically consistent. The major implausibilities in the evidence were reasonably explained by the appellant and the applicant. Their explanations were consistent and essentially they know about each other what I would expect spouses to know about each other; especially in circumstances where the relationship has developed over time and over a great distance. Therefore, I find that the appellant has met the onus upon her to show me that her relationship is genuine.

[16] After assessing all of the evidence that is before me in this appeal, and for the reasons that I have stated today, I find that, on the balance of probabilities, this marriage is genuine and has not been entered into primarily for the purpose of the applicant gaining status or privilege

under the *Act*. I find that the refusal of the Visa Officer was not valid in law and the appeal is allowed. This file is to be returned to the visa office for further processing.

## NOTICE OF DECISION

The appeal is allowed. The officer's decision to refuse a permanent resident visa is set aside, and the officer must continue to process the application in accordance with the reasons of the Immigration Appeal Division.

\_\_\_\_\_  
"Renee Miller"

Renee Miller

\_\_\_\_\_  
11 September 2007

Date (day/month/year)

**Judicial review** – Under section 72 of the *Immigration and Refugee Protection Act*, you may make an application to the Federal Court for judicial review of this decision, with leave of that Court. You may wish to get advice from counsel as soon as possible, since there are time limits for this application.