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Reasons and Decision – Motifs et décision

Sponsorship Appeal

Appellant(s)	ANNA LISA SOSA FRANCISCO	**Appelant(e)(s)**
and **Respondent**	Minister of Citizenship and Immigration	**et** **Intimé(e)**
Date(s) of Hearing	December 17, 2021 September 22, 2021	**Date(s) de l'audience**
Place of Hearing	Toronto, ON	**Lieu de l'audience**
Date of Decision	February 16, 2022	**Date de la décision**
Panel	Maureen Kirkpatrick	**Tribunal**
Counsel for the Appellant(s)	Joel Sandaluk	**Conseil de l'appelant(e) /des appelant(e)s**
Designated Representative(s)	N/A	**Représentant(e)(s) désigné(e)(s)**
Counsel for the Minister	Andrew Ross	**Conseil du ministre**

REASONS FOR DECISION

OVERVIEW

[1] The Appellant, Anna Lisa Sosa Francisco, applied to sponsor her spouse, Isaias Ozoria Rodriguez, the Applicant, and his non-accompanying minor son to Canada. The application was refused because a visa officer determined that the marriage is not genuine and was entered into primarily for the purpose of immigration.[1] The Appellant appeals the visa officer's refusal.[2]

[2] The Minister submits that this appeal should be dismissed due to the exploitative nature of the relationship and concerns with the Applicant's credibility. I do not accept his position.

[3] I find that the Appellant demonstrates that this marriage is genuine and was not entered primarily to acquire status or privilege under the *Immigration and Refugee Protection Act* (IRPA). The appeal is allowed. The Appellant and the Applicant were overall credible witnesses. I find it likely that their testimonies about the genesis and development of their relationship point to a genuine marriage. They explain why they are compatible. Evidence of contact with one another's families, continued contact and communication, intimate knowledge, sharing in the care of children brought into the marriage, and future plans also point to a genuine marriage.

[4] There are significant economic disparities in this relationship. However, I accept the couple's consistent testimonies that the Applicant never asked the Appellant for money, and she insisted on sending it to him. As well, I accept the Applicant's testimony that he had mixed feelings about her financial support and was not entirely comfortable accepting her money. For these reasons, I reject the Minister's position that this is an exploitative relationship.

[5] The Appellant's family did not know about this 2019 marriage until 2021. I accept the Appellant's explanations for her delay in telling her family. I accept her testimony that she and the Applicant misled the visa officer about why her family did not attend their wedding. I agree with the Minister that the couple misrepresented and that the Applicant's cross-examination testimony on this issue is not credible. However, I find that the misrepresentation does not go to the heart of the marriage, is not determinative, and does not impugn his overall credibility. I find that there are enough humanitarian and compassionate (H&C) considerations for special relief.

BACKGROUND

[6] The Appellant is a 45-year-old Canadian citizen by birth who has always lived here.[3] The Applicant is a 32-year-old citizen of the Dominican Republic who has always lived there.[4]

[7] The Appellant and the Applicant married in the Dominican Republic on March 15, 2019.[5] This is the Appellant's third marriage and the Applicant's first.[6] The Appellant's 10-year-old son lives with her in Canada.[7] The Applicant's non-accompanying 3-year-old son lives with his mother in the Dominican Republic.[8] The Appellant and the Applicant have no common children.

[8] Appeals before the Immigration Appeal Division (IAD) are hearings *de novo* and are not limited to the information received by the visa officer.[9]

ANALYSIS

Considerations of fairness and natural justice do not preclude my amending the refusal

[9] I amend the refusal to include the additional ground of misrepresentation under section 40(1)(a) of the IRPA. I do so because if I allow this appeal without making clear findings on the issue of misrepresentation and the file is remitted back the visa post, the application could be refused again under section 40(1)(a) of the IRPA. The Appellant would then have to launch a second IAD appeal, which could extend the processing of this file by one year or two, and which would place further demands on the resources of the visa post and the IAD.

[10] Considerations of fairness and natural justice do not preclude my amending the refusal and doing so may expedite the processing of this sponsorship as directed in section 162(2) of the IRPA.[10] The couple's misrepresentation about why her family did not attend their wedding first came to light during the Appellant's candid admissions in her testimony in September 2021. The issue was thoroughly canvassed with her. In the Applicant's direct examination in September 2021, he also admitted that he had not told the visa officer the whole story about why her family did not attend their wedding. The issue of misrepresentation was therefore squarely before the parties in September 2021. The issue was again canvassed with the Applicant in his continued testimony three months later, in December 2021. Though he then denied the misrepresentation, the parties had an opportunity to canvass this issue in testimony and to address it in submissions.

[11] Concerns also arose regarding the Applicant's relationship and employment histories. Discrepancies between information provided on his forms and/or what he told the visa officer, and testimonies at this appeal were put to the couple for their explanations. The parties had an opportunity to canvass these concerns in testimony and to address them in submissions.

[12] Superior courts of record have unlimited jurisdiction to deal with matters within their area of competence. The IAD has sole and exclusive jurisdiction to hear and determine all questions of law and fact, including all questions of jurisdiction, in respect of proceedings brought before it.[11] Thus, I find it reasonable that issues directly pertaining to a sponsorship appeal be addressed when an appeal is brought before the IAD. The main consideration in situations of this nature is whether fairness and natural justice permit an amendment to a refusal that is undertaken in the interest of an expeditious appeal process.

[13] In amending the refusal, I rely as well upon Rule 57 of the IAD Rules which provides that in the absence of a provision in these Rules dealing with a matter raised during an appeal, the Division may do whatever is necessary to deal with the matter. Further, as per Rule 58 of the IAD Rules, the Division may act on its own initiative, without a party making an application.

Genuineness of the marriage

[14] The IAD has developed well-established and objective factors which guide an assessment of the genuineness of a marriage.[12] Genuineness is understood as an intimate relationship of some permanence, interdependence, shared responsibilities, and a serious commitment. Every marriage is unique and, as a result, case-specific information must be considered when assessing the factors which inform an assessment of genuineness. These factors include, but are not limited to: intent of the couple; length of the relationship; amount of time spent together; conduct at the time of the meeting, engagement and/or the wedding; behavior subsequent to the wedding; knowledge of each other's relationship histories; level of continuing contact and communication; financial support; knowledge of and sharing of responsibility for the care of children brought into the marriage; knowledge of and contact with extended families of the couple; and knowledge about each other's daily lives. These, and other considerations, including the credibility of the Appellant and the Applicant, assist the IAD in evaluating whether a marriage is genuine.

[15] The relevant factors for this case are addressed in detail below.

Evidence about genesis and development of the relationship points to a genuine marriage

[16] I agree with the parties that the Appellant was a credible witness. I accept the Minister's position that the marriage is genuine for the Appellant, and she entered the marriage in good faith. However, I reject the Minister's position that the Applicant has fooled her, exploited her financially, and that he entered this marriage in bad faith for financial gain and an immigration purpose. Rather, I concur with the Appellant's counsel that because of the Appellant's difficult second marriage, she entered this relationship with her eyes wide open. She was clear-eyed about her expectations of this relationship when she and the Applicant met, and when they married. The evidence does not support a finding that the Appellant is or has been exploited financially.

[17] I acknowledge that the Applicant was a challenging witness. As the Appellant explained, his nickname is "el seco" meaning "the dry one" or "the serious one." I accept this. I also accept the Appellant's testimony that the Applicant is not very expressive and "freezes up" under pressure. In my view, this was apparent in his testimony. Further, given the couple's overall consistent testimonies, the nature of this relationship, the rate at which it developed, and other relevant factors, I find it likely that the Applicant also entered this marriage in good faith.

[18] The Appellant and the Applicant did not have counsel when they filed the application for sponsorship/permanent resident (PR) status. Many consistent details about their lives and their relationship emerged in their testimonies and are corroborated by their disclosure. I find it likely that the evidence about how the relationship began and developed points to a genuine marriage.

[19] The Appellant and the Applicant testified that they remained in constant communication after their initial long-distance meeting in August 2016. They first met in person in November 2016 in the Dominican Republic. In February 2017, the Appellant returned to the Dominican Republic with her son. During the worst parts of her divorce proceedings with her second spouse in mid-2017, their relationship was not in a "great state." The Applicant had a one-night stand during this period, which led to the birth of his son in May 2018. The couple committed to one another in an exclusive relationship during her late August 2017 trip. She came back to see him in March 2018 with her son. In August 2018, they were engaged. They married in March 2019.

Consistencies about one another's relationship histories point to a genuine marriage

[20] As the Appellant and the Applicant testified, they were upfront with one another about their past relationships from the beginning of this relationship. I find it likely that their overall consistent evidence about one another's relationship histories point to a genuine marriage.[13]

[21] As both testified, this is the Appellant's third marriage. She was first married to her high school sweetheart. She and her first spouse divorced because they drifted apart. They remain friends. She and her second spouse were together for years, and have a son, but it was not a happy marriage. He was abusive, then unfaithful, and the marriage did not end on good terms.

[22] The Appellant testified that she began talking to the man who became her second spouse in May 2009, a few months after she separated from her first spouse. After that, she travelled to see him three times per year. They stayed at a resort or his parents' place. She had begun to learn Spanish in high school and stepped up her efforts to learn Spanish so she could communicate with him because he spoke no English. Her Spanish is now "100% fluent" for day-to-day life and "85% fluent" for business. They married in May 2011. In June 2011, she learned she was pregnant. She applied to sponsor him in June 2011, and he arrived in Canada in December 2011. Their son was born in Canada in February 2012. At first, everything was wonderful.

[23] The Appellant testified that about one year after her second spouse arrived in Canada, things "really got ugly." He wanted to be out all the time, and she was stuck at home with their son. He got angry when she told him that he could not be out "5 nights out of 7." One night, he got physical with her. There had been no warning signs. She said nothing when the police arrived. Nevertheless, he was charged. She thought things would improve. They did not.

[24] The Appellant testified that up until that point, they had been living with her parents. In 2013, when they moved out on their own, he was violent with her again. Though the physical aggression diminished, the verbal aggression and emotional abuse never improved. In July 2015, they separated. He moved in with some friends. She and their son moved back with her parents. In August 2015, she learned he was involved with another woman. That ended the relationship.

[25] The Appellant testified that her family knew what was happening in her second marriage. She could not hide it. They were not happy that she had stayed in the relationship after he had been charged. They wanted her out of that relationship, and they were willing to help her get out.

[26] The Appellant testified that from November 2015, she lived "the single life." However, she did not go out very often because she was a single parent, and her son was feeling anxiety over the marital separation. She did not have any serious relationships with anyone at that time.

[27] The Applicant testified that the Appellant's second spouse is from Imbert, Puerto Plata, Dominican Republic. The Applicant is also from Imbert. The Applicant has known the Appellant's second spouse since childhood. They were not and are not friends but know one another to say hi because they grew up in the same neighbourhood. The Appellant's second marriage ended because her spouse mistreated her verbally and physically and had an affair.

[28] The Appellant testified that the Applicant's last prior serious relationship ended at about the same time her second marriage ended, a few months before she and the Applicant met. He also had another previous relationship. When they met, the Applicant told her that he had previously lived with other women. It came as a shock to them both when he conceived a child in 2017 because he had no children from his prior relationships and had also thought he could not have children due to injuries sustained in a 2011 motorcycle accident.

[29] The Applicant testified that he had three relationships before he met the Appellant. He lived with someone for two months in 2008, and with someone else for six months in 2012. His last relationship ended in late 2015 – he had lived with her for about one year and eight months with his sister and her family and his brother and niece. He had invited her to stay with him on the understanding that if things did not work out, she could leave, which she did. He did not think of it as a "marriage-like" relationship because in a marriage, there is a serious commitment. Regardless, he told the Appellant that he had previously lived with other women. She has always been aware of that. He also told her that he did not think he could have children because the women he lived with never became pregnant, and because of a motorcycle accident in 2011.

Consistencies about the genesis of the relationship point to a genuine marriage

[30] I find it likely that the consistent evidence about how the Appellant and the Applicant first met points to a genuine marriage.[14] The Appellant and the Applicant testified that they were introduced over FaceTime in August 2016 when the Applicant was in Imbert with his cousin, Junior, and Junior's spouse, Carla, and the Appellant was in Hamilton, talking with her friend, Carla, on FaceTime. After the introduction, the Appellant and the Applicant became Facebook friends, began to communicate daily, and their new friendship soon turned romantic.[15]

[31] The Appellant testified that she met Carla in 2014 when she was still with her second spouse. Carla's then boyfriend/now spouse, Junior, introduced her to Carla on FaceTime when the Appellant and her second spouse were in the Dominican Republic and Carla was in Newfoundland. The Appellant and Carla hit it off and became long-distance friends, later meeting in-person. In August 2016, the Appellant was home in Hamilton, talking with Carla on FaceTime. Carla and Junior were already married then, and they were having a beer in Imbert, with Junior's cousin, the Applicant. Carla introduced the Appellant and the Applicant during that FaceTime call. The Appellant testified that the Applicant was good-looking and seemed nice. They had an "easy conversation" as if the Appellant was sitting with them all in Imbert. After the call, the Appellant and the Applicant both asked Carla about the other. Then, the Applicant asked the Appellant to be his friend on Facebook. The Appellant answered right away and accepted his request. They started speaking on Facebook that same evening.

[32] When asked what compelled her to connect with the Applicant, the Appellant testified that she was intrigued by him and thought he was a lot of fun. When she started her relationship with her second spouse, she had become immersed in the Dominican culture, was there every three months, and had a lot of friends there. In contrast, by August 2016, she was living at home, separated from her second spouse, was a single parent to a 4-year-old, and her home was "like a hospital" because her father had had a stroke. She could not go anywhere. It was an "escape" for her to talk with the Applicant. She liked what she saw in him, and she liked talking with him.

[33] The Applicant testified consistently that he met the Appellant through Carla, the spouse of one of his cousins. The Applicant, his cousin, Junior, and Junior's spouse, Carla, were sitting

outside at his grandmother's house in Imbert when Carla and the Appellant were talking on the telephone. Carla introduced them. He decided that he would look the Appellant up on Facebook and send her a friend request because she was so engaging, spoke Spanish, was very friendly, he liked her smile, and she caught his attention. She accepted his friend request, and they started to talk. Soon, their communications became romantic. Before they met in person, they were talking "every single day and night," and knew what was going on in one another's lives.

[34] The Appellant testified that she learned from the Applicant that he was born and raised in Imbert, the same town where her second spouse was born and raised. The Applicant knew her second spouse, but they were not friends. Since the Applicant was 17 or 18 years old, he had been living on the Punta Cana side of the island (the opposite side of the island to Imbert). When the Appellant and the Applicant met, he was on vacation in Imbert, but was living and working for his family business in Higuey, which made and distributed statues and figurines to hotels. She may have seen the Applicant once in Imbert before Carla introduced them. Their early exchanges were platonic. They talked about music, baseball, and travel. Within a couple of weeks, their interactions were "flirty." After she and the Applicant had been communicating for about one month, their conversations became romantic, and she started talking about going to visit him. In September 2016, they decided to meet in person. She planned a four-day trip.[16]

[35] When asked why she would start another relationship with a man from Imbert given the horrific experiences she had with her second spouse, the Appellant testified that she thought that it might just be a fling. Also, the Applicant did not seem at all like her second spouse. When she met her second spouse, he was 20 or 21 years old, and she was 30 or 31 years old. When she met the Applicant, they were older. She was 40 and he was 27. As well, the Applicant had been in a "near fatal" accident and a "lot of real things had happened in his life." Further, when she met her second spouse, there was no such thing as video calls. With the Applicant, they were constantly "with one another" on video calls. She knew his surroundings, his friends, and his home. There were no signs that he was romantically involved with anyone else. He lived with his sister and her family, and his brother and niece and she saw how he interacted with them. She observed his relationship with his sister and had no concerns with how he treated women.

Consistencies about first meeting in November 2016 point to a genuine marriage

[36] I find it likely that the consistent evidence about how the Appellant and the Applicant first met in person points to a genuine marriage.[17] Both testified that she traveled to Higuey to meet him in person in November 2016. They stayed together in his apartment for four days, and he introduced her to his friends and family.

[37] As both testified, meeting in person was better than they had imagined. They were inseparable. His new apartment was next door to her "friend from before," Bielka, who is married to the Applicant's cousin, Nathaniel. The Applicant's mother, who lives on the other side of the island, came to meet the Appellant on the second day of her trip. The Applicant also introduced the Appellant to his siblings, nieces, father, and stepmother who lived on the Punta Cana side of the island where he lived. He introduced her to his family because when he and the Appellant were talking on video calls, he always showed her to his family. They were anxious to meet her, and she was anxious to meet them. Both testified they did not want her vacation to end.

Consistencies about relationship development point to a genuine marriage

[38] I find it likely that the consistent evidence about how the couple's relationship developed in 2016 and 2017 points to a genuine marriage. Both testified that they were continually in communication after she returned to Canada in November 2016.[18] However, they did not then make a commitment to one another because it was a very uncertain time in the Appellant's life, and she could not make a commitment. She was then still going through divorce proceedings with her second spouse, and her father was seriously ill. Both testified that even under these circumstances, she traveled to the Dominican Republic with her son in February 2017.[19] Both testified consistently that their ill-defined relationship was then "up and down," and they hit a rough patch in mid-2017 because of everything the Appellant was going through in Canada.

[39] The Appellant testified that because she was living at home when she and the Applicant connected in August 2016, her mother and her son knew about him from the beginning. Her son was always with her, so the Applicant would talk with him when they talked with one another. The Appellant acts as their interpreter because although her son understands Spanish, he is not comfortable speaking it, and the Applicant speaks little English. At Christmas time in 2016, the

Appellant told her parents and her siblings about the Applicant.[20] Her brother was stone-faced. Her sister warned her to be careful because of what had happened with her second spouse. She also told her friends about the Applicant. Some expressed concerns that she "was going down this road again" with another man from the Dominican Republic. She defended the Applicant because "he is who he is" and he is not her second spouse. In December 2016, the Applicant met the Appellant's friend, Elvira, when she was in the Dominican Republic for Christmas.[21]

[40] In February 2017, the Appellant and her then 5-year-old son traveled to the Dominican Republic. They started their trip in Imbert so he could see his paternal grandparents. Then, they traveled to the Punta Cana side of the island. As both testified, the Appellant's son and the Applicant got along very well, talked about baseball, and went to the river and out for ice cream.

[41] When asked why she would introduce her son to the Applicant if she was not ready to make a commitment, the Appellant testified that this was "very selfish" behaviour on her part. She took what she wanted from the relationship. She knew that she and the Applicant loved one another but she was not ready to commit to him. She almost lost him because of this.

[42] The Appellant described her divorce proceedings as "horrific." When she and her second spouse separated, he saw their son every weekend at a neutral location because her family wanted nothing to do with him. By mid-2016, he had "weaned off" their son, saw him once every two months, and did not call him. From 2015 to 2017, he paid $100 per month in child support, and now pays $175 per month but is always late with the payments. Nevertheless, he petitioned for full custody, and tried to show that he was "father of the year." She fought him in court to retain full custody of their son. During this same time, her father had a second stroke which "destroyed everything." Her mother fed him, and nurses were coming all the time. Their home was like a hospital. Her father was in this state until he died in September 2018.

[43] With everything that was happening with her son and her father, the Appellant testified that she did not know what she wanted. She thought she was falling in love with the Applicant, but then, she would tell him to "do you." She could not walk away from him, but she could not commit to him. She wanted a relationship with him, and she did not. She thought that maybe she would like to dance with someone at a bar when she went out in Canada. She was expecting the

Applicant to end things – one day, she's happy, and the next day, the court calls, and she's upside down again – but he did not. The Applicant was always there for her, although they never talked about the status of their relationship, and they never said that they were exclusive.

[44] The Appellant emphasized in her testimony that neither had said that they "were in it for the long haul." There was nothing concrete. She told the Applicant that she did not have time to be in a relationship. She told him to "do you," to do whatever he wanted, and go out and have fun. Though there was never a moment when they were not in contact, they were not in a "great state" in June and July 2017 at the height of her court proceedings with her "ex." She and the Applicant were both living their lives then. Both met other people for one-night stands.

[45] The Applicant testified that after the Appellant returned to Canada in March 2017, there were problems. Even though the Appellant's "ex" does not reach out to their son, he tried to make her life impossible using their son. Because her "ex" was making her life impossible, and her father was sick, she was always sad or mad. Their relationship was particularly up and down from June to August 2017. During that time, the Appellant would tell him to go out and have fun because she was not sure what she wanted. Through all this, they never stopped talking and there was never a "break" in their relationship *per se*. However, during this rough patch between June and August 2017, he had a one-night stand with another woman in the Dominican Republic.

Applicant's one-night stand in July/August 2017 does not detract from genuineness

[46] The Minister submits that the status of this relationship in July and August 2017 is unclear. I disagree. I accept the consistent testimonies and supporting evidence that when the Applicant's child was conceived, he and the Appellant were in an ill-defined relationship with no expectation of exclusivity.[22] Though the Applicant testified that he feels guilty, and feels like he cheated on the Appellant, I concur with the Appellant's counsel that this is another matter. When the Applicant's child was conceived, both he and the Appellant were having one-night stands. The couple did not commit to one another until after his child was conceived. They entered an exclusive relationship during her trip to the Dominican Republic in late August 2017.[23]

[47] Both testified that in the fall of 2017, not long after they had committed to one another, the Applicant told the Appellant that he had had a one-night stand in late July/early August 2017,

and he was going to be a father. Both testified that they accepted what happened at a time when their relationship was undefined. Both decided to move forward with their relationship. Both decided to be involved in the Applicant's child's life. Though the conception of this child resulted in some trust issues, they recovered. For all these reasons, I find that the timing of the conception of the Applicant's child does not detract from the genuineness of this relationship.

[48] The Appellant and the Applicant testified consistently that the Appellant's trip to the Dominican Republic in late August 2017 was a turning point in their relationship. Within the first day or two of her trip, they sat in his apartment, and talked about everything. She told him she wanted to go forward with their relationship. They agreed to be exclusive. When she returned to Canada, she told her family that she and the Applicant were exclusive.

[49] The Appellant testified that when the Applicant told her he was going to have a baby, she was angry and in disbelief. After all, the Applicant had been in other relationships, and had thought he could not have a child. Then, soon after they decided to be exclusive, he was having a child. It was probably three to five days before she could have a conversation with him about it. When she calmed down, she acknowledged that she had been doing the same thing. She had also been having occasional one-night stands until their commitment conversation in late August 2017. Also, she thought it was good: "He has his own kid now. I have mine. Done." They had previously discussed having children, and she had told him that she would "absolutely not" have any more children. At that time, he said this was fine because he could not have children anyway. With all of this in mind, she decided that she was not going to throw their relationship away because he was having a baby. She supported his decision to be involved in his child's life. She knew when his son was born, and her family and friends have always known about his son.[24]

[50] The Applicant testified that he was "pretty upset" when he learned that he was going to have a baby. He does not dispute the one-stand night, but he doubted, at first, that the baby was his. He thought that he could not have children. He did not say anything like that to the baby's mother because he did not want to upset her. He never did a paternity test. But, when the child was born, everyone said that the child is his "clone," so he accepts that he is the child's father.

[51] The Applicant confirmed that he told the Appellant about the baby as soon as he found out. Because he did not want to have any secrets, he told her what had happened, and he asked for her forgiveness. Though he feels that he was unfaithful to the Appellant, he knows that they were not fully committed to one another at that time. It was a low point in their relationship. The Appellant was "mad" at him for about one week. It felt like they "went backwards" in their relationship. It did cause some trust issues initially, and of course, the Appellant was entitled to feel that way because of her second marriage. In time, it got better, and she trusted him again. Now, she loves his child as if he is her own. She accepted his baby, in part, because she did not want to have any more children herself. They decided to share their children – his and hers.

Consistencies about 2018 engagement and 2019 wedding point to a genuine marriage

[52] I find it likely that the consistent evidence about the couple's decision to marry in August 2018 points to a genuine marriage.[25] When the Appellant and the Applicant got engaged, they had known one another for two years. She had met his friends and family, including his son, and he had met her son and her friends. I concur with the Appellant's counsel that this was not a "hustled" engagement. They did not rush to marry. Because the Appellant had not yet obtained a divorce from her second spouse in August 2018, they planned to marry in March 2019.

[53] Both testified that they discussed marriage in Santo Domingo during her August 2018 trip and made the decision to get married together. The Appellant's divorce was meant to be finalized by Spring 2018 but there was a delay, and she did not obtain her divorce until December 2018. Because she was still legally married to her second spouse when they got engaged in August 2018, they decided to get married in March 2019 when her son would have March Break holidays, and her friend, Elvira, would also be in the Dominican Republic.

[54] I find it likely that the overall consistent evidence about the couple's marriage in March 2019 also points to a genuine marriage.[26] The wedding was planned and publicly celebrated. Guests included the Applicant's friends and family, the Appellant's son and her friend, Elvira, who traveled from Canada, and other friends of the Appellant's in the Dominican Republic.

Appellant's mother and siblings not knowing about marriage is not determinative

[55] Though the Appellant's mother and siblings were aware of this relationship, the Appellant delayed telling them about the marriage. The fact that her family only recently came to learn about this marriage is not determinative. As the couple testified, the Appellant did not tell her family she was marrying the Applicant in March 2019 because her prior marriage with a man from the Dominican Republic had been abusive, her family had witnessed that, and she was afraid to tell them that she was marrying another man from the Dominican Republic. She explained that her family are Italian, "judgemental," and she simply did not want to deal with that. She wanted to do what was right for her. As the Minister concedes, we can "somewhat understand that." I accept the Appellant's explanations for the delay in telling her family about the marriage. I also accept her testimony that she wishes she had told them much earlier even though they would not have been able to attend the wedding in person. When she did tell them they said that they were happy for her and the Applicant, and they would have liked to have participated by video. As corroborative evidence shows, her family supports this marriage.[27]

Integration with one another's families points to a genuine marriage

[56] Evidence shows that there is a significant amount of integration between this couple and the people who are part of their lives. I find it likely that this points to a genuine marriage.

[57] I accept the Appellant's testimony that her friends and family have been aware of this relationship since Christmas 2016 when she told them about it. I accept the consistent testimonies of the Appellant and the Applicant that his friends and family have been aware of this relationship since at least November 2016 when they first met the Appellant in person. Prior to this marriage, the Applicant connected with the Appellant's family online and with her son in person.[28] The Appellant has both long-standing online and in person relationships with the Applicant's family.[29] Both families are now aware of the marriage, and both support it. The Appellant's family looks forward to meeting the Applicant in person. A prior effort to introduce them in Canada in 2018 failed when his application to visit Canada was refused.[30]

Compatibility despite differences points to a genuine marriage

[58] Despite a 13-year age difference and differences in their economic circumstances, I find that the Appellant and the Applicant satisfactorily explain what brought them together and why they are compatible. This points to a genuine marriage. As the Minister concedes, this is different from a "holiday romance." Though the Appellant was born and raised in Canada, and is not Dominican, she has a long history in the Dominican Republic. She was previously married to a Dominican, she has spent a lot of time there and has connections there, and she speaks the language and knows the culture. The Appellant and the Applicant were introduced by her friend, Carla, who is married to his cousin, Junior. The Appellant and the Applicant described feeling an immediate connection with one another and feeling relaxed and comfortable in one another's presence. In addition, they have comparable levels of education and common interests. They are both avid baseball fans, they both love Latin music and live music, they have enjoyed traveling together in the Dominican Republic, and look forward to further travels in Canada. As well, they have bought land in Imbert (where the Appellant was born and raised) and plan to retire there.

Continued contact and communication, and intimate knowledge point to genuineness

[59] I find it likely that the Appellant's four post-marriage visits to spend time with the Applicant points to this being a genuine marriage. The Appellant traveled to visit the Applicant months after their wedding, in July-August 2019, and traveled again with her son during the global pandemic in August-September 2020.[31] Both testified that the next trip the Appellant and her son took to visit the Applicant in December 2020 was extended when both the Appellant and her son contracted COVID-19, and had to remain in the Dominican Republic in the Applicant's care.[32] Both also testified to the last time they saw one another in-person in the Dominican Republic in August 2021, shortly before the first sitting in this appeal.[33]

[60] There is significant, consistent, and longstanding communication between the Appellant and the Applicant.[34] I find it likely that documentary evidence of communication as well as the overall quality of evidence at this appeal, including the many details the Appellant and the Applicant know about one another, demonstrate that they are in regular and ongoing communication, all of which points to a genuine marriage. I accept that the Appellant and the

Applicant are in touch with one another every day. I accept that they chat throughout the day, have random calls when their schedules permit, and have a FaceTime call every night after the Appellant's son goes to bed. I accept that the Applicant talks daily with the Appellant's son.

[61] The level of intimate knowledge the Appellant and the Applicant demonstrate points to a genuine marriage. The couple demonstrate knowledge about one another, and testified to many details outside the four corners of this application including: the reasons her prior marriages ended; his prior relationships; his employment history; the state of their relationship when the Applicant's son was conceived; when this relationship became exclusive and when they began to talk about marriage; specifics about the time they spent together during the Appellant's many trips to visit the Applicant both with and without her son; why the Applicant applied to visit Canada in 2018; why she delayed telling her mother and siblings about their wedding; and particulars about their sons and their future plans in Canada and the Dominican Republic.

Knowledge of and care of children brought into the marriage point to genuineness

[62] I find it likely that evidence of contact and communication with one another's child as well as the overall quality of evidence at this appeal, including the many details the Appellant and the Applicant know about one another's child, demonstrate that the couple has knowledge of and are sharing in the responsibility of the care of the two children brought into this marriage. This all points to a genuine marriage.

[63] The Appellant and the Applicant testified that her ex-spouse has not taken responsibility for his child and has not been there for his son as a father. The Applicant has stepped into that role and has meaningful involvement in her son's life.[35] As well, the Appellant's son has met the Applicant's extended family and has a relationship with the Applicant's youngest sister. I accept that the Appellant has a relationship with the Applicant's son. Whenever the Applicant has his son, and the Appellant is in Imbert, she spends time with him. Their two sons also interact.

Detailed plans in Canada and/or the Dominican Republic point to a genuine marriage

[64] The Appellant and the Applicant testified about detailed plans for their future together in Canada now and in the Dominican Republic upon retirement. Both spoke to plans for the

Applicant's son in Canada if this appeal is allowed, and in the Dominican Republic if he will remain with his mother. Additionally, both testified that if this appeal is dismissed, the Appellant and her son will permanently settle with the Applicant in the Dominican Republic, though this is not their first choice. I find it likely that these detailed plans point to this marriage being genuine.

[65] The Appellant testified that living in Canada with the Applicant is her first choice because her son is Canadian, and she wants the best for him. She also wants the best for the Applicant's son, and they plan to bring him to Canada when he is older. Both testified that they have talked with his mother, and she has agreed to let him join them in Canada when he turns five. If she is not ready to let him go then, the Appellant and the Applicant plan to have his son admitted to an English school in Imbert so that he can adjust more easily to life in Canada when he immigrates later. The Appellant's friend has offered the Applicant a job in Toronto.[36] The Applicant will also need to obtain his driver's licence and enroll in further English studies off the bat. He testified to an interest in becoming a truck driver once he has settled into life in Canada.[37]

[66] When asked what would happen if this appeal were to be dismissed, both testified that the Appellant and her son would join the Applicant in the Dominican Republic. She has started the process of acquiring Dominican citizenship for herself and her son so they can have dual citizenship. It might take about one year or so to get everything organized for her and her son to be able to move to the Dominican Republic. She might be able to continue working online for her employer in Canada. Otherwise, she would find work in the Dominican Republic because she speaks Spanish and English. Her ex-spouse would readily consent to their son living in the Dominican Republic so that would not be an issue. They plan to enrol her son in a Montessori school. As well, the Appellant and the Applicant have built an addition on the Applicant's family home in Imbert so they would have a place to live initially as a family.[38] They have also bought retirement property in Imbert next to Carla and Junior and plan to build their own home there.[39]

Appellant's financial support of the Applicant is not exploitative

[67] There are significant economic disparities between the Appellant and the Applicant. The Appellant has sent the Applicant about C$40,000 during this relationship.[40] She was born in Canada, has always lived here, has always worked here, and is 13 years older. I accept her

testimony that she could afford to send him money, wanted to do so, and insisted upon it. She sent money to him for various reasons. She wanted to make his life more comfortable, for him to enjoy the things that she enjoys, and for them to enjoy those things together. She wanted to have money there for her own use when she was in the Dominican Republic. The money was also used to top up the Applicant's expenses, and to provide her (and her son) with a comfortable place to stay when she visited which was better and cheaper than staying at a resort. Though the Applicant's family benefitted from a home renovation, the Appellant also stays there when she visits. It is their "home base" whenever she is there. As well, they bought property to plan for their retirement. That was an investment in their future. I agree with the Appellant's counsel that this is not a situation where the Applicant or his family are leeching off her. She is in a deep and committed relationship with the Applicant and she happily sent money to him. Unlike in her second marriage, she did not make financial sacrifices for the Applicant. She did not go into debt for him. She did not send him money she could not afford. About one year after she had separated from her second spouse, she was in a better place financially because she was living at home and had no outside expenses. In 2020, her mother sold the family home, and gave her some money. She is in a "great place" now. The evidence does not show that she is being exploited.

[68] I agree with the Minister that it is not to the Applicant's credit that he accepted the Appellant's money before they had ever met in person and before they had committed to one another in an exclusive relationship. I take the Minister's point that the money the Appellant sent the Applicant was not just for "little extras." She sent him about C$1,000 per month, which is far more than the Applicant earned each month. I also acknowledge the Minister's submission that the Applicant provided few specific details as to what he did with the money. He did, however, speak in consistent terms of using the money for her vacations, for whatever she told him to buy in preparation for her vacations, for "extras" she insisted he have such as a tv which she would help him pay monthly, for getting his car fixed so that they would not need to rent a car during her vacations, and more significantly, for housing expenses when his income was insufficient, for a renovation at his family home, and for a plot of land where they plan to live when they retire. However, for the reasons above, I do not find that the Appellant was or is being exploited.

[69] I also acknowledge the Minister's position that the couple's testimony about the Applicant having been consistently employed, always taking care of himself, and paying bills for

himself and his son is contradicted by information provided by the Applicant on his form and at his visa post interview. On his form, he said that he had been unemployed since December 2018.[41] At his interview in March 2020, he said that he had been unemployed since 2018, and that his mother helped him cover his expenses. He also agreed with the visa officer at his interview that the Appellant sends him money to cover his expenses, and he uses that money to pay his and his child's bills.[42] When these inconsistencies were put to him, the Applicant testified that he thought he should declare only formal employment. I take the Minister's point that the Applicant did not explain why he declared his employment with his uncle but not his employment with his mother. However, we did not ask him about this. He explained that he did not consider the work he has done since 2018 – helping his mother in her business or having his own business – to be "employment." I accept this as credible. I accept the consistent testimonies that when the couple met, the Applicant was working for his uncle in the family business in Higuey, selling traditional crafts to hotels. I accept that when he first moved back to Imbert in September 2017, he had his own business. I accept that since 2019, he has been working in his mother's cafeteria six days per week and earns more than enough to cover his and his son's bills. I also accept the Applicant's explanation that when he told the visa officer that he used money the Appellant sent to pay bills, he meant extra bills such as for a tv, or the home renovations etc.

[70] I accept the couple's testimony that he never expected her financial support, nor necessarily desired it, but did receive it. I accept his testimony that he accepted the money because he was worried that he might offend her or upset her if he did not. I agree with the Appellant's counsel that the Applicant has testified to a clear desire not to upset people. For example, though he was doubtful that he could conceive a child, he did not challenge the child's mother when she informed him of her pregnancy because he did not want to upset her. He did not take a paternity test but accepts the child because he is his "clone." I accept the Applicant's testimony that he had mixed feelings about the Appellant's generosity and support. On the one hand, he felt good because she was helping him. On the other hand, he felt badly because he knew that she is a single parent, and he did not want her to feel obligated to send him money. I accept that there was a certain amount of reluctance on his part to accept the money. Taking all of this into account, I reject the Minister's position that this is an exploitative relationship.

The primary purpose of this marriage was not an immigration purpose

[71] In assessing whether the relationship was entered into primarily for the purpose of acquiring any status or privilege under the IRPA, the focus is on the intention of one or both spouses when they entered the marriage. If, for at least one spouse, the *primary* purpose of entering the marriage is to gain an immigration advantage, the test will not be met. The test looks back to the time of entering the marriage. Evidence of commitment subsequent to marriage may be relevant to establishing the primary purpose of the marriage.[43] Because it is unlikely that individuals will openly admit that the primary purpose of a relationship is to facilitate immigration, primary purpose must often be gleaned from examining the circumstances in which a marriage occurred or while assessing evidence about the genuineness of the relationship.

[72] The Minister submits that because the Applicant is exploiting the Appellant financially, it follows that he would be willing to exploit her to obtain PR status in Canada. I decline to draw a correlation between the two issues. Further, as explained in detail above, I do not accept the Minister's submission that the level of economic support in this relationship is exploitative.

[73] The Appellant testified that she knows the Applicant is not using her to come to Canada. She has "tonnes of connections and friends" in the Dominican Republic. She asked around about the Applicant. The people she asked have nothing to gain from lying to her. Everything she has ever heard about the Applicant has made her feel comfortable. She was looking for a partner, and he has surpassed her expectations. She knows some people marry Canadians to come to Canada. She knows people who have experienced this. She is "100%" aware of this. This is not the Applicant's interest in her. Further, the only other people the Applicant knows in Canada are his cousin, Junior, and Junior's spouse, Carla, who live in Newfoundland. Junior was sponsored to Canada by Carla, and they been happily married since 2016. Junior and Carla were the ones who introduced them, and who have supported them all along.

[74] Both the Appellant and the Applicant acknowledged that after they married in March 2019, they planned to live together in Canada. His interest in coming to Canada has always been rooted in being with her. He first applied to visit Canada in August 2018 when he and the Appellant committed to one another exclusively, and they wanted him to meet her family in

person. Both testified that if this appeal is allowed, they will live together in Ontario with her son, he will take the job he has been offered (and then investigate driving a truck) and learn English. They will both work hard and enjoy their life together. Both testified that if this appeal is dismissed, they will live permanently as a family in the Dominican Republic instead. This does not support a finding that this marriage was entered into primarily for immigration.

[75] I find it likely that this is a genuine marriage entered into because the Appellant and the Applicant wished to make a life-long commitment to one another. They met because they have common connections, a common language, a shared culture and interests. Further, I find that the progression of events in the development of this relationship does not support a finding that this marriage was entered into primarily for an immigration purpose. This relationship developed slowly, naturally, and organically. The couple have been in continuous communication since August 2016. They have spent significant amounts of time together since November 2016 including with friends and family members. They were engaged two years after they met. It was not until this point that the Applicant made an application to visit Canada. I find it likely that the Applicant would not have waited for two years to bring up marriage discussions or a trip to Canada if this were a marriage of convenience. I find it likely that this relationship would not have endured for nearly six years, the couple would not have remained in daily communication, they would not have spent time together on ten separate trips spanning several years, and they would not have shared in the care of their children if this were a marriage of convenience.

[76] The nature and duration of this relationship, support for the marriage from their families, efforts made to spend time together, intimate knowledge displayed of each other, their continued daily communication, and the sharing of responsibilities for the care of the two children brought into this marriage all support a finding of genuineness as well as the conclusion that immigration was not the primary purpose for the marriage. While I am looking also at the evidence relating to the behavior of the Appellant and the Applicant after the marriage took place, I am focused on the assessment of their intent at the time of the marriage. While the evidence overlaps, and is used for both tests, the tests are disjunctive tests, and I am finding disjunctively.

The Appellant and the Applicant misrepresented

[77] I concur with the Minister that the Appellant and the Applicant mispresented and purposefully misled the visa officer about why her family did not attend their wedding. Instead of disclosing that her family did not attend the wedding because they did not know about it, the Appellant and the Applicant declared on their application form that her mother did not attend because she was ill and could not get travel insurance. They were not truthful on the application form because they were terrified as to how the visa officer would view the truth. They understood intuitively that the presence or absence of family members at a wedding can be reflective of the genuineness of a marriage. Therefore, they chose not to be truthful on their form. Similarly, the Applicant chose not to be truthful about this issue at his visa post interview.

[78] I do not accept the submission of the Appellant's counsel that there was confusion in the testimonies about what the Applicant knew, and when he knew what he knew. I find it likely that the Applicant knew before the marriage that the Appellant had not told her family members about the marriage. I find it likely that he chose to misrepresent and withhold information.

[79] I accept the Appellant's admissions that she and the Applicant misled the visa officer about why her family did not attend their wedding because they were too afraid to tell the truth. Therefore, they were not truthful on the application form.[44] I accept her testimony that the Applicant has known "since the beginning" that her family did not attend their wedding because she had not told them. He did not tell the visa officer the truth about this because he was afraid.[45]

[80] During direct examination, the Applicant testified that he knew at the time of their marriage that the Appellant had not told her family about the marriage. He was a bit upset about it, but he did not want to pressure her, and he understood her reasons for not telling them. When asked to explain why he did not tell the visa officer that her family did not know about their wedding, he admitted that he did not mention this. He answered only what was asked of him. He told the visa officer that her family did not attend the wedding because her brother was going on a trip, her sister was working, and her mother could not obtain health insurance and could not travel. He did not answer directly. He thought his answer was sufficient. He did not want to elaborate. He acknowledged that even though what he had told the visa officer was technically

true, regardless, her family still would not have come to the wedding because they did not know that it was happening. He emphasized that he focused on what her family was doing, and all that was true. He did not focus on the reason why they had not come to the wedding.

[81] The Appellant's counsel then put it to the Applicant that his answers to the visa officer were, at best, incomplete. He testified that he was very nervous and had never before attended any sort of interview. When the visa officer continued to ask the same question, he thought she was trying to trick him. So, he was very firm, and he "maintained my [his] word," and he did not give her any further details. He asserted that he was honest with the visa officer. I disagree.

[82] Three months later, in December 2021, the Appellant's counsel recapped what the Applicant had been last testifying about in September 2021. The Appellant's counsel said that at the end of the last sitting, we were talking about some of the answers that the Applicant gave at his interview about the absence of his wife's family from the wedding. The Appellant's counsel specifically reiterated that the Applicant had just been saying that he did not tell the visa officer that his spouse's family were not aware of the wedding, and that he had instead "maintained his word." The Applicant did not dispute this summary of his prior testimony on this issue.

[83] Much later, the Applicant changed his story. At the end of his cross-examination, he testified that at the time of the wedding in March 2019, he did not know that the Appellant's family did not know about the marriage. He insisted that he only learned in early 2021 that her family was unaware of their marriage. Until 2021, he had understood that her family was not able to attend their wedding because her sister was working, her brother was traveling, and her mother could not travel because she was ill. In re-direct, the Applicant testified that before 2021, he and the Appellant had not really discussed what her family knew about their marriage, and he did not press the issue. This is not credible. I do not accept that the Applicant was in the dark about this for two years. Further, I do not accept his testimony that when he posted a photograph on his Facebook page in 2021, the Appellant first told him that her family did not know that they were married. I find it unlikely that him posting a photograph in 2021 would have first triggered this conversation. After all, he had posted their status as married on Facebook in April 2019.[46]

[84] I find it likely that the Applicant knew they had misrepresented information on their form, and he stuck to that same story when the visa officer asked him why the Appellant's family did not attend their wedding. His misrepresentation was direct, material, and related to a relevant matter insofar as family attendance at their marriage was relevant to an assessment of the genuineness and primary purpose of this marriage. Withholding this material information had the effect of foreclosing or adverting further inquiries on the part of the visa officer. This misrepresentation could have – but did not – induce an error in the administration of the IRPA.

[85] I find that other omissions on the forms were inadvertent or careless. I accept that the Applicant did not declare his prior common-law relationship because he thought he was being asked about prior marriages. I accept that the Applicant did not declare his full employment history on his form or at his interview because he thought he should only declare formal employment. I find it likely that on these areas, they made innocent errors. The inadvertent misrepresentation was material and related to a relevant matter insofar as the Applicant's past relationships, and his employment/financial support were relevant to an assessment of the genuineness and primary purpose of this marriage. Not providing this material information had the effect of foreclosing or adverting further inquiries on the part of the visa officer. This misrepresentation could have – but did not – induce an error in the administration of the IRPA.

There are enough H&C considerations to overcome the misrepresentation

[86] Given that I have found, on a balance of probabilities, that this is a genuine marriage which was not entered into primarily for an immigration purpose, I have jurisdiction to consider H&C factors. I am guided by the factors set out in *Ribic*,[47] as amended by the IAD in *Wang*[48] in the context of misrepresentation, and as endorsed by the Federal Court. I find that there are enough humanitarian and compassionate (H&C) considerations to overcome the misrepresentation.

[87] I accept that the Appellant and the Applicant misled the visa officer about why her family did not attend their wedding because they were too afraid to tell the truth. Nevertheless, the direct misrepresentation about why her family did not attend their wedding is not to the Appellant's credit or the Applicant's credit. I find, after hearing from the couple, that they made conscious through regrettable choices to withhold information, which choices have had serious

consequences for them. Not providing truthful information about why her family did not attend their wedding led the visa officer to question the genuineness of their relationship. The visa officer concluded that if the Applicant were in a genuine relationship, it would be reasonable to expect that he would know why the Appellant's family was not present at the wedding, or why the Appellant was not concerned about not having her family present at the wedding.

[88] As detailed above, I find that her family not knowing about their wedding until long after the wedding is not determinative in assessing the genuineness and primary purpose of this marriage. After considering the testimonies, the Appellant's explanations, and the Applicant's initial explanations, I find that the misrepresentation does not go to the merits of this marriage and does not detract from the genuineness of this relationship or from their overall credibility.

[89] I find that other omissions on the forms and at the Applicant's interview were inadvertent or careless. The Appellant was self-represented when they completed the forms and when the Applicant attended his interview. The couple spontaneously offered detailed and consistent information about the Applicant's relationship and employment histories in their testimonies. While the nature of the inadvertent misrepresentation and the explanations provided by the couple do not excuse the misrepresentation, they mitigate its effect for H&C purposes.

[90] Although any misrepresentation cannot be taken lightly, I must balance the misrepresentation in this case against the objectives of the IRPA to see that families are reunited in Canada. Having found that this relationship is genuine and *bona fide*, I accept that the Appellant and the Applicant have been subjected to hardship due to their ongoing separation. I accept the Appellant's testimony that although she could move herself and her son to the Dominican Republic, this will negatively impact her son because he will then be separated from his maternal grandmother with whom he has lived since he was very young. I accept that her son and his maternal grandmother are so close that although the Appellant's mother sold the family home, they are now all living in the same apartment building. Her son and his grandmother are together all the time. I also accept that the Appellant's mother is ill, cannot get travel insurance, and will not be able to visit them in the Dominican Republic. I accept that the Appellant wants what is best for her son, believes that his best interests will be served by remaining in Canada, and she would not contemplate moving him to the Dominican Republic under any other

circumstances. Ongoing family separation due to pandemic travel restrictions and related concerns, the best interests of the Appellant's son, the hardship inherent in the family separation, and the objective of family reunification attract special relief in the assessment of H&C factors. There are enough H&C considerations to overcome the misrepresentation.

CONCLUSION

[91] The Appellant proves that this marriage is genuine and was not entered into primarily to acquire status or privilege under the IRPA. Although the couple misrepresented, I find there are sufficient H&C considerations to overcome the misrepresentation. The appeal is allowed.

NOTICE OF DECISION

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

Maureen Kirkpatrick
Maureen Kirkpatrick

February 16, 2022
Date

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.

[1] Section 4(1) of the *Immigration and Refugee Protection Regulations* (IRPR), SOR/2002-227; and Exhibit R-1, pp. 5-7 and 42-50.
[2] Section 63(1) of the *Immigration and Refugee Protection Act* (IRPA), SC 2001, c 27; and Exhibit R-1, pp. 1-2.
[3] Exhibit R-1, pp. 51-57.
[4] Exhibit R-1, p. 58.
[5] Exhibit R-1, pp. 65-66.
[6] Exhibit R-1, pp. 33-34, 61-64, and 179-182.
[7] Exhibit R-1, pp. 28 and 34; and Exhibit A-1, pp. 160-166.
[8] Exhibit R-1, pp. 11, 29, 42, and 59-60.
[9] *Kahlon v. Canada (Minister of Employment & Immigration)*, [1989] FCJ No 104, 14 ACWS (3d) 81 at p. 3; *Gazi v. Canada (Minister of Immigration, Refugees and Citizenship)*, 2017 FC 993 at paras. 21-23.
[10] Section 162 of the IRPA: **162(1) Sole and exclusive jurisdiction** – Each Division of the Board has, in respect of proceedings brought before it under this Act, sole and exclusive jurisdiction to hear and determine all questions of law and fact, including questions of jurisdiction; and **(2) Procedure** – Each Division shall deal with all proceedings before it as informally and quickly as the circumstances and the considerations of fairness and natural justice permit.
[11] Section 174(2) of the IRPA: **(2) Powers** – The Immigration Appeal Division has all the powers, rights and privileges vested in a superior court of record with respect to any matter necessary for the exercise of its jurisdiction, including the swearing and examination of witnesses, the production and inspection of documents and the enforcement of its orders.
[12] *Chavez v. Canada* (*Minister of Citizenship and Immigration*) (IAD TA3-24409), Hoare, January 17, 2005.
[13] Exhibit R-1, pp. 47-48.
[14] Exhibit R-1, pp. 37 and 46; and Exhibit A-1, p. 230.
[15] Exhibit A-3, p. 1 for their first Facebook communication on August 25, 2016; and Exhibit A-2, p. 2 for early communications on September 6, 2016.
[16] Exhibit A-1, pp. 128-129.
[17] Exhibit R-1, pp. 37-38, 46, 53-54, 71, and 77; and Exhibit A-1, pp. 128-129, and 167-170.
[18] Exhibit R-1, pp. 138-142; and Exhibit A-2, p. 3.
[19] Exhibit R-1, pp. 37-38, 53-54, 75 and 79-81; and Exhibit A-1, pp. 130-132, 162-163, and 170-173.
[20] Exhibit A-1, pp. 225-226.
[21] Exhibit R-1, p. 38; and Exhibit A-1, pp. 201 and 227-229.
[22] Exhibit R-1, p. 46; and Exhibit A-1, pp. 227-229.
[23] Exhibit R-1, pp. 37, 46, 53-54, 70, 74, and 82-83; and Exhibit A-1, pp. 133-134, 174-176, and 227-229.
[24] Exhibit A-1, pp. 223-229; and Exhibit A-2, p. 6.
[25] Exhibit R-1, p. 46; and Exhibit A-1, pp. 180, and 227-229. See also Exhibit R-1, pp. 37-38, 53-54, and 87-88; and Exhibit A-1, pp. 138-140 and 181-183 for proof of the Appellant's August 2018 trip to the Dominican Republic.
[26] Exhibit R-1, pp. 37, 39, 47, 53, 55, 65-66, and 72; and Exhibit A-1, pp. 141-143, 162-163, 183-188, 208-221, and 227-229.
[27] Exhibit A-1, pp. 223-226.
[28] Exhibit A-1, pp. 74-77, 84, 88, and 222-231 for proof of his relationships with the Appellant's family and friends.
[29] Exhibit A-1, pp. 68-73, 85-86, 89-98 for proof of her online relationships with the Applicant's family.
[30] Exhibit R-1, pp. 20-21, and 183.
[31] Exhibit A-1, pp. 144-149, 156-158, 162, 164, and 189-196.
[32] Exhibit A-1, pp. 150-156, 159-161, 196-200, and 225-226.
[33] Exhibit A-4, pp. 1-8.
[34] Exhibit R-1, pp. 130-162; Exhibit A-1, pp. 42-67, and 78-127; Exhibit A-2, pp. 1-18; and Exhibit A-3, pp. 1-9.
[35] Exhibit A-1, p. 222 for a letter from the Appellant's son.
[36] Exhibit A-1, p. 22.
[37] Exhibit A-1, pp. 23-25.
[38] Exhibit A-1, pp. 36-41.
[39] Exhibit A-1, pp. 26-30, and 230-231.
[40] Exhibit R-1, pp. 92-129.
[41] Exhibit R-1, p. 25.
[42] Exhibit R-1, p. 48.
[43] *Sandhu v. Canada (Minister of Citizenship and Immigration)*, (2014) FC 834.

[44] Exhibit R-1, p. 39, Question 9.
[45] Exhibit R-1, pp. 47 and 49.
[46] Exhibit A-1, p. 82, and see also pp. 80, 81, and 83 for other declarations of their marital status.
[47] *Ribic, Marida v. MEI* (IAB 84-9623), D. Davey Benedetti, Petryshyn, August 20, 1985.
[48] *Wang* v. *Canada* (*Minister of Citizenship and Immigration*), 2005 FC 1059 (CanLII).