



**EDITOR'S NOTE:** This document is subject to editorial revision before its reproduction in final form in the *Federal Courts Reports*.

## CITIZENSHIP AND IMMIGRATION

### STATUS IN CANADA

#### *Citizens*

Application for judicial review of decision by respondent Minister's delegate to revoke applicant's citizenship — Applicant, then citizen of China, married Canadian citizen who sponsored him for permanent residence — Applicant became Canadian citizen in 2011 — Marriage was marriage of convenience — Respondent initiated citizenship revocation proceedings pursuant to *Citizenship Act*, R.S.C. 1985, c. C-29 (Act), s. 10 — Applicant conceded the misrepresentation — Explained that he acted in this manner because he is gay, thought this was only way to avoid returning to China, where he would be persecuted — Asserted that he had been in a same-sex relationship for more than ten years — Also invoked his establishment in Canada, indicating that revoking his citizenship would render him stateless — Delegate found insufficient evidence of applicant's same-sex relationship — Gave little weight to applicant's establishment in Canada because of misrepresentation — Also found that Chinese law afforded applicant "pathway" to have his Chinese citizenship restored — Lastly, delegate indicated that applicant would not automatically be removed from Canada, that any hardship attendant upon removal could be addressed at later stage — Delegate's decision unreasonable — Exercise of discretion conferred by Act, s. 10(3.1)(a) marred by fallacious reasoning, failure to meaningfully address applicant's submissions — Consideration of applicant's submissions by respondent's delegate regarding statelessness, establishment unreasonable — No genuine assessment of whether revocation of applicant's citizenship was proportionate response to his misconduct — This resulting from "clear logical fallacies" in reasoning of delegate — *Convention on the Reduction of Statelessness* (Convention), 30 August 1961, [1978] Can. T.S. No. 32, 989 U.N.T.S. 175, Art. 8 irrelevant herein — Parliament chose to go beyond Canada's international law obligations by mandating consideration of statelessness even where revocation of citizenship for misrepresentation contemplated — Exception in Convention, Art. 8 cannot be used to diminish respondent's duty to consider statelessness before revoking citizenship — Clear logical fallacy to suggest otherwise — An interpretation of s. 10(3.1)(a) according to which concrete consequences of statelessness never considered, simply because it is uncertain whether applicant will become stateless or not, is concerning — Delegate actually considered applicant's establishment, found that special relief not warranted — However, even if decision read in this manner, obvious that conclusion of delegate regarding establishment heavily influenced by the unreasonable finding — Decision quashed — Matter remitted to different delegate for reconsideration — Application allowed.

WEI V. CANADA (CITIZENSHIP AND IMMIGRATION) (T-1640-22, 2023 FC 826, Grammond J., reasons for judgment dated June 9, 2023, 10 pp.)