Date: 20250711

Docket: IMM-5424-24

Citation: 2025 FC 1236

Ottawa, Ontario, July 11, 2025

PRESENT: The Honourable Mr. Justice Régimbald

BETWEEN:

PARWINDER SINGH

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

I.   Overview

[1]   Stories common to the experience of persecution are almost inevitably bound to reveal the common themes of fear, pain, and separation. Yet for all of their stories, every refugee's experience of flight is irreducibly their own. This case is about asylum seekers and the stories they tell. It is also about the stories that are told about them, and for them. Above all else, it is a case about a young man who sought Canada's protection as a sixteen-year-old boy, and what his

story shares with the stories of the many asylum seekers who sought out the services of their Immigration Consultant, Mr. Deepak Pawar.

[2]   The Applicant, Mr. Parwinder Singh, seeks judicial review of the Refugee Appeal Division [RAD] decision setting aside his status as a protected person. He maintains that the similarities between his basis of claim [BOC] narrative and those of other claimants are not enough to impugn his credibility, and that what similarities do exist are more form than substance. The Respondent, the Minister of Citizenship and Immigration [Minister], maintains that the RAD reasonably found Mr. Singh's narrative to be fraudulent, insofar as his BOC was "strikingly similar" to those of others, including individuals who travelled to Canada with him.

[3]   For the reasons that follow, this application for judicial review is granted. Although narrative similarities between claimants may reasonably ground a negative credibility inference, discrete or incidental similarities in sentence structure and vocabulary do not—in and of themselves—impugn a claimant's credibility. Asylum narratives are not exercises in creative writing, and a lack of prosaic originality should not be confused for falsehood, fraud, or the deliberate plagiarism of another person's story. In this case, the RAD put form over substance in its analysis of Mr. Singh's narrative. Its conclusion that the narrative was not genuine is therefore unreasonable.

[4]   Fundamentally, the administrative decision maker's task is to interpret provisions in a manner consistent with their text, context and purpose, applying its particular insight into the statutory scheme at issue (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019

SCC 65 at paras 115–124 [*Vavilov*]). Those entrusted with deciding the merits of asylum claims must therefore be attentive to the words enacted by Parliament in sections 96 and 97 of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [IRPA]. In part, this means understanding that Convention refugees and persons in need of protection are legal categories like any other—they include persons who share certain characteristics, to the exclusion of persons who do not. Asylum seekers demonstrate these characteristics through the stories they tell. It is altogether reasonable to expect these stories to reflect a certain shared experience.

II.   Context

[5]   Mr. Singh lived in the village of Basant Pura, in the Indian State of Haryana. The events leading to his departure from India date back to the summer of 2019, when he was a sixteen-year-old boy attending secondary school.

[6]   On June 25, 2019, Mr. Singh is walking back home from school with a group of friends, when they were suddenly accosted by another group of boys carrying knives. A brawl breaks out and Mr. Singh flees, but the ensuing violence results in one of his friends being stabbed and killed. The group allegedly responsible for his death includes the nephew of a well-known politician.

[7]   Three days following the incident, on June 28, 2019, local police visits Mr. Singh's family home to investigate his friend's death. He is brought to the police station, where he is interrogated and provides a statement about the events of June 25, 2019.

[8]   Shortly after, on July 1, 2019, local police officers visit his home again and drag Mr. Singh to the station, where he sees the group of boys who had accosted him earlier, including the politician's nephew. The police force him into a small room, where they inform him that the other boys have all given statements accusing him of killing his friend. Mr. Singh is then beaten to the point of losing consciousness. The police keep him in custody for three days.

[9]   On July 3, 2019, Mr. Singh's father rounds up some influential people in the village and demands that his son be released. The police agree to do so upon payment of a bribe. Before letting the boy go, the police take his signature and fingerprints and threaten him to stay quiet about what transpired. His father takes him to the nearest hospital for treatment.

[10]   Nearly a week later, on July 9, 2019, the police call Mr. Singh's home and ask that he report to the station. He is afraid of being beaten again, but reports there with his father out of fear of further trouble with the authorities. They wait at the station for hours, being periodically insulted by the local officers, before being told to return there in two weeks' time.

[11]   Mr. Singh and his family feel that it is no longer safe for him to remain in India. On July 12, 2019, he flees to New Delhi where he meets with an immigration agent. In the meantime, his father arranges the necessary funds and travel documents for Mr. Singh to travel to Canada, where he enters on November 7, 2019, falsely claiming to be participating in a Tae Kwon Do tournament. He claims protection on the basis that he fears harm from the police and his deceased friend's family.

[12]   On February 13, 2023, the Minister intervenes in Mr. Singh's hearing before the Refugee Protection Division [RPD]. They allege that his claim lacks credibility because his BOC narrative is strikingly similar to those of others, including individuals who travelled to Canada with him and, as such, is not genuine. In support of this allegation, they produce evidence to demonstrate that his narrative contains language, phrases and other similarities to five other claimants who travelled to Canada with the claimant from India, and nearly two hundred other BOC narratives disclosed by claimants from India. This evidence stems from a Canada Border Services Agency [CBSA] analysis of claims submitted with the assistance of Mr. Pawar, the Immigration Consultant who represented Mr. Singh.

[13]   On February 23, 2023, Mr. Singh amends his BOC narrative to add a *sur place* claim. He now claims that he also fears persecution in India due to his active support of an independent Khalistan, a cause for which he has advocated since coming to Canada.

[14]   The RPD grants Mr. Singh's *sur place* claim, despite "credibility concerns about the incidents in India and the claimant's motivation to come Canada." Overall, it finds that those concerns do not outweigh his testimony and corroborating evidence in support of his pro-Khalistan views and well-founded fear of persecution.

[15]   The Minister appeals the RPD decision, taking aim at its credibility findings. They reiterate that Mr. Singh's narrative is fraudulent and that his claim should be accordingly rejected.

[16]   The RAD agrees with the Minister. Its analysis relies mainly on alleged similarities between Mr. Singh's narrative and that of NS, an individual who travelled to Canada from India on the same flight, and who was also represented by Mr. Pawar. The RAD notes twenty-one similar passages between their respective narratives, concluding that the two BOCs are likely duplicates of each other, and therefore fraudulent. Mr. Singh's presumed truthfulness is so thoroughly undermined by these similarities that he is found to lack overall credibility. The *sur place* claim accordingly fails too, with the RAD concluding that he is engaging in pro-Khalistan activity with a view to advancing yet another fraudulent refugee claim. Mr. Singh is neither a Convention refugee nor a protected person, and the RPD decision is set aside.

III.   <u>Issue and Standard of Review</u>

[17]   The sole issue is whether the decision under review is reasonable. In this respect, the role of a reviewing court is to examine the decision maker's reasoning and determine whether the decision is based on an "internally coherent and rational chain of analysis" and is "justified in relation to the facts and law that constrain the decision maker" (*Vavilov* at para 85; *Mason v Canada (Citizenship and Immigration)*, 2023 SCC 21 at para 64). Although the party challenging the decision bears the onus of demonstrating that the decision is unreasonable (*Vavilov* at para 100), the reviewing court must ask "whether the decision bears the hallmarks of reasonableness—justification, transparency and intelligibility" (*Vavilov* at para 99).

IV.   Analysis

[18]   The RAD explicitly bases its credibility finding on a list of similarities between Mr. Singh's narrative and that of NS. It is entitled to do so: "courts have found that it is not unreasonable to draw a negative inference as to credibility from unwarranted similarities between a refugee claimant's narrative and the narratives of other unrelated claimants" (see *Ravichandran v Canada (Citizenship and Immigration)*, 2015 FC 665 at para 18, citing *Shi v Canada (Minister of Citizenship and Immigration)*, 2003 FC 1088 at paras 1, 19; *Liu v Canada (Minister of Citizenship and Immigration)*, 2006 FC 695 at para 39 [*Liu*]).

[19]   However, not all similarities are unwarranted. Valid reasons may explain the similarities, and in the presence of such reasons, it may be inappropriate to find that the similarities cast doubt on the claimant's credibility (*Zhang v Canada (Minister of Citizenship and Immigration)*, 2006 FC 550 at paras 25–31 [*Zhang*]). Further, some similarities may be more alarming than others. Narratives that are broadly similar in structure may attract a lower degree of suspicion than those whose precise details and more peripheral elements are also deemed to be strikingly similar (see *Liu* at paras 7–9; see also *Dhaliwal v Canada (Citizenship and Immigration)*, 2024 FC 1542 at para 23). The question is broadly one of "rationality and common sense" (*Zhang* at para 25, citing *Shahamati v Canada (Minister of Employment and Immigration)*, 1994 CarswellNat 2260, [1994] FCJ No 415 (QL) (CA)).

[20]   Turning to the analysis in *Zhang* may be instructive. The case concerns a claimant whose narrative was not deemed credible by the RPD, on account of it being strikingly similar to those

of six other Personal Information Form narratives, all of which were prepared by the same interpreter and referred to the same counsel. Justice Russell found this conclusion unreasonable, noting that "just because the narratives were recorded in a 'boiler-plate' form, [it] does not mean that the claimants were all using a canned story" (*Zhang* at para 26). Although the use of "templates" and "standard forms" may be problematic, it explains "why identical wording was used at some points" in the forms submitted by the various claimants (*Zhang* at para 28). It is thus a logical leap to assume that a claimant's narrative does not reflect their genuine personal experience simply because it shares some structural and grammatical features with other narratives (*Zhang* at para 30).

[21]   There is no evidence on file demonstrating that Mr. Pawar uses a template for his client's BOC narratives, and neither the RPD nor the RAD seem to have considered that possibility. It is certainly not for the Court to make any findings of fact in that regard. With that said, it falls to this Court to determine whether the RAD made undue logical leaps in its reasoning, and thus failed to render an internally rational decision.

[22]   In this vein, I note again that reasonableness review does not amount to a "line-by-line treasure hunt for error" (*Vavilov* at para 102, citing *Communications, Energy and Paperworkers Union of Canada, Local 30 v Irving Pulp & Paper, Ltd*, 2013 SCC 34 at para 54). Nor does it behold decision makers to the "standards of academic logicians" (*Vavilov* at para 104). A reviewing court rather begins its analysis by examining the decision maker's reasons with "respectful attention," seeking to understand the rational process through which they arrived at their conclusion (*Vavilov* at para 84). The Court's task lies not in reweighing or reassessing the

evidence before the decision maker, but in determining whether the decision was rational, intelligible, and justified (*Vavilov* at paras 125–126).

[23]   With this guidance in mind, I find that the RAD's reasons fundamentally misapprehend some of the evidence before it and exhibit clear logical fallacies that render its decision unreasonable.

[24]   The core problem with respect to the RAD's treatment of the evidence is as follows: for all the reported similarities between Mr. Singh's narrative and that of NS, the concrete events upon which each claim of persecution is based are different. Mr. Singh is asking for Canada's protection because an influential family allegedly framed him for a crime he did not commit; NS has not told any such story, and neither the Minister nor the RAD allege otherwise. This distinction is central insofar as it concerns the story at the very heart of Mr. Singh's refugee claim. Failing to account for this distinction, or at least cogently explain why it does not affect the ultimate outcome, seriously undermines this Court's confidence in the result reached by the decision maker.

[25]   Ignoring the core events at the heart of each refugee claim led the RAD to consider the similarities between the more peripheral aspects of the respective narratives. In the interest of transparency, I will reproduce here every similarity relied upon in the RAD's reasons.

Mr. Singh	NS
"In the year 2019, some incidents took place that destroyed my life in India…"	"My life in India was destroyed by the corrupt police."
The police "forcefully took me to the police	The police "forcefully took me"

station"	
I was "beaten mercilessly" by the police	I was beaten by furious police and he begged for "mercy"
"I was kept in police custody for three days."	"I was in police custody for four days."
"On 3rd July, 2019, my father [later amended to read "uncle"] took help of some influential people and came to the police station along with him."	"On 10th May, my family brought some influential people to the police station to help me"
"The police officers demanded money. My father [later amended to read "uncle"] had arranged an amount of 2 Lac INR."	His family "offered a bribe of 1 Lac to the Inspector."
"The Inspector accepted the money and agreed to let me go."	"The Inspector accepted the money and agreed to let me go."
"Before releasing me, some police officers forcefully took my signatures and fingerprints on some papers."	"Before releasing me, [the police] forcefully took my signatures and fingerprints on some papers."
"I was taken to the nearest hospital for treatment."	"I was taken to the nearest hospital."
"My father [later amended to read "uncle"] had some contact and he took help of a friend to get in touch with an agent named, Satpal Singh."	"My father talked to some of his friends and relatives about my situation. One of my relatives introduced us to an agent, Raghu.
"We met Satpal and told him everything."	"I met Raghu and told him everything."
"Satpal said that he could get me a visa for Canada but demanded 22 Lac INR."	Raghu "said that he could arrange a Canadian visa for me and demanded 24 Lac INR for the complete process."
"It was a huge amount and my father could not afford it. But we did not have a choice."	"I had no other choice and agreed to whatever [Raghu] said."
"…I could not live at my house any longer because I did not want to put my family's life in danger because of me."	"I requested him to take me to a safe place as I could not live at my house any longer."
"On my request, Satpal took me to New Delhi on 12th July, 2019 and kept me safe."	"On 19th May, 2019, Raghu took me to New Delhi with him."

"[Satpal] kept on moving me from different places in order to keep me in hiding from the police."	"Raghu kept on moving me from places to places to keep me safe from the police."
"In November 2019, my father [later amended to read "uncle"] was able to pay his complete amount and he gave me passport back with the visa and the tickets."	"In November 2019, I completely paid the amount to Raghu…."
"But after coming to Canada, I did not know what to do next."	After coming to Canada "I had no clue what to do next."
"I started visiting the community centre on a regular basis. As time passed, I formed a few contacts there."	"I started visiting the community centre on a regular basis. I formed some links there and through them I got to know about the Refugee Program."
The members of the community centre "suggested me to ask the Canadian Government for help."	The lawyers "told me that I could ask the Government of Canada to help me."
"I met a few lawyers and came to know about the Refugee Claim."	"To know more about [making a refugee claim], I met some Lawyers."

[26]   To be clear, the issue on judicial review is not whether these passages are similar. This is uncontested, and it would be inappropriate for this Court to substitute its own appreciation of the evidence. Rather, the issue lies in the possible explanations provided for these similarities, and the logical coherence of the RAD's reasons in this regard.

[27]   The RAD's reasoning rests on a false dichotomy—the notion that one out of two contraries must be true, oversimplifying a choice by the exclusion of viable alternatives (*Vavilov* at para 104). The two contraries presented by the RAD are as follows: either the narratives are strikingly similar and fraudulent, or they are different and genuine. Yet one does not necessarily follow from the other. Different stories may be independently fraudulent in the same way that similar stories can be independently genuine.

[28]   More importantly, certain similarities are owed to the very structure of refugee claims and the logical progression of given events. For example, I note that the CBSA report upon which the RAD relies enumerates a list of phrases most commonly found in the cases under investigation. First among these phrases is, "My name is [X] and I lived in [location]." Such basic information—the content of which is in fact required for an asylum claim—will no doubt appear in a BOC narrative (see *Refugee Protection Division Rules*, SOR/2012-256, Schedule I). It is unreasonable to impugn a claimant's credibility on the basis of its inclusion. Refugee status decision makers cannot expect a claimant to try and avoid a negative credibility finding through structurally awkward and semantically dubious reconfigurations of these narratives' simplest messages.

[29]   The problem of expectedness or normalcy applies to several other listed similarities. For example, the RAD observes that both Mr. Singh and NS claim to have been uncertain as to "what to do next" upon arriving in Canada. This puts Mr. Singh in a remarkably difficult situation. When asylum seekers arrive in Canada, it is altogether expected that they would not know "what to do next." This is all the more expected for minor claimants, like the sixteen-year-old boy that Mr. Singh was.

[30]   The RAD casts suspicion on both Mr. Singh and NS claiming that the events leading to their departure "destroyed [their lives] in India." With respect, this is a failure to appreciate the administrative context in which asylum claims are made. People rarely seek asylum when all is well back home. The narratives they present to Canadian authorities will no doubt speak of fear

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and danger and risk. The mere similarity of language is not determinative of credibility—especially when the language speaks to an element of a refugee claim that is likely to be shared.

[31]   The unduly formalistic approach employed by the RAD occasionally leads it into misapprehension. Mr. Singh alleges that he was "beaten mercilessly" by the police; NS alleges that they were beaten by the police, and that their companion "begged for mercy." The RAD is concerned that both allegations refer to the notion of "mercy," even if the place of mercy in each allegation is substantively distinct: Mr. Singh is describing the manner in which he was beaten, whereas NS is relating something that someone said. These are different allegations. A passing similarity in form does not necessarily impugn them.

[32]   On a more basic level, there are only so many ways to describe an event. The RAD flags that both Mr. Singh and NS claim to have been "forcefully [taken]" by the police in their narrative. Although there are no doubt other ways to relate this fact, it is unclear whether a formal difference would make the claim more credible. For instance, though different in form, there is no substantive difference between being "forcefully taken," "aggressively carried away," or "coercively brought" to a police station. The core of the analysis should reside in the substance of the claims, and the credibility analysis should not be reduced to a word-association exercise.

[33]   Finally, the RAD notes with suspicion that both Mr. Singh and NS claim to have been "taken to the nearest hospital" for treatment of the injuries they sustained from police beatings. While the phrase is exactly the same, it does not undermine the substance of the claim. Mr. Singh

was injured and went to the hospital. If the RAD is unconvinced, it should perhaps inquire as to whether the record includes a hospital report. As for the fact that Mr. Singh was brought to the *nearest* hospital, one may rhetorically ask whether it could have been more plausible for Mr. Singh to have been taken to the *furthest* hospital. Certain patterns of behaviour are shared by sole virtue of their relative normalcy or expectedness in a given context. It is expected for injured people to seek remedy at the closest opportunity and location; it would be wholly unexpected for them to seek remedy elsewhere.

[34]   Consequently, I find this case to be essentially analogous to *Zhang*, and I agree with Justice Russell on the important point that "just because the narratives were recorded in a 'boiler-plate' form, [it] does not mean that the claimants were all using a canned story" (*Zhang* at para 26). Purely formal or logically warranted similarities between narratives do not undermine their authenticity. Although there is no evidence as to Mr. Pawar's drafting practices, it is a logical leap to assume that his potential use of similar language, "template," or "standard form" precludes the recounting of genuine personal experience (*Zhang* at para 30).

[35]   I note in passing that there is nothing in the *College of Immigration and Citizenship Consultants Act*, SC 2019, c 29, s 292 or the *Code of Professional Conduct for College of Immigration and Citizenship Consultants Licensees*, SOR/2022-128 [Code] that precludes the use of "template" or "standard form" drafting. The nature of the Consultant's competence is rather described as "[having] the oral and written communication skills necessary to protect a client's interests and present a client's case firmly and persuasively and within the limits of the law, including the ability to [make] clear and cogent oral and written representations in legal

proceedings" (see subsection 19(2) of the Code). The fact that an Immigration Consultant may participate in drafting a BOC, especially when a claimant does not speak French or English, is not unusual; it is in fact their responsibility. Likewise, continuously drafting claims for clients will result in inevitable resemblances in drafting style when individual claims written by a single Consultant are compared with each other. While template drafting may fall on the lower end of the spectrum of Consultant skill, it is not necessarily fraudulent.

V.   Conclusion

[36]   It is one thing for different claimants to use, through a representative, a similar style, form, and structure to describe their experiences. It is quite another thing for different claimants to state they experienced the same persecution, at the same time, from the same actors. The former practice is not inherently fraudulent; the latter is cause for concern. In this sense, assessing different claims for their similarities cannot be a purely formal exercise. The substance of each story matters.

[37]   The RAD put form over substance, and thus rendered an unreasonable decision. As a result, this application is granted.

JUDGMENT in IMM-5424-24

THIS COURT'S JUDGMENT is that:

1. The application is granted.

2. The decision is set aside and the matter is remitted for redetermination before a

   different decision maker.

3. There is no question of general importance for certification.

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"Guy Régimbald"
Judge

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