

Federal Court



Cour fédérale

Date: 20251029

Docket: IMM-9194-24

Citation: 2025 FC 1745

Ottawa, Ontario, October 29, 2025

PRESENT: Madam Justice McDonald

BETWEEN:

GURJEET SINGH

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

[1] The Applicant seeks judicial review of the Immigration, Refugees and Citizenship Canada (IRCC) Officer's decision rejecting his application for permanent residency and finding him inadmissible for misrepresentation, pursuant to subsection 4(1) and paragraph 40(1)(a) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [IRPA].

[2] For the reasons below, I am dismissing this judicial review. Even if I were persuaded, which I am not, that the Applicant had “ineffective” representation in the completion of his permanent residence application, the determinative issue on this judicial review is the finding that the marriage was not genuine. This finding was made based upon inconsistencies and contradictory evidence from the Applicant and his spouse during their interviews and is therefore unrelated to the quality or competence of the Applicant’s representative.

[3] Further, I disagree with the Applicant’s claim that the Officer’s finding of misrepresentation was based solely on the failure of the Applicant, or his representative, to provide addresses and disclose his previous United States (US) applications. Reading the decision as a whole, it is clear that the core issue for the Officer was the genuineness of the marriage.

I. Background

[4] Mr. Singh is a citizen of India who applied for permanent residency in Canada under the family class category being sponsored by his spouse, Ms. Davidson. Mr. Singh first met Ms. Davidson on December 19, 2022, and they married seven months later on July 18, 2023. In November 2023, they filed an application for spousal sponsorship and used Mr. Singh’s former immigration representative, whom I will refer to only as Mr. D.

[5] On April 24, 2024, IRCC requested an in-person interview with the couple for April 29, 2024. On that date, the Officer interviewed Mr. Singh and Ms. Davidson together and

separately. They were asked basic questions about each other, such as their educational background, their first meeting and wedding, and employment. Due to inconsistencies in their answers, the Officer expressed concern about the legitimacy of the marriage. The Officer gave Mr. Singh the opportunity to address these concerns including his failure to disclose two US visa rejections and his complete address history in his permanent residency application.

[6] Following the interview, on April 30, 2024, Mr. Singh was issued a Procedural Fairness Letter in which the Officer outlined concerns regarding the legitimacy of the marriage, based on inconsistencies between Mr. Singh's and Ms. Davidson's answers at the interview, communications history, and their lack of knowledge of each other. The letter also expressed concerns about omissions of Mr. Singh's past addresses and refused US visa applications. This letter requested that Mr. Singh respond to the stated concerns by May 7, 2024. On May 6, 2024, Mr. Singh's representative sent a reply.

II. Decision under review

[7] Mr. Singh received the decision, dated May 16, 2024, refusing his permanent residency application under subsection 4(1)(b) of *IRPA*, because Mr. Singh was not in a genuine marriage with Ms. Davidson and therefore ineligible for permanent residency under the family class category.

[8] The decision also states that Mr. Singh was found inadmissible to Canada for 5 years for making a material misrepresentation, pursuant to subsection 40(1) of *IRPA*. Specifically,

Mr. Singh had failed to disclose addresses that he had in Quebec, under which he made a refugee claim. Mr. Singh also failed to disclose two US visa rejections.

III. Issues and standard of review

[9] The Applicant raises the following issues:

1. Did Mr. Singh have ineffective representation?
2. Was there a reasonable apprehension of bias against the Officer?
3. Was there otherwise a breach of procedural fairness and natural justice?
4. Is the decision reasonable?

[10] The procedural fairness issues raised are considered on a standard of correctness (*Canadian Pacific Railway Company v Canada (Attorney General)*, 2018 FCA 69 at para 34). The merits of the Officer's decision is reviewed on the standard of reasonableness (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at paras 16-17 [Vavilov]).

IV. Analysis

A. *Did Mr. Singh have ineffective representation?*

[11] Mr. Singh alleges that the incompetence of his former representative, Mr. D, led to the Officer's decision. In support of this allegation, Mr. Singh relies upon his own Affidavit; an Affidavit from his spouse, Ms. Davidson; and the response to the Procedural Fairness Letter submitted to the Officer by Mr. D.

[12] As required under paragraph 47 of the Federal Court’s *Consolidated Practice Guidelines for Citizenship, Immigration, and Refugee Protection Proceedings* dated June 20, 2025, , Mr. D was served with the Applicant’s application materials and responded to the allegations against him through his legal counsel on June 27, 2024.

[13] The legal test to establish incompetence of counsel is outlined in *Sidhu v Canada (Citizenship and Immigration)*, 2022 FC 56 at para 19 as follows:

1. The representative’s alleged acts or omissions constituted incompetence;
2. There was a miscarriage in justice in the sense that, but for the alleged conduct, there is a reasonable probability that the result of the original hearing would have been different; and
3. The representative was given notice and a reasonable opportunity to respond.

[14] One of the alleged acts of “incompetence” raised by the Applicant is that Mr. D did not forward him the email about the interview until the day before, April 28, 2024, at 4:40 pm. Despite this claim, the Applicant has not provided any documents (such as the email from Mr. D) to confirm this. However, even if I accept the Applicant only received notification of the interview the night before, I fail to see how this amounts to incompetence. The Applicant and his spouse had enough notice that they attended the interview, so no prejudice arose. Further, I also do not accept the Applicant’s assertion that they did not have sufficient time to “prepare” for the interview. It is difficult to conceive of what kind of preparation would be necessary for an interview that was intended to assess the “genuineness” of their relationship.

[15] Mr. Singh also claims that Mr. D failed to provide him with a copy of his spousal sponsorship application, despite his requests for a copy. Presumably he is suggesting that, had he seen the application, he would have noted the omissions of his previous addresses and his failed US asylum claims. However, the Applicant has provided no supporting documentation (such as emails or phone logs) to confirm that he requested Mr. D to provide a copy of the application. Regardless, even if the Applicant had not received the completed application through some miscommunication on the part of Mr. D, that does not account for the Applicant's failure to correct the record during his in-person interview on April 29, 2024.

[16] In his response, Mr. D himself denies the allegations of "incompetence". He specifically denies Mr. Singh disclosing to him his previous addresses or US visa rejections. Mr. D provided a handwritten document that he says Mr. Singh gave to him with his full address history, which does not include the other addresses.

[17] Most disturbing is that Mr. D claims that Mr. Singh threatened him with violence and instructed him to prepare the response to the Procedural Fairness Letter, in which Mr. D states that the failure to disclose the prior US visa refusals was "due to a clerical mistake" on his part.

[18] On balance, I have concerns with the reliability of Mr. Singh's affidavit evidence on this issue. He obviously has a significant personal interest in this matter and his Affidavit fails to contain any corroboration. Evidence tendered by a witness with a personal interest in a matter typically requires corroboration to have probative value (*Ferguson v Canada (Citizenship and*

Immigration), 2008 FC 1067 at para 27). As such, I would give no weight to the allegations of incompetence in Mr. Singh's Affidavit.

[19] I also have concerns with Ms. Davidson's Affidavit. First, she does not state how she has personal knowledge that Mr. Singh submitted this material. She does not state that she reviewed the information submitted by Mr. Singh or was present when Mr. Singh met his immigration consultant. Second, Ms. Davidson lacked knowledge of Mr. Singh's history during the interview. For example, she did not know who his current employer was. It is unlikely that she would know Mr. Singh's past well enough to state that he submitted all relevant information. Finally, like Mr. Singh, there is limited extrinsic evidence supporting her claims and she also has a personal interest in the outcome of this application.

[20] Upon consideration of the Applicant's evidence, the Applicant has not established any acts or omissions that constitute incompetent representation on the part of Mr. D. I will go further and say that Mr. D's claim that he was threatened by Mr. Singh is very troubling and it renders the Applicant's evidence on this issue wholly unreliable.

B. *Was there a reasonable apprehension of bias against the Officer?*

[21] The Applicant claims that the Officer demonstrated a reasonable apprehension of bias because the questions during the interview were harsh and rude, and a decision was rendered shortly after the response to the Procedural Fairness Letter. The Applicant argues that these factors are indicative of prejudgment or bias.

[22] The test for a reasonable apprehension of bias is outlined in *Committee for Justice and Liberty et al v National Energy Board et al*, [1978] 1 SCR 369 at p 394 as follows:

...what would an informed person, viewing the matter realistically and practically—and having thought the matter through—conclude. Would he think that it is more likely than not that Mr. Crowe, whether consciously or unconsciously, would not decide fairly.

[23] A claim of apprehension of bias is serious and “must be supported by material evidence demonstrating conduct that derogates from the standard” (*Arthur v Canada (Attorney General)*, 2001 FCA 223 at para 8).

[24] In this case, the Applicant’s evidence supporting the bias claim is his own Affidavit and the Affidavit of Ms. Davidson. As noted above, I have serious credibility concerns with these Affidavits.

[25] By contrast, the Certified Tribunal Record contains detailed interview notes. My review of these notes does not support the bias allegations made by Mr. Singh and Ms. Davidson. The Officer’s questions were at times pointed and direct, but that does not amount to bias. Additionally it was within the Officer’s duty and mandate to ask personal, uncomfortable, and probing questions about the nature of their relationship and to remind them of the risks associated with untruthful answers.

[26] Finally, the fact the decision was rendered shortly after the Applicant’s reply to the Procedural Fairness Letter was provided, does not, on its own, suggest or prove prejudgment or

bias. Otherwise, the Applicant has not pointed to anything in the record or in the substance of the decision or the procedure followed that suggests bias on the part of the Officer.

[27] The Applicant has not provided any evidence to establish the alleged bias, and allegations without evidence are insufficient to meet the burden on the Applicant (*Barros Barros v Canada (Citizenship and Immigration)*, 2022 FC 9 at para 50).

[28] The Applicant's bias claim is unfounded.

C. *Was there otherwise a breach of procedural fairness and natural justice?*

[29] The Applicant also claims that the interview lacked procedural fairness because the interview was not recorded, and the only record is the Officer's notes. He alleges the Officer's interview notes are incomplete. He relies upon *Canadian Union of Public Employees, Local 301 v Montreal (City)*, [1997] 1 SCR 793 at para 81, which states:

In the absence of a statutory right to a recording, courts must determine whether the record before it allows it to properly dispose of the application for appeal or review. If so, the absence of a transcript will not violate the rules of natural justice.

[30] The Applicant has not demonstrated that he had any statutory right to a transcript of the interview and a transcript is not required under *IRPA*. I am satisfied that the Court has sufficient material in the record to dispose of the matter. The interview notes are detailed and cover the matters mentioned in the Global Case Management System [GCMS] notes. They are sufficiently

fulsome to dispose of Mr. Singh's claim that the Officer is biased, especially considering that the only contrary evidence is the allegations in Mr. Singh's and Ms. Davidson's Affidavits.

[31] The Applicant had a fair process.

D. *Is the decision reasonable?*

[32] The Applicant also attacks the reasonableness of the Officer's finding that the marriage was not genuine. He argues that the Officer overlooked overwhelming evidence of the genuineness of the relationship, including a marriage registration certificate, personal communications, and photographic evidence.

[33] The Officer referred to specific evidence in the record but also provided an extensive list of concerns regarding Mr. Singh's claim that the marriage was genuine which referenced the significant and numerous inconsistencies in their answers. The GCMS notes detail 15 reasons why the Officer was not satisfied that the marriage was genuine. They are summarized as follows:

1. The couple provided conflicting information that demonstrated limited knowledge of each other. Mr. Singh stated that he never asked about his wife's educational history, but she stated that she told him many times. Mr. Singh claimed that this was due to a lack of knowledge or interest in education programs, unease while being interviewed, and poor English. However, the Officer noted that he and

Mr. Singh could understand each other, Mr. Singh showed no uneasiness, and Mr. Singh never requested an interpreter.

2. Regarding their first meeting on December 19, 2022, Mr. Singh stated that they stayed at Starbuck's for an hour. Ms. Davidson said it was for no more than 15 minutes, because she had to return to work from her break.
3. At their wedding, Mr. Singh claimed to have 2 friends present. Ms. Davidson said Mr. Singh had 3 friends.
4. Mr. Singh said his friend Dheeraj was at the wedding. When the Officer contacted Dheeraj, Dheeraj said he was not present.
5. When the Officer called Mr. Singh's friend, Harpreet, and asked what Mr. Singh's current address was, Harpreet began to say 100 Yellow Brick Road in Brampton, but changed it to Toronto.
6. The Officer checked Mr. Singh's phone at the interview and found further evidence that Mr. Singh still lived in Brampton, including a letter dated March 4, 2024, and an email that Mr. Singh sent to Canada Border Services Agency on February 1, 2024, requesting that his passport be sent to the Brampton address.
7. The couple indicated that they call each other daily, but there were no call logs between them.
8. Mr. Singh misspelled Ms. Davidson's name, spelling it with a "C" rather than a "K".
9. Mr. Singh stated the last time they had intercourse was Saturday. Ms. Davidson said it was Thursday. The interview took place on a Monday.

10. Ms. Davidson was unable to tell the Officer about Mr. Singh's current job.
11. Between their first meeting and the date of the wedding, Mr. Singh said they met 5-6 times. Ms. Davidson said they met 9 times.
12. Mr. Singh stated that he often sleeps in his truck in Brampton between shifts, which raised serious issues about them cohabiting.
13. At the conclusion of the interview, the Officer told Mr. Singh about the consequences of a refusal of his application. Mr. Singh expressed concerns about having to leave Canada and packing his belongings, but did not express concern about the impact on his spouse or their relationship.
14. There was a gap in their text communications between November 7, 2023 and February 5, 2024. All communications were about arranging meetings or the application for spousal sponsorship of Mr. Singh. No evidence of shared activities, life, or affections between them.
15. Texts the night before the interview were an exchange of work schedules and employment information, suggesting they lack knowledge of each other's daily lives.

[34] In my view, the inconsistent answers to the questions provided the Officer more than ample evidence to conclude that the marriage was not genuine. There is nothing unreasonable about the Officer's finding.

[35] Mr. Singh also argues that the Officer's finding of misrepresentation is unintelligible.

[36] The GCMS notes provide the Officer's rationale for finding Mr. Singh's misrepresentation material:

...Having proper and truthful background and personal information on the application is a preeminent part of the admissibility assessment. Had this information not been discovered, it could have induced an error in the administration of the Act by giving an improper impression to the officer about PA's [principal applicant's] information in the application being correct and honest/truthful and could have led to an improper admissibility decision. After reviewing PA's explanation to this specific concern, I am not satisfied that PA has not misrepresented.

[37] This explanation is sufficient to explain why the omission was material. An omission is material if it relates "to a relevant matter that induces or could induce an error in the administration of [IRPA]" (*IRPA* ss 40(1)(a)). The Officer articulates why Mr. Singh's misrepresentations could have led to an error in the administration of *IRPA*.

[38] The cases relied upon by Mr. Singh (*Alves v Canada (Citizenship and Immigration)*, 2021 FC 716 at paras 19-20; *Koo v Canada (Minister of Citizenship and Immigration)*, 2008 FC 931) are factually different. In those cases, there was a disclosure of refused visas but a lack of details. In contrast, Mr. Singh indicated that he had never been refused admission to any country, therefore he failed to make any disclosure. In similar cases, failure to disclose US visa refusals was found to be a material omission (*Algohar v Canada (Citizenship and Immigration)*, 2019 FC 1364 at paras 22-25; *Goburdhun v Canada (Citizenship and Immigration)*, 2013 FC 971).

[39] The Officer's finding that the Applicant withheld material information is reasonable and supports the finding of misrepresentation under *IRPA*.

V. Conclusions

[40] I am dismissing this judicial review. The Officer's decision meets the standard of reasonableness set out in *Vavilov* and the Applicant has not identified any procedural unfairness.

[41] There is no question for certification.

JUDGMENT IN IMM-9194-24

THIS COURT'S JUDGMENT is that:

1. This judicial review is dismissed.
2. There is no question for certification.

"Ann Marie McDonald"

Judge

FEDERAL COURT

SOLICITORS OF RECORD

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