

Federal Court of Appeal



Cour d'appel fédérale

Date: 20121120

Docket: A-350-11

Citation: 2012 FCA 305

**CORAM: EVANS J.A.
SHARLOW J.A.
STRATAS J.A.**

BETWEEN:

SHAHI MANJIT SINGH

Appellant

and

**CANADA BORDER SERVICES AGENCY and
THE MINISTER OF CITIZENSHIP AND IMMIGRATION
and ASPREET BADWAL**

Respondents

Heard at Toronto, Ontario, on November 20, 2012.

Judgment delivered from the Bench at Toronto, Ontario, on November 20, 2012.

REASONS FOR JUDGMENT OF THE COURT BY:

STRATAS J.A.

Federal Court of Appeal



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REASONS FOR JUDGMENT OF THE COURT
(Delivered from the Bench at Toronto, Ontario, on November 20, 2012)

STRATAS J.A.

[1] This is an appeal from an order dated September 19, 2011 of the Federal Court (*per* Justice Hughes).

[2] On the motion of the respondent Canada Border Services Agency, the Federal Court judge struck out Mr. Singh's statement of claim without leave to amend. In his statement of claim, Mr. Singh sought, among other things, the reinstatement of permanent resident status and \$10 million in damages.

[3] The Federal Court judge found the statement of claim to be prolix and substantively deficient in that it failed to allege any duty owed by the defendants to the plaintiff and did not allege any breach of duty. In the case of two defendants, the Federal Court judge found that the Court had no jurisdiction over a claim against them on the facts pleaded. Overall, the Federal Court judge concluded that the statement of claim did not assert a viable cause of action.

[4] On the hearing of this appeal, Mr. Singh did not appear in person or by counsel. Just before the hearing of the appeal, Mr. Singh delivered a two page communication informing us of his absence and offering further written submissions. At the hearing, the respondents declined to make any oral submissions.

[5] Therefore, we have determined this appeal solely on the basis of the memoranda of fact and law filed by the parties before the hearing and Mr. Singh's further written submissions.

[6] In our view, the Federal Court judge did not commit any error of law or fundamentally misapprehend the facts pleaded in the statement of claim. Accordingly, there is no basis upon which his order can be set aside.

[7] Therefore, the appeal shall be dismissed with costs of \$1,000.

"David Stratas"

J.A.

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET: A-350-11

**APPEAL FROM AN ORDER OF THE HONOURABLE MR. JUSTICE HUGHES DATED
SEPTEMBER 19, 2011, DOCKET NO. T-921-11**

STYLE OF CAUSE: *SHAHI MANJIT SINGH*
v.
*CANADA BORDER SERVICES AGENCY
and THE MINISTER OF CITIZENSHIP
AND IMMIGRATION and ASPREET
BADWAL*

PLACE OF HEARING: Toronto, Ontario

DATE OF HEARING: November 20, 2012

REASONS FOR JUDGMENT OF THE COURT BY: EVANS, SHARLOW, STRATAS J.J.A.

DELIVERED FROM THE BENCH BY: STRATAS J.A.

APPEARANCES:

Marina Stefanovic FOR THE RESPONDENTS
Melissa Mathieu

SOLICITORS OF RECORD:

William F. Pentney FOR THE RESPONDENT
Deputy Attorney General of Canada