



Ottawa, December 14, 2023 – The Honourable Chief Justice Paul Crampton of the Federal Court issued a decision today in files IMM-2452-22 and IMM-2453-22:

IN THE MATTER OF JASKIRAT SINGH SIDHU
v.
THE MINISTER OF PUBLIC SAFETY AND EMERGENCY
PREPAREDNESS

Summary: Mr. Sidhu asked the Court to quash two decisions (the “**Decisions**”) made under sections 44(1) and 44(2) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [IRPA]. In the first Decision, an officer of the Canada Border Services Agency (the “**Officer**”) wrote a report recommending that Mr. Sidhu be referred to a hearing at which an order for his deportation to India would be sought, on the basis that he is “inadmissible” to Canada on grounds of serious criminality. In the second Decision, a delegate of the Minister of Public Safety and Emergency Preparedness (the “**Delegate**”) found that the Officer’s report was “well-founded.” The Delegate then decided to refer the Officer’s report to the Immigration Division of the Immigration and Refugee Board of Canada, for an “admissibility hearing” at which the above mentioned order would be sought.

Background: In April 2018, a bus carrying a hockey team from Humboldt Saskatchewan collided with a truck driven by Mr. Sidhu. As a result of this tragic accident, 16 lives were lost and 13 additional people incurred life altering injuries. In addition, the families, friends and communities of all of the victims suffered considerably, and likely will continue to do so for many years to come.

Mr. Sidhu and his spouse, Ms. Mann, have also experienced severe consequences. After pleading guilty to all 29 criminal charges against him, he was sentenced to eight years in prison. The dreams of a new life in Canada that he shared with Ms. Mann, following their recent marriage, have been shattered and they both have been profoundly traumatized. Nonetheless, by all accounts, Mr. Sidhu has demonstrated an extraordinary degree of genuine, heart-wrenching remorse.

Nature of the Proceedings: In his applications, Mr. Sidhu sought judicial review of the Decisions on the basis that they were unreasonable and procedurally unfair. A judicial review application is different from an appeal, where issues are assessed based on appellate standards. In determining whether a decision under judicial review is unreasonable, the Court assesses whether it reflects an internally coherent and rational chain of analysis and is justified in relation to the facts and the law that constrain the decision maker. It is not the role of the Court to make its own determinations of fact, to substitute its view of the evidence or the appropriate outcome, or to reweigh the evidence. In reviewing procedural fairness issues, the Court’s focus is upon whether the procedure was fair, having regard to all of the circumstances.

Conclusions: The Court concluded that the Decisions were not unreasonable for any of the reasons advanced by Mr. Sidhu. The court also concluded that the procedure followed in reaching each of the Decisions was fair.

Regarding the Officer's Decision, the Court rejected Mr. Sidhu's assertion that it focused entirely on the seriousness of the offences for which he was convicted. The Court found that the Officer spent multiple paragraphs discussing each of the factors that Mr. Sidhu states ought to have been considered. In so doing, the Officer went well beyond what he was required, or indeed mandated, to do. It was readily apparent from the Officer's Decision that Mr. Sidhu's remorse and high potential for rehabilitation were considered. The Decision was appropriately justified, transparent and intelligible. It also reflected an internally coherent and rational chain of analysis, and meaningfully engaged with the key issues raised by Mr. Sidhu. Contrary to Mr. Sidhu's submissions, the Officer did not apply the wrong legal test and he did not consider extrinsic evidence in reaching the Decision.

With respect to the Delegate's Decision, the Court once again rejected Mr. Sidhu's submission that the wrong legal test was applied. Contrary to Mr. Sidhu's assertions, the Delegate was not required to have regard to "all of the circumstances of the case." The Delegate's role was confined to considering readily and objectively ascertainable facts concerning Mr. Sidhu's *admissibility*. He was under no obligation to do more. Consequently, it was not unreasonable for the Delegate to have failed to give greater consideration to the specific factors that Mr. Sidhu maintained weighed in his favour.

The Court also dismissed Mr. Sidhu's submissions concerning the Delegate's assessment of his Post-Traumatic Stress Disorder ("**PTSD**") and his Major Depressive Disorder ("**MDD**"). In brief, the Court found that the Delegate's assessment of those conditions was not unreasonable. Moreover, the Delegate did not fetter his discretion by refusing to consider Mr. Sidhu's assertions that he would likely suffer hardship, including in relation to his PTSD and MDD, if he were removed to India. The Delegate specifically considered those assertions and gave "some weight" to the alleged hardship, as it related to Mr. Sidhu's PTSD and MDD. Likewise, the Delegate did not refuse to consider that Mr. Sidhu is at low risk to reoffend. The Delegate explicitly stated that Mr. Sidhu's "possibility of rehabilitation is high and is a positive factor." The Delegate did not mischaracterize the evidence regarding Mr. Sidhu's PTSD and MDD. Although the Delegate's assessment of the evidence regarding the impact of Mr. Sidhu's removal on Ms. Mann bordered on being disingenuous and cavalier, he was not obliged to consider the impact of Mr. Sidhu's removal on Ms. Mann.

Mr. Sidhu further asserted that forward-looking considerations, such as an individual's high prospects for rehabilitation, trump the seriousness of the offence(s) for which the individual was convicted. The Court found that this assertion is not consistent with the scheme of the IRPA.

Finally, the Court rejected Mr. Sidhu's assertions regarding the Delegate's extraneous observations concerning the scope that Mr. Sidhu would have to raise humanitarian and compassionate ("**H&C**") considerations in the future. The Court noted that Mr. Sidhu would still have the ability to apply for permanent residence from within Canada on H&C grounds, pursuant to section 25 of the IRPA.

Based on all of the foregoing, the Court dismissed Mr. Sidhu's applications.

A copy of the decision is available on the Federal Court [website](https://decisions.fct-cf.gc.ca/fc-cf/decisions/en/item/524628/index.do):
<https://decisions.fct-cf.gc.ca/fc-cf/decisions/en/item/524628/index.do>.