

Federal Court



Cour fédérale

Date: 20240909

Docket: IMM-7105-23

Citation: 2024 FC 1409

Ottawa, Ontario, September 9, 2024

PRESENT: Mr. Justice McHaffie

BETWEEN:

HARMAN PREET SINGH

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

I. Overview

[1] Harman Preet Singh alleges that his right to a procedurally fair hearing before the Refugee Appeal Division [RAD] of the Immigration and Refugee Board of Canada was breached because he was inadequately represented by his former representative, an immigration consultant. He asks the Court to set aside the RAD's rejection of his refugee claim so that he can obtain a fair hearing of his appeal from the Refugee Protection Division [RPD].

[2] Having reviewed the record and considered Mr. Singh's submissions, I conclude that Mr. Singh has not established there is a reasonable probability the result of the RAD's hearing would have been different but for the actions of his former immigration consultant. Mr. Singh has therefore not established there was a miscarriage of justice that would justify setting aside the RAD's decision, even if the consultant's actions are taken to amount to incompetence.

[3] The application for judicial review is therefore dismissed.

II. Issue, Standard of Review, and Legal Framework

[4] The only issue Mr. Singh raises on this application for judicial review is whether he was denied a procedurally fair hearing before the RAD as a result of his former representative's incompetence.

[5] This Court reviews procedural fairness issues on a "fairness approach," akin to correctness, in which the Court asks whether the procedure was fair, having regard to all of the circumstances: *Singh v Canada (Citizenship and Immigration)*, 2023 FC 981 at para 18, citing *Adeshina v Canada (Citizenship and Immigration)*, 2022 FC 1559 at para 12; *Obasuyi v Canada (Citizenship and Immigration)*, 2022 FC 508 at para 13; *Canadian Association of Refugee Lawyers v Canada (Immigration, Refugees and Citizenship)*, 2020 FCA 196 at para 35. In the present case, the arguments raised before this Court were neither raised before nor addressed by the RAD, such that the Court is not "reviewing" a decision of the RAD on any particular standard. Rather, the Court is reviewing, for the first time, whether the alleged incompetence of

the former consultant resulted in a procedural unfairness in the conduct of the appeal before the RAD that justifies setting the RAD's decision aside.

[6] This Court has long held that to show that a former representative's conduct resulted in a procedural unfairness justifying a new hearing, an applicant must demonstrate that:

- (i) the former representative's acts or omissions constituted incompetence, viewed without the benefit and wisdom of hindsight;
- (ii) a miscarriage of justice resulted, in the sense that, but for the alleged incompetence, there is a reasonable probability the result of the hearing would have been different; and
- (iii) the former representative was given notice and a reasonable opportunity to respond to the allegations against them.

See: *Gomez Bedoya v Canada (Citizenship and Immigration)*, 2007 FC 505 at paras 18–20; *Galyas v Canada (Citizenship and Immigration)*, 2013 FC 250 at para 84; *Singh* at para 20; *R v GDB*, 2000 SCC 22 at para 26; *Consolidated Practice Guidelines for Citizenship, Immigration, and Refugee Protection Proceedings* (June 24, 2022; last amended October 31, 2023) at paras 46–54.

III. Analysis

A. *Mr. Singh's claim for refugee protection*

[7] Mr. Singh's refugee claim is based on his fear of the police in India and a prominent drug dealer in his home state of Punjab. He asserts that the drug dealer killed a friend of his in 2010. After Mr. Singh complained to police, he was attacked by the drug dealer's goons in 2011. He was later arrested and tortured by police, who were working with the drug dealer, and charged with theft and trespassing. Mr. Singh was acquitted of the charges in 2016, but police continued to harass and threaten him. In October 2017, he was again arrested, and falsely accused of being anti-national, abetting Khalistan, and being involved in conspiracy. His family was able to secure his release upon payment of a bribe. Attempts to hide elsewhere in India were unsuccessful, and he fled to Canada in late 2018, with the assistance of an agent who had obtained a visitor's visa for him earlier that year.

[8] Mr. Singh prepared his Basis of Claim form with the assistance of an immigration consultant, who I will refer to as ME. On that form, Mr. Singh indicated that he was married to a woman named Satvir Kaur, who also resided in Punjab. This information matched his passport, issued in October 2017, as well as other immigration forms, including the 2018 application for a visitor's visa. It was also consistent with a letter from his sponsor for the visa, an uncle who is a Canadian citizen living in British Columbia, as well as an affidavit filed in support of the refugee claim by a Municipal Councillor and friend of Mr. Singh, who is alleged to have been involved in the complaints to Indian police regarding the drug dealer.

B. *The RPD's hearing and decision*

[9] By the time of Mr. Singh's hearing before the RPD, he was represented by a new immigration consultant, who I will refer to as AM. The hearing began on August 22, 2022. However, owing to an intervention by the Minister shortly before this date, and some issues regarding delivery of documents, the RPD adjourned the hearing and the claim was heard on its merits on September 27, 2022. In the interim, the Minister withdrew their intervention on September 20, 2022.

[10] At the outset of the hearing on September 27, 2022, AM advised the RPD that there was an amendment to be made to Mr. Singh's Basis of Claim form, namely that although the form indicated that he was married to Ms. Kaur, he was in fact single and had never been married. AM told the RPD that ME had advised him to state that he was married to be consistent with his Indian passport, which had been obtained for him by the agent who got him a visa for Canada. During the hearing, the RPD and AM asked Mr. Singh questions about Ms. Kaur, about his fears of the drug dealer and the police, and about the murder of his friend.

[11] The RPD dismissed Mr. Singh's refugee claim on October 18, 2022, on grounds of credibility. The RPD noted that AM acknowledged at the hearing that Mr. Singh would not be raising a nexus to any Convention ground. The RPD therefore assessed Mr. Singh's claim only on the basis that he was a person in need of protection under section 97 of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [IRPA]. At the same time, the RPD stated that it

conducted its assessment of Mr. Singh's credibility and applied it under both section 96 and section 97 of the *IRPA*.

[12] The RPD drew an adverse inference from Mr. Singh's testimony regarding his marital status and the difference between that testimony and his Basis of Claim, passport, and refugee intake forms. The RPD referred to Mr. Singh's explanations for the discrepancy, and to an earlier letter filed with the RPD by ME, asking that Mr. Singh's refugee application be separated from that of Ms. Kaur since they no longer lived together and had been separated for eight months. The RPD was not satisfied with the explanations, noting that Mr. Singh had had a number of opportunities to correct the information about his marital status prior to the first hearing of his claim, but had not done so until the outset of the second hearing. The RPD found on a balance of probabilities that Mr. Singh was married to Ms. Kaur when he made his refugee claim.

[13] The RPD also found there was no sufficient credible information to establish the drug dealer as an agent of harm, identifying inconsistencies in Mr. Singh's description of his friend's murder and his role as a witness to that murder, both between Mr. Singh's testimony and his Basis of Claim narrative and internally within his testimony. It further found that Mr. Singh's allegations of persecution by the police were not reasonable, and that his claims that he had been in hiding did not align with his appearances before the court in India that led to his acquittal on the earlier charges. The RPD concluded that Mr. Singh had not established that he would face a serious possibility of persecution on a Convention ground under section 96 of the *IRPA* or that he would face a risk under section 97 of the *IRPA*.

C. *Mr. Singh's appeal to the RAD*

[14] Mr. Singh appealed to the RAD, still represented by AM. In the materials filed with the RAD in support of the appeal, AM filed no additional documents, but nonetheless requested that the RAD hold an oral hearing under subsection 110(6) of the *IRPA*. In a written memorandum, AM identified the issues on appeal as being whether the RPD's decision was sufficiently reasoned, whether it erred in its credibility conclusion, and whether it erred in failing to analyze whether Mr. Singh would be exposed to an objective risk of persecution upon return to India. The memorandum went on to challenge the RPD's credibility finding on the marital status issue, arguing that the RPD failed to understand Mr. Singh's explanation regarding the discrepancy, summarizing his evidence on this issue regarding the advice received from ME, and noting that ME has been subject to disciplinary suspension. The memorandum also challenged the RPD's credibility conclusions based on Mr. Singh's evidence about his friend's murder, and argued generally that the evidence of Mr. Singh, who benefits from a presumption of truthfulness, had no unexplained inconsistencies, contradictions, or omissions.

[15] The RAD dismissed Mr. Singh's appeal in a decision dated May 17, 2023. The RAD summarized the arguments made and noted that it had no jurisdiction to hold an oral hearing since no new evidence had been submitted: *IRPA*, s 110(6). It also flagged minor clerical errors made in the memorandum filed by AM.

[16] The RAD recognized its role as being to look at all of the evidence and decide whether the RPD made the correct decision: *Huruglica v Canada (Citizenship and Immigration)*,

2016 FCA 93 at para 103. It noted that AM had acknowledged before the RPD that Mr. Singh did not raise a nexus to a Convention ground and agreed with the RPD that there was no such nexus. It therefore assessed Mr. Singh's appeal only under section 97 of the *IRPA*. The RAD noted that AM did not challenge the RPD's findings regarding persecution by the police and Mr. Singh's allegations of being in hiding. It nonetheless reviewed those uncontested findings and expressed its agreement with the RPD's analysis.

[17] The RAD went on to consider the contested credibility findings, noting the presumption of truthfulness. It highlighted the inconsistencies in the evidence regarding Mr. Singh's marital status, including his own documents, which he declared to be true, as well as the affidavit from the Municipal Councillor and the uncle's sponsorship letter, each of which referred to Ms. Kaur as Mr. Singh's wife. It summarized Mr. Singh's testimony and the arguments made by AM in the memorandum, and concluded that the RPD did not err by impugning Mr. Singh's credibility based on his inconsistent testimony about his marital status. The RAD noted that even if ME were undergoing disciplinary proceedings, there was no evidence on the record that she directed Mr. Singh to be untruthful on his refugee claim. The RAD also noted that AM waited until the beginning of the adjourned hearing on September 27, 2022, to advise the RPD of the stated change in his Basis of Claim form, concluding that the delay in amending his Basis of Claim form further impugned his credibility.

[18] The RAD similarly considered the evidence and Mr. Singh's arguments with respect to the death of his friend. Based on its analysis of this evidence, the RAD found that the RPD did not err in its credibility findings with respect to the circumstances of the death, noting that

Mr. Singh's testimony on the issue was inconsistent and evolving, and that the death certificate filed could be given no weight, since the original was not filed and the contents of the translation did not corroborate Mr. Singh's allegations regarding the death. The RAD found that Mr. Singh had not credibly established that his friend was murdered or by whom, and thus that he had not credibly established that the drug dealer continued to seek him out to harm him.

[19] Overall, the RAD concluded that "Mr. Singh generally lacks credibility," pointing to the "multiple errors, omissions, and inconsistencies in his testimony" and the "multiple negative credibility findings going to the core of his claim." The RAD found itself unable to determine what, if any, of the remainder of Mr. Singh's claim was genuine, and found that there was insufficient credible evidence that he would face harm if he returned to India.

[20] Under the heading "Residual Profile," the RAD noted that in the memorandum filed, AM had posed the question of whether the RPD had erred in failing to analyze whether Mr. Singh would be exposed to an objective risk of persecution upon return to India. The RAD noted that no further arguments were set out to illustrate this alleged error, and that it is an appellant's responsibility to raise any potential grounds of appeal. It therefore found that Mr. Singh had not credibly established that he would be exposed to an objective risk of persecution on return to India.

D. *Alleged incompetence of the former representative*

[21] On this application for judicial review, Mr. Singh argues that AM was incompetent and that this resulted in an unfairness that justifies setting aside the RAD's decision. He raises four

issues. First, he argues that AM did not advise the RPD about the correction concerning his marital status until the outset of the September 27, 2022, hearing, three weeks after Mr. Singh advised AM that he was single. Since the RAD noted the timing of Mr. Singh's amendment to the Basis of Claim form as a basis for its credibility conclusion, he asserts that AM's delay prejudiced his claim.

[22] Second, Mr. Singh alleges it was incompetent for AM not to have argued that his fear of persecution had a nexus to a Convention ground, such that his claim was exclusively assessed under section 97 of the *IRPA*, which required him to show that it is "more likely than not" that he would face a risk described in section 97. He notes that his allegations included that the police accused him of supporting Khalistan militancy, and that this imputed opinion was a sufficient nexus to a Convention ground that should have been raised to allow his claim to be assessed under section 96 of the *IRPA*, which requires only a "serious possibility" of persecution.

[23] Third, Mr. Singh highlights the RAD's observation that AM filed no arguments pertaining to Mr. Singh's residual risk profile, arguing that it was incompetent to raise an issue and then make no arguments on it.

[24] Fourth, he notes that AM made errors of law, both in respect of the applicable standard of review and in requesting a hearing under subsection 110(6) of the *IRPA* when no new evidence was filed and no hearing could therefore be held. Mr. Singh does not rely on these issues as being determinative of his refugee claim, but simply raises them as signs of AM's incompetence.

[25] Mr. Singh put AM on notice of these allegations, although the notice sent to AM did not refer to the request for a hearing in particular. AM did not respond to the notice. The Minister concedes that Mr. Singh has fulfilled the third requirement for demonstrating ineffective representation resulting in unfairness, that of notice to the former counsel.

[26] I note that Mr. Singh does not alleged that ME was incompetent, and provided no notice to ME raising the allegation that her incompetence resulted in an unfairness. This is a material point, as Mr. Singh continues to assert that he misrepresented his marital status on his Basis of Claim form because ME advised him to do so notwithstanding that he was in fact single since his passport said he was married to Ms. Kaur. If ME in fact advised Mr. Singh to lie on his Basis of Claim form in respect of his marital status, this would clearly be a question of incompetence as well as being contrary to the *Code of Professional Conduct for College of Immigration and Citizenship Consultants Licensees*, SOR/2022-128, or its predecessor code. However, despite continuing to claim that he misrepresented his marital status on his Basis of Claim form based on ME's advice, he gave no notice to ME alleging that she gave such advice and allowing her to respond.

[27] In this regard, the RAD concluded that "there is no evidence on the record that [ME] directed Mr. Singh to be untruthful on his refugee claim forms." Mr. Singh does not directly challenge this factual finding. He could hardly do so, not having put ME on notice of the serious allegation, either before the RAD or before this Court. Given this finding, in the absence of contrary evidence, and in the absence of ME having been notified, I am not prepared to accept

the assertion that Mr. Singh's Basis of Claim forms and other immigration forms indicated he was married to Ms. Kaur because ME counselled him to be untruthful.

E. *Mr. Singh has not established a miscarriage of justice*

[28] As noted above, to show that the incompetence of a representative resulted in a procedural unfairness that justifies setting aside a decision, an applicant must show that a miscarriage of justice resulted, in the sense that, but for the alleged incompetence, there is a reasonable probability the result of the hearing would have been different. Mr. Singh has failed to satisfy me that any alleged incompetence by AM resulted in such a miscarriage of justice.

(1) Delay in amending Mr. Singh's Basis of Claim form

[29] I agree with Mr. Singh that upon being advised that a Basis of Claim form includes a material misstatement regarding a refugee claimant's marital status, counsel or a representative should seek to file an amended Basis of Claim form at the earliest reasonable opportunity. In the present case, Mr. Singh asserts that he advised AM that he was single about three weeks before the resumption of his hearing on September 27, 2022, *i.e.*, at some time in the first week of September. I agree that AM ought reasonably to have sought to file an amended Basis of Claim form as soon as possible, even though the hearing was set to resume shortly, particularly given the absence of any explanation from AM as to why she did not.

[30] That said, I am not satisfied that the delay on the part of AM in alerting the RPD as to the need to amend the Basis of Claim form, or any subsequent failure by AM to advise the RAD that

the delay was on her part and not Mr. Singh's, was reasonably probable to affect the RAD's decision. As the RAD noted, Mr. Singh began working with AM at the latest on August 17, 2022, when AM sent documents to the RPD, including the Municipal Councillor's August 11, 2022, affidavit referring to Ms. Kaur as Mr. Singh's wife. As Mr. Singh's current counsel concedes, there is no evidence on the record as to why Mr. Singh waited until early September, after the initial date of hearing on August 22, 2022, to advise AM that he was in fact single and that his Basis of Claim form therefore misrepresented his marital status.

[31] As Mr. Singh underscores, the RAD referred to the fact that "Counsel waited until the beginning of Mr. Singh's hearing on 27 September 2022 to advise the RPD of Mr. Singh's marital status" in making its credibility assessment on this issue. However, I do not read this as being the sole, or even primary, basis for the RAD's credibility finding. Rather, the RAD notes that (i) Mr. Singh completed multiple documents and forms including the Basis of Claim and other forms in Canada in which he indicated that Ms. Kaur was his spouse, while his Schedule A did not list a spouse where asked; (ii) he signed each of the documents declaring that each was complete, true, and correct; (iii) his genuine Indian passport lists Ms. Kaur as his spouse; and (iv) the affidavit from the Municipal Councillor submitted in support of his refugee claim clearly mentioned that Mr. Singh fled to Canada with his wife, Ms. Kaur. As set out above, the RAD noted that there was no evidence that ME, who represented Mr. Singh at the time he completed the Basis of Claim and other forms, directed him to be untruthful.

[32] The RAD found Mr. Singh's explanation for the inconsistency between his original Basis of Claim, his Generic Application Form, his Indian passport, the affidavit of the Municipal

Councillor, and his sworn testimony that he was never married, undermined his credibility. The RAD notes that even if he had received bad advice from ME, he had the opportunity to amend his Basis of Claim form at any time, particularly once he was working with a new immigration consultant, which was August 17, 2022, at the latest. Even on Mr. Singh's current evidence, at least half of the time between August 17, 2022 (or earlier), and September 27, 2022, is attributable to Mr. Singh not telling AM the truth, and not to the subsequent delay in AM relaying that information to the RPD.

[33] If AM had filed a corrected or amended Basis of Claim form in early September 2022, rather than waiting until the outset of the hearing on September 27, 2022, the central questions would have remained why Mr. Singh initially filed a Basis of Claim form showing Ms. Kaur as his spouse (since there was no evidence that ME advised him to be untruthful to conform with his passport), why the Municipal Councillor's affidavit refers to his spouse living in Canada with him, and why he did not correct his Basis of Claim form until early September, weeks after his refugee hearing initially began. Given the numerous grounds for its credibility finding, which stress Mr. Singh's evidence and the inconsistency in the documents, including in particular the passport and affidavit, I conclude it is not reasonably probable that the RAD's credibility conclusion would have been in any way different if AM had drawn the amendment to the RPD's attention in early September and not at the outset of the hearing, or if she had advised the RAD in submissions that this part of the delay was due to her own actions rather than those of Mr. Singh.

[34] This is particularly so since the marital status issue was not the only basis for the RAD's ultimate determination that Mr. Singh had not credibly established his claim. As detailed above, the RAD made other credibility findings that were not dependent on the timing of disclosure of his marital status, including in respect of the murder of his friend—a central aspect of his allegations regarding the drug dealer—and his claims to have been in hiding. Mr. Singh does not challenge these findings, and they are unaffected by either the timing of disclosure or any of the other issues Mr. Singh raises as examples of AM's incompetence.

[35] As a result, even accepting that AM's delay in disclosing the amendments to the Basis of Claim form amounted to incompetence, I am not satisfied that it resulted in a miscarriage of justice, in the sense that, but for the alleged incompetence, there is a reasonable probability the result of the hearing would have been different.

(2) Nexus to a Convention ground

[36] Mr. Singh argues it was incompetent for AM not to have argued that Mr. Singh's claim had a nexus to a Convention ground. He argues that because the police accused him of Khalistani militancy, there was a nexus to Convention grounds of religion and imputed political opinion, and that a claim on these bases would have been subject to a lower "serious possibility of persecution" standard, such that his former representative's decision acted to his prejudice. I disagree, for two reasons.

[37] First and most importantly, the RAD's conclusions with respect to Mr. Singh's credibility relate to its assessment of his evidence, *i.e.*, whether he had proved the factual allegations giving

rise to his refugee claim. Such issues are addressed on the evidentiary standard of a balance of probabilities, and not on the legal standards for a finding of persecution under section 96 (serious possibility of persecution) or a finding of risk under section 97 (more likely than not/balance of probabilities): *Adjei v Canada (Minister of Employment and Immigration)*, 1989 CanLII 9466, [1989] 2 FC 680 (CA) at pp 683–684; *Li v Canada (Minister of Citizenship and Immigration)*, 2005 FCA 1 at paras 9–14, 26–29. The RAD’s conclusion that Mr. Singh had not credibly established the facts underlying his claim are thus not dependent on the relevant legal standards of section 96 or section 97. Even if Mr. Singh had asserted he was a Convention refugee, the RAD’s credibility findings—such as its finding that Mr. Singh had not credibly established that his friend was murdered by the drug dealer—would have remained unchanged.

[38] Second, Mr. Singh’s claimed fear was of a drug dealer, particularly because he had been a witness to a murder, and of the police working at the drug dealer’s behest. His evidence was that the police had laid false charges of robbery and trespass against him because of their complicity with the drug dealer, and that they would bring further false charges against him because he was “going against the system.” There is no evidence that the police actually believe Mr. Singh is a Khalistani militant. Given this evidence and the nature of Mr. Singh’s own refugee claim, I cannot conclude either that it was incompetent on the part of AM to focus his claim on section 97 rather than section 96, or that there is a reasonable probability that the RPD or the RAD’s conclusion that there was no nexus to a Convention ground would have been different even if a nexus had been asserted: see, *e.g.*, *Singh v Canada (Citizenship and Immigration)*, 2021 FC 595 at paras 4–7, 14–15; *Kumar v Canada (Citizenship and Immigration)*, 2024 FC 1142 at paras 24–27.

(3) Residual risk profile

[39] The memorandum AM filed with the RAD raised as an issue whether the RPD erred in failing to analyze whether Mr. Singh would be exposed to an objective risk of persecution upon return to India. As the RAD noted, however, the subsequent submissions in the memorandum do not return to this question or identify an error on the part of the RPD on this issue. Mr. Singh alleges that AM's failure to make arguments with respect to Mr. Singh's residual risk profile demonstrates incompetence.

[40] The difficulty with this argument is that even before this Court, Mr. Singh was unable to indicate what potentially determinative arguments regarding Mr. Singh's residual risk profile AM should have made. The term "residual profile" is used to refer to a claimant's personal attributes or situation that might nonetheless put them at risk even if primary allegations regarding events of persecution or risk are rejected. In the present case, Mr. Singh did not claim that he was at risk because of any personal attribute other than his risk at the hands of the drug dealer and the police. Nor did he present any evidence or even assertion that his "residual profile," *e.g.*, as a Sikh man, put him at risk in India. Before this Court, counsel simply argued that AM had raised the issue but that the memorandum was devoid of argument, noting that it would be difficult to speculate on what the argument could have been. This is far from meeting the requirement to establish that there is a reasonable probability the result of the hearing would have been different but for the incompetence of a former authorized representative.

[41] It is clear that identifying an issue in a memorandum without further submissions is not ideal. It may be that the issue was simply an artefact of drafting or it may be that AM was considering raising such an argument but either chose not to or neglected to. Without any indication that a clear and relevant argument on Mr. Singh's residual profile should have been made but was not, I am reluctant to conclude that the absence of further argument on this point in the memorandum is sufficient to amount to incompetence. In any event, for the reasons above, I am not satisfied that any miscarriage of justice arose from the absence of such argument, even if characterized as incompetence.

(4) Other errors of law

[42] In the memorandum filed with the RAD, AM made submissions suggesting that the applicable standard of review was reasonableness. As the parties agree, this is incorrect. The RAD generally reviews decisions of the RPD on a standard of correctness, deferring to the RPD only where it concludes the RPD had a meaningful advantage in fact finding because it heard the evidence at first instance: *Huruglica* at paras 70–80, 98, 103. I need not decide whether this erroneous statement of the law by AM itself amounts to incompetence since, as Mr. Singh concedes, it had no impact on the RAD's decision. The RAD itself correctly stated and applied the standard set out in *Huruglica*, and there is no indication that AM's reference to reasonableness had any effect on the RAD's conclusions.

[43] Similarly, the fact that AM requested an oral hearing under subsection 110(6) of the *IRPA*, when one was simply unavailable given the absence of any new evidence filed with the RAD, had no impact on the RAD's decision. The RAD simply noted that it had no jurisdiction to

hold an oral hearing since no new evidence had been submitted, and proceeded to consider the appeal on its merits on the written record. Even if requesting an oral hearing despite the absence of new evidence were itself a sign of incompetence, no miscarriage of justice resulted.

[44] I therefore conclude that Mr. Singh has not demonstrated that he was incompetently represented before the RAD in such a way as to cause a miscarriage of justice and justify setting the RAD's decision aside. The various errors or faults on the part of AM that Mr. Singh raises, whether considered individually or cumulatively, do not show that, but for the alleged incompetence, there is a reasonable probability the RAD would have reached a different result in its disposition of Mr. Singh's appeal.

IV. Conclusion

[45] As Mr. Singh has not demonstrated that it is reasonably probable that the RAD's decision would have been different but for the incompetence it alleges on the part of the immigration consultant who represented him before the RAD, the application for judicial review will be dismissed.

[46] Neither party proposed a question for certification. I agree that none arises in the matter.

JUDGMENT IN IMM-7105-23

THIS COURT'S JUDGMENT is that

1. The application for judicial review is dismissed.

“Nicholas McHaffie”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-7105-23

STYLE OF CAUSE: HARMAN PREET SINGH v THE MINISTER OF
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