

Federal Court



Cour fédérale

**Date: 20241029**

**Docket: IMM-7279-23**

**Citation: 2024 FC 1602**

**Ottawa, Ontario, October 29, 2024**

**PRESENT: Mr. Justice O'Reilly**

**BETWEEN:**

**GURTEJ SINGH SANDHU**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP AND IMMIGRATION**

**Respondent**

**JUDGMENT AND REASONS**

I. Overview

[1] In 2019, Mr Gurtej Singh Sandhu, a citizen of India, arrived in Canada and claimed refugee protection, alleging a fear of political persecution and mistreatment by the Indian police. His fear arises primarily from the fact that he had an extramarital relationship with the spouse of an important political figure. A panel of the Refugee Protection Division (RPD) dismissed his claim because of a lack of credible evidence. Mr Sandhu appealed to the Refugee Appeal Division (RAD), which confirmed the RPD's decision.

[2] Mr Sandhu submits that the RAD's decision was unreasonable because it failed to recognize the difficulties he had testifying at his hearing due, he believes, to undiagnosed Post-Traumatic Stress Disorder (PTSD). He also argues that the RAD failed to address an important component of his claim – that the police in India tried to link him to militants in the Khalistan movement, which would likely result in harassment if he returns to India. Finally, he states that the RAD unreasonably discounted the letters he submitted corroborating his version of events. The RAD found the letters to be vague, but Mr Sandhu says that the vagueness is a result of a cultural hesitancy to explicitly discuss extramarital relationships, a factor the RAD failed to appreciate.

[3] Mr Sandhu asks me to quash the RAD's decision and order another panel to consider his appeal.

[4] For the reasons below, I can find no basis for overturning the RAD's decision. There was no evidence before the RAD that Mr Sandhu experiences PTSD; nor was there evidence of any other condition that would have affected his testimony. With respect to the accusation about Mr Sandhu's involvement in the Khalistan movement, this was a peripheral aspect of his claim. The RAD's failure to address it explicitly does not render its decision unreasonable. Finally, with respect to his letters of support, Mr Sandhu did not offer the RAD an explanation for their vagueness, so the RAD cannot be faulted for failing to consider it.

[5] The sole issue is whether the RAD's decision was unreasonable.

## II. The RAD's Decision

[6] The RAD began by summarizing Mr Sandhu's allegation that he feared the police, who targeted him due to his extramarital affair with the spouse of a prominent political figure. He claimed that he was detained and beaten by police, who released him on payment of a bribe. The police demanded that he report to the police station monthly; on each occasion, he was detained and beaten again.

[7] The RAD considered whether the RPD had correctly determined that Mr Sandhu was not credible. The RAD concluded that the RPD had properly noted inconsistencies in Mr Sandhu's evidence about his alleged detention and mistreatment by police. The RAD considered Mr Sandhu's assertion that his inconsistent testimony was the result of PTSD symptoms, nervousness, and language difficulties. The RAD conceded that testifying before a tribunal can be difficult, but Mr Sandhu was represented by counsel who did not raise any concerns, point to any medical evidence, or request a postponement of the hearing. In addition, the transcript of the hearing revealed only that Mr Sandhu claimed to be confused because of overwork and nervousness.

[8] With respect to the letters Mr Sandhu provided, the RAD agreed with the RPD that they were brief and lacked detail.

## III. Was the RAD's Decision Unreasonable?

[9] Mr Sandhu makes three submissions about the reasonableness of the RAD's decision. First, he argues that the RAD failed to consider his assertion that the inconsistencies in his

testimony were the product of PTSD. Second, he maintains that the RAD overlooked an important aspect of his claim – the false allegation by police that he was a member of the Khalistan movement. Third, he submits that the RAD did not take account of cultural sensitivities about discussing private matters, such as an extramarital affair.

[10] I disagree with Mr Sandhu's three submissions.

[11] First, Mr Sandhu did not raise any personal evidence regarding PTSD with the RAD. In his affidavit, he referred to nervousness, confusion, and flashbacks. The RAD responded to these indications by noting that at the RPD hearing Mr Sandhu attributed his difficulties testifying to overwork and unfamiliarity with testifying online, nothing more. His counsel did not raise any concerns. The RAD had no medical information supporting Mr Sandhu's assertion, other than an excerpt from the website of the American Psychiatric Association. Based on these circumstances and limited information, there is nothing unreasonable about the RAD's finding that the RPD's credibility findings were well-founded.

[12] Second, Mr Sandhu's principal claim was that he faced a risk of mistreatment by police in India. He testified that, while in detention, the police tried to label him as a Khalistani militant. However, his evidence on this point was limited and non-specific. He stated that the police asked him if he knew a particular militant (whose name he could not recall). He testified at the RPD that he personally supports the creation of a separate Khalistan state but has never supported any particular organization or group. This sparse evidence did not oblige the RPD or the RAD to analyze the possibility that Mr Sandhu would be treated as a Khalistani militant on his return to

India and subjected to persecution on that basis. In addition, both the RPD and the RAD made general negative credibility findings against Mr Sandhu, which apply equally to his evidence on this point.

[13] Third, before the RAD, Mr Sandhu did not challenge the RPD's finding that the letters he submitted should be given no weight, and did not offer an explanation for their vagueness. The RAD cannot be criticized for failing to address a submission it never received.

[14] Accordingly, I see no basis for concluding that the RAD's decision was unreasonable.

IV. Conclusion and Disposition.

[15] The RAD did not respond unreasonably to Mr Sandhu's submissions or arrive at an unreasonable conclusion on the evidence. I must, therefore, dismiss this application for judicial review. Neither party proposed a question of general importance for me to certify, and none is stated.

**JUDGMENT IN IMM-7279-23**

**THIS COURT'S JUDGMENT is that:**

1. The application for judicial review is dismissed.
2. No question of general importance is stated.

"James W. O'Reilly"  
Judge

**FEDERAL COURT**  
**SOLICITORS OF RECORD**

**DOCKET:** IMM-7279-23  
**STYLE OF CAUSE:** GURTEJ SINGH SANDHU v. THE MINISTER OF  
CITIZENSHIP AND IMMIGRATION  
**PLACE OF HEARING:** VANCOUVER, BRITISH COLUMBIA  
**DATE OF HEARING:** SEPTEMBER 11, 2024  
**JUDGMENT AND REASONS:** O'REILLY J.  
**DATED:** OCTOBER 29, 2024

**APPEARANCES:**

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