

Federal Court



Cour fédérale

**Date: 20190510**

**Docket: IMM-3876-18**

**Citation: 2019 FC 641**

**Ottawa, Ontario, May 10, 2019**

**PRESENT: Mr. Justice Ahmed**

**BETWEEN:**

**GURMEET SINGH**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP  
AND IMMIGRATION**

**Respondent**

**JUDGMENT AND REASONS**

**I. Overview**

[1] The Applicant, Gurmeet Singh, is a citizen of India who applied for permanent residency under the Spouse or Common-Law Partner in Canada Class. According to section 124(a) of the *Immigration and Refugee Protection Regulations*, SOR/2002-227 [IRPA Regulations], an applicant must cohabit with their sponsor to qualify under this class.

[2] After interviewing the Applicant and his wife, an officer with Immigration, Refugees and Citizenship Canada (the “Officer”) learned that they had provided false evidence about their home address. On July 10, 2018 the Officer rejected the Applicant’s application for reasons including the failure to establish cohabitation.

[3] On August 10, 2018 the Applicant applied to this Court for judicial review. I am dismissing this application for the reasons that follow.

## II. Background

[4] The Applicant, Gurmeet Singh, is a citizen of India who entered Canada on a study permit. On July 3, 2015 he met Canadian permanent resident Balwinder Kaur Dhanota (the “Sponsor”). One month later, they got engaged. Their wedding took place on October 31, 2015.

[5] On February 6, 2017 Ms. Dhanota applied to sponsor the Applicant under the Spouse or Common-Law Partner in Canada Class. Along with the application, she submitted documents such as evidence of their wedding, joint bank account statements, and bills.

[6] The Officer reviewed the application and then scheduled an interview with the Applicant and his wife. The purpose of the interview was to ensure that the couple satisfied the requirements of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [IRPA] and its regulations. For example, according to section 124(a) of the IRPA Regulations, the Applicant and his wife must cohabit to qualify under the Spouse or Common-Law Partner in Canada Class:

Member

124 A foreign national is a member of the spouse or

Qualité

124 Fait partie de la catégorie des époux ou conjoints de fait

|                                                                                                |                                                                                             |
|------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------|
| common-law partner in Canada class if they                                                     | au Canada l'étranger qui remplit les conditions suivantes :                                 |
| (a) are the spouse or common-law partner of a sponsor and cohabit with that sponsor in Canada; | a) il est l'époux ou le conjoint de fait d'un répondant et vit avec ce répondant au Canada; |
| (b) have temporary resident status in Canada; and                                              | b) il détient le statut de résident temporaire au Canada;                                   |
| (c) are the subject of a sponsorship application.                                              | c) une demande de parrainage a été déposée à son égard.                                     |

[7] The interview took place on July 3, 2018. The Applicant and his wife brought more evidence with them, including a declaration from their landlord Muhammad Ashraf dated June 28, 2018. This declaration confirms that the Applicant has lived in a particular unit on Dearbourne Boulevard in Brampton, Ontario since November 1, 2015.

[8] At the interview, the Officer questioned the Applicant and his wife separately. When asked where they reside, both the Applicant and his sponsor stated they live together at the Dearbourne address, in a unit that they share with the landlord. This address matched the address on the documents submitted by the Applicant and his wife, including the landlord's declaration, various bills, insurance documents, and most tax assessments.

[9] There were, however, some discrepancies. For example, the Sponsor's 2016 Notice of Assessment provided a different home address in Brampton. In addition, the Sponsor did not know the name of the landlord, despite alleging that they share the landlord's personal unit. And although the Applicant's evidence was that the landlord's daughter visits and stays overnight, his wife did not know of this.

[10] The Officer's notes describe other discrepancies as well. For instance, the Applicant's wife said the Applicant gave her a silver diamond ring for her birthday, but the Applicant said he gave her a silver necklace for her birthday and a diamond ring later on. The Applicant and his wife also gave different reasons to explain why they do not use the laundry machines in their building. And when asked about how many people attended their wedding, they gave different answers again. The Officer also noted that they gave different versions of what they did on the day before the interview.

[11] On July 6, 2018, the Officer contacted the landlord who had signed the declaration. The landlord disclosed to the Officer that the Applicant had moved out after he got married. In addition, although the Applicant and his wife said they shared the unit with the landlord, the Officer learned that the landlord did not live at this address. When the Officer questioned the landlord about why he signed the declaration, the landlord responded that "he does not speak much English and just signed whatever the [Applicant] asked him to sign." The Officer then contacted the Applicant, who admitted he does not live at the Dearbourne address any longer, and now lives with his brother elsewhere in Brampton. The Officer's notes states that, when asked why the Applicant did not provide his actual residential address, the Applicant said he still uses the Dearbourne address as a mailing address.

[12] In a letter dated July 10, 2018, the Officer wrote to the Applicant and refused his application for failing to meet the requirements of the Spouse or Common-Law Partner in Canada class. The Officer found the marriage was not genuine and was not convinced the marriage was not primarily for the purpose of acquiring any status or privilege under the IRPA, and also found that credibility concerns arose due to the documentation submitted and the

responses to the questions. On August 10, 2018 the Applicant applied for judicial review of this decision.

### III. Issue and Standard of Review

[13] Decisions regarding whether or not an applicant's marriage is genuine and satisfies the requirements of section 124 of the IRPA Regulations are reviewed for reasonableness (*Zhang v Canada (Citizenship and Immigration)*, 2018 FC 502 at para 15). The issue before me is whether the Officer reasonably determined the Applicant and his sponsor do not cohabit and therefore do not satisfy the requirements of section 124(a) of the IRPA Regulations.

### IV. Analysis

[14] The Applicant submits that this decision is unreasonable because it ignored his consistent interview answers and does not explain why his supporting evidence was insufficient to overcome any discrepancies (*Akinmayowa v Canada (Citizenship and Immigration)*, 2011 FC 171 at para 24; *Momi v Canada (Citizenship and Immigration)*, 2017 FC 50 at paras 10-12; *Williams v Canada (Citizenship and Immigration)*, 2017 FC 707 at paras 17-18, 36, 42-43, 46). The Applicant argues that this Court should infer that his evidence was disregarded, and that this Court has previously held that it is a reviewable error to simply acknowledge that evidence was received (*Cepeda-Gutierrez v Canada (Citizenship and Immigration)*, 157 FTR 35 (Fed TD); *Kalsi v Canada (Citizenship and Immigration)*, 2016 FC 442 at para 21; *Ma v Canada (Citizenship and Immigration)*, 2016 FC 1283 at paras 10-13).

[15] The Respondent argues that officers are not required to address all the evidence, and says that this Officer did not commit an error by failing to discuss the evidence that points away from

the *bona fides* of the marriage in this case (*Lai v Canada (Citizenship and Immigration)*, 2015 FC 370 at para 19). The Respondent argues that the nature of the discrepancies were major and included different answers about the number of people who attended their wedding, whether or not the Sponsor's arms are scarred, as well as information about their home address.

[16] I agree with the Respondent. The presumption is that the decision maker has considered all the evidence (*Sidhu v Canada (Citizenship and Immigration)*, [2000] FCJ No 741 (Fed TD) at para 15). In this case, after reviewing the evidence the Officer remained unsatisfied that the cohabitation requirement under section 124(a) of the IRPA Regulations was met. This is a determinative finding.

[17] The reasons reveal that the evidence before the Officer included the following objective evidence, submitted to prove cohabitation:

- Declaration from Muhammad Ashraf confirming that Gurmeet Singh, spouse of Balwinder Kaur Dhanota, resides at the [Dearbourne] address since 1 November 2015.
- Notices of Assessment and Goods and Services Tax / Harmonized Sales Tax credit notices for the [Applicant] and the [Sponsor] from 2015 with the [Dearbourne] address. However, the address on the [Sponsor's] Notice of Assessment for 2016 [another address in Brampton], Ontario.
- The [Sponsor's] loan application, statement and Conditional Sales Agreement, Cell-Tell bills, the Industrial Alliance notices of payment with the [Sponsor's] and the [Applicant's] declared current address.
- The [Applicant's] car ownership and car insurance with the [Sponsor's and the Applicant's] declared current address.

[18] Other evidence included statements from both the Applicant and his wife that they reside in a unit with the landlord on Dearbourne Boulevard. The Applicant argues his consistent evidence was not considered, but the evidence is also that the Applicant admitted to providing a

false declaration from his landlord, and admitted that he and his wife do not live at the Dearbourne address. Considering that the objective evidence was submitted to establish that the Applicant and his wife cohabit together at the Dearbourne address, it is clear that his evidence cannot establish the fact that it was tendered to prove. Therefore, the Officer reasonably found that the Applicant and his wife did not establish the cohabitation requirement.

[19] Falsified evidence of cohabitation, a requirement of section 124(a) of the IRPA Regulations, cannot be characterized as a peripheral or minor discrepancy. Nor can it be said that the Officer microscopically dealt with this evidence when the Applicant admitted to providing false evidence about cohabitation. The Officer's decision satisfies the reasonableness requirements from *Dunsmuir v New Brunswick*, 2008 SCC 9. Accordingly, I will dismiss this application for judicial review.

V. **Certified Question**

[20] Counsel for both parties was asked if there were questions requiring certification. They each stated that there were no questions arising for certification and I concur.

VI. **Conclusion**

[21] The decision is reasonable and does not warrant this Court's intervention. Therefore, this application for judicial review is dismissed.

**JUDGMENT in IMM-3876-18**

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

1. The application for judicial review is dismissed;
2. There is no question to certify.

"Shirzad A."

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Judge



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

**DOCKET:** IMM-3876-18

**STYLE OF CAUSE:** GURMEET SINGH v THE MINISTER OF CITIZENSHIP  
AND IMMIGRATION

**PLACE OF HEARING:** TORONTO, ONTARIO

**DATE OF HEARING:** MARCH 13, 2019

**JUDGMENT AND REASONS:** AHMED J.

**DATED:** MAY 10, 2019

**APPEARANCES:**

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