Federal Court



Cour fédérale

Date: 20240411

Docket: IMM-8249-22

Citation: 2024 FC 576

Toronto, Ontario, April 11, 2024

PRESENT: The Honourable Mr. Justice A. Grant

BETWEEN:

HARKIRAT SINGH

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

and

RAVINDER SINGH SAINI

Intervener

JUDGMENT AND REASONS

I. **OVERVIEW**

[1] The Applicant, Mr. Harkirat Singh, seeks judicial review of a decision refusing his application for a spousal open work permit. This decision was based on a finding that Mr. Singh

had omitted important information in his work permit application, which rendered him inadmissible to Canada for misrepresentation, pursuant to paragraph 40(1)(a) of the *Immigration* and *Refugee Protection Act*, SC 2001, c 27 [IRPA]. Pursuant to paragraph 40(2)(a) of the IRPA, Mr. Singh was notified that he would remain inadmissible to Canada for a period of five years.

- [2] The Officer who rejected Mr. Singh's application found that he failed to disclose his immigration history in the United Kingdom [UK] and, more specifically, that the Applicant failed to disclose that he was served with removal papers in the UK in 2013 and failed to depart until he voluntarily did so in 2019.
- [3] Mr. Singh argues that he suffered prejudice resulting from his former representative's inadequate representation. He further argues that the decision rejecting his application is unreasonable because he did disclose that he had an adverse immigration history and provided all other relevant information for the Officer to make fulsome inquiries about his immigration history.
- [4] With leave of the court, Mr. Singh's previous representative, Mr. Ravinder Singh Saini [Mr. Saini], has intervened in this matter. Mr. Saini works with an entity known as Precise Immigration Consultancy Services [Precise Immigration]. Mr. Saini asserts that he acted competently at all times, and that any shortcomings in the work permit application were a result of Mr. Singh's failure to share information with him. Mr. Saini also argues, however, that the question of his representation is not material because the Officer's decision is otherwise unreasonable.

[5] I find that this application for judicial review must be granted, as the Applicant has established that his rights to procedural fairness were infringed through the acts or omissions of his former representative.

II. <u>BACKGROUND</u>

A. Mr. Singh's work permit application

- [6] Mr. Singh is a citizen of India and is married to Vatandeep Kaur, who holds a Canadian work permit and currently resides in Canada. Mr. Singh submitted a work permit application in order to join his wife in Canada. This application was submitted in August 2020 by Mr. Singh's former representative, the Intervener Mr. Ravinder Singh Saini.
- In January 2021, a Migration Officer from the Immigration Section of the Canadian High Commission in India issued a "procedural fairness letter" to the Applicant, alleging that he had failed to disclose that he was previously ordered to leave the UK. The Applicant indicates that he was surprised and upset by this letter as, in his mind, he had shared all relevant information with his representative. The Applicant further states that he was never asked by Mr. Saini to sign his application for a work permit, and that he was never permitted to review it, either before or after it was submitted. As such, he maintains that he did not know that details related to his UK overstay had been omitted.
- [8] For his part, the Intervener states that he asked for all information related to the time the Applicant spent in the UK. He further states that he was never informed about the Applicant's overstay in the UK until after they had received the procedural fairness letter.

- [9] Mr. Singh's work permit application was refused in a decision letter dated July 28, 2022.
- B. Mr. Singh's narrative regarding communication with the Intervener and Precise Immigration
- [10] Mr. Singh has alleged that the Intervener incompetently represented him and has set out in his affidavit his version of the facts regarding their encounters both before and after the submission of his work permit application.
- [11] In his affidavit, Mr. Singh describes the difficulties he and his wife experienced obtaining legal assistance in submitting his application because of his somewhat complicated immigration history. This history included his UK overstay and visitor visa refusals from both Canada and the United States.
- [12] Mr. Singh states that he and his wife interviewed many consultants and began every conversation with a full disclosure of his immigration history so the potential representative would know the nature of his case. Because of this disclosure, Mr. Singh states that most consultants refused to take on his case; they said either it was too complicated or they lacked the competencies or experience to take on the matter. Some of the consultants suggested that Mr. Singh intentionally omit information about his immigration history, which he outright refused.
- [13] Eventually, the Applicant's wife was referred to the Intervener; Mr. Singh attests that his wife met with the Intervener initially and disclosed her husband's adverse immigration history in the UK. Mr. Singh notes that if he had any inclination or intention of lying in his application, he would have retained one of the consultants who advised him to do so.

- [14] Mr. Singh alleges that the Intervener was aware of his two visa refusals and the UK overstay. In particular, Mr. Singh attests that he was honest and candid in all his communications with the Intervener, and that the Intervener knew that Mr. Singh voluntarily departed the UK in 2019. Despite retaining the Intervener's services to complete the work permit application, Mr. Singh indicates that he was never provided with a retainer agreement to sign.
- [15] In support of this application, Mr. Singh has adduced a work permit questionnaire provided to him by Precise Immigration. The questionnaire appears to solicit the information required to submit a work permit application, consisting of six pages of questions. Despite the length of this questionnaire, it only asked a single question about the applicant's immigration history, related to past visa refusals in Canada or any other country. The questionnaire does not ask about previous overstays or orders to leave a country. The Applicant stated that he had difficulty with filling out the questionnaire, so instead he and his wife provided all of the information over the phone (which was their primary mode of communication with Precise Immigration). Mr. Singh attests that he told Precise Immigration about his previous Canadian and US visa refusals, and that Precise Immigration confirmed they had made note of the refusals.
- [16] Mr. Singh also provided various documents to Precise Immigration, including:
 - A copy of his old UK visa, valid until January 30, 2012;
 - A copy of his e-ticket regarding his voluntary departure from the UK to India, dated March 9-10 (year is not shown); and
 - A copy of his arrival stamp in New Delhi, dated March 10, 2019.

- [17] Mr. Singh also attached various emails to his affidavit. In one email dated August 11, 2020, Mr. Singh wrote to Precise Immigration to confirm that he had received the processing number associated with his application, but wanted to ensure that full disclosure of his previous visa refusals had been included in the application. Precise Immigration confirmed that such disclosure had been made, though this was in fact inaccurate; no mention of his previous US visa refusal was included in the initial application.
- [18] Mr. Singh further attests that he contacted the Intervener to receive an explanation as soon as he became aware of the procedural fairness letter stating that he was facing a five-year ban from Canada for failing to disclose that he was previously ordered to leave the UK. He claims that at that point, the Intervener blamed him for failing to disclose that he had been ordered to leave the UK and had not just overstayed his visa. Mr. Singh claims that until that time, he was unaware there was a difference between overstaying a visa and being ordered to leave a country. Mr. Singh emailed Precise Immigration to convey his surprise at receiving the procedural fairness letter and that it was never his intention to hide or omit any information from his application.
- [19] Mr. Singh also claims that the Intervener did not share information or documents with him that would have enabled him to verify the completeness and accuracy of his application. He was not asked to sign the completed application, and was not given a copy of it. When he asked for a copy of the application, he claims that Precise Immigration told him that this information was confidential. Later, on May 20, 2022, Mr. Singh requested to see a copy of the response to the procedural fairness letter that had been submitted to the Officer by the Intervener. Precise Immigration did not provide the letter.

- [20] On July 28, 2022, Mr. Singh was informed by Precise Immigration that his work permit application had been refused for misrepresentation and that he was banned from Canada for five years. Mr. Singh attests that he also received an email with a Google drive link with a copy of his application, which mentioned his Canada and UK visa refusals but not his overstay in the UK. Later, Mr. Singh obtained a copy of the application submitted to Immigration, Refugees and Citizenship Canada [IRCC] by his representative, which only indicated his Canadian visa refusal. Mr. Singh notes other conspicuous inconsistencies that surfaced at this time, namely, that:
 - The GCMS notes from August 10, 2020, indicate that Mr. Singh signed the application form, when he only signed the "Use of a Representative" form;
 - Multiple forms submitted required signatures that he was never asked to provide;
 - Some of the documents Mr. Singh provided regarding his UK overstay were not included in his application; and
 - Precise Immigration's response to the procedural fairness letter includes an explanation that Mr. Singh did not provide.
- C. The Intervener's narrative regarding communications with Mr. Singh
- [21] The Intervener disputes and denies several of the allegations made by the Applicant. He states that he did ask the Applicant whether he had been deported or ordered to leave the UK during the first interview, to which Mr. Singh responded that he left voluntarily. The Intervener asserts that until he received the procedural fairness letter, he was not aware that Mr. Singh had overstayed his visa or been ordered to leave the UK.
- [22] The Intervener attests that he asked the Applicant for all documents related to his stay in the UK. In response, Mr. Singh only submitted copies of his plane ticket and blurry passport

photos. The Intervener also attests that he asked Mr. Singh whether he had been ordered to leave the UK, and did not restrict his wording to whether he had been "deported" from the UK. The Intervener alleges that he only received the letter indicating Mr. Singh had voluntarily left the UK after the procedural fairness letter had been issued. At root, the Intervener argues that the Applicant is trying to blame him for his own failure to disclose the required documentation, despite requests to provide same.

- [23] The Intervener asserts that he similarly was not made aware of the US visa refusal until Mr. Singh emailed him, after which he claims he prepared an amended application. The Intervener concedes, however, that he was unable to confirm whether the amended copy of the application was ever submitted to IRCC.
- [24] The Intervener confirms that Mr. Singh did not sign any IRCC forms aside from the "Use of a Representative" form, as all forms were submitted electronically and, as such, do not require a signature. The Intervener disputes that Mr. Singh asked him for a copy of the completed work permit application, and further disputes that he refused to share the application for reasons related to confidentiality.

III. <u>DECISION UNDER REVIEW</u>

[25] On July 28, 2022, the Officer in New Delhi found Mr. Singh inadmissible to Canada under paragraph 40(1)(a) of the IRPA for directly or indirectly misrepresenting or withholding material facts relevant to his application. The letter further stated that the Applicant would remain inadmissible to Canada for a period of five years from the date of the decision letter.

- [26] The GCMS notes associated with the work permit application, dated July 28, 2022, provide further detail into the reasons for the Officer's decision. They refer to the Applicant's failure to disclose his UK immigration history, and specifically, the order he received to depart the country. According to the GCMS notes, this omission prevented the Officer from further investigating the Applicant's immigration history, and was made in order to obtain status in Canada.
- [27] Question 2(b) of the Background Information section of the work permit application form (IMM 1295) asks:

"Have you ever been refused a visa or permit, denied entry or ordered to leave Canada or any other country or territory?"

[28] In response to this question, the Applicant stated: "I was refused [sic] Visitor Visa to Canada in 2011." Notably absent in Mr. Singh's response to this question were any details related to the order to depart the UK. It was this omission that grounded the Officer's inadmissibility decision. While not mentioned in the Officer's decision, the application form also omitted reference to Mr. Singh's US visa refusal.

IV. ISSUES AND STANDARD OF REVIEW

- [29] This matter raises the following issues:
 - 1. Was the Applicant denied procedural fairness due to the ineffective assistance he received from his former counsel?
 - 2. Was the Officer's Decision reasonable?

- [30] I have concluded that the first of the above issues is determinative of this application for judicial review. As such, I need not consider the reasonableness of the Officer's decision.
- [31] Regarding the first issue, courts assessing procedural fairness arguments are required to ask whether the underlying proceeding was fair having regard to all of the circumstances; functionally, this means that courts are to apply a correctness-like standard of review: *Canadian Pacific Railway Company v Canada (Attorney General)*, 2018 FCA 69 at para 54.
- [32] As is often the case in matters turning on procedural fairness concerns, the central questions on this application are whether the Applicant's right to be heard was respected, whether he knew the case to be met, and had a full and fair chance to respond. The Applicant asserts that the inadequacy of the Intervener deprived him of these procedural fairness rights. The Respondent and Intervener take the opposite position.

V. <u>STATUTORY PROVISIONS</u>

[33] Findings of inadmissibility due to misrepresentation are governed by subsection 11(1) and section 40 of the IRPA, the relevant aspects of which are as follows:

Application before entering Canada

11 (1) A foreign national must, before entering Canada, apply to an officer for a visa or for any other document required by the regulations. The visa or document may be issued if, following an examination, the officer is satisfied that the foreign national is not inadmissible and meets the requirements of this Act.

Visa et documents

11 (1) L'étranger doit, préalablement à son entrée au Canada, demander à l'agent les visa et autres documents requis par règlement. L'agent peut les délivrer sur preuve, à la suite d'un contrôle, que l'étranger n'est pas interdit de territoire et se conforme à la présente loi.

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Misrepresentation

- **40 (1)** A permanent resident or a foreign national is inadmissible for misrepresentation:
 - (a) for directly or indirectly misrepresenting or withholding material facts relating to a relevant matter that induces or could induce an error in the administration of this Act;

. . .

40 (1) Emportent interdiction de territoire pour fausses déclarations les faits suivants:

Fausses déclarations

a) directement ou indirectement, faire une présentation erronée sur un fait important quant à un objet pertinent, ou une réticence sur ce fait, ce qui entraîne ou risque d'entraîner une erreur dans l'application de la présente loi;

..

Application

- (2) The following provisions govern subsection (1):
 - (a) the permanent resident or the foreign national continues to be inadmissible for misrepresentation for a period of five years following, in the case of a determination outside Canada, a final determination of inadmissibility under subsection (1) or, in the case of a determination in Canada, the date the removal order is enforced; and

Application

- (2) Les dispositions suivantes s'appliquent au paragraphe (1):
 - a) l'interdiction de territoire court pour les cinq ans suivant la décision la constatant en dernier ressort, si le résident permanent ou l'étranger n'est pas au pays, ou suivant l'exécution de la mesure de renvoi;

VI. <u>ANALYSIS</u>

- (1) The test for incompetence
- [34] It is common ground between the parties that the test for establishing an infringement of procedural fairness due to ineffective assistance of counsel has three components. These are:

- The former representative's alleged acts or omissions must constitute incompetence;
- There must have been a miscarriage of justice in the sense that, but for the alleged conduct, there was a reasonable probability that the result of the original matter would have been different; and
- The representative must be given notice and a reasonable opportunity to respond (*Aluthge v Canada (Citizenship and Immigration*), 2022 FC 1225 at para 22 [*Aluthge*]; *R v GDB*, 2000 SCC 22 at para 26 [*GDB*]).
- [35] It is also accepted by the parties that the third criterion is met Mr. Saini was notified of the allegations made against him, and he has availed himself of the opportunity to respond to these allegations.
- [36] This means that this application turns on a determination as to whether the first two criteria have been satisfied; namely, whether the allegations of incompetence are well-founded, and whether such alleged incompetence resulted in a miscarriage of justice. I turn now to a consideration of these factors.
- (2) The alleged acts of incompetence
- [37] I note at the outset of this part of my analysis that the affidavits of the Applicant and the Intervener are, in many respects, irreconcilable. On several important details ones that go directly to the competency of the Intervener their recollections of conversations and events are diametrically opposed. Where such contradictions appear between the affidavits, I have looked to the larger written record to discern the more reliable of the competing narratives.

- [38] To satisfy the first prong of the test, an applicant "bear[s] the onus of establishing that their representative's conduct fell outside the range of reasonable professional assistance. Incompetence is determined on a reasonableness standard with 'a strong presumption that counsel's conduct fell within the wide range of reasonable professional assistance" (*Aluthge* at para 36, citing *GDB* at para 27). In the case at bar, this onus has been met.
- [39] An integral role of counsel is to help their clients, many of whom are completely unfamiliar with legal proceedings, to identify the specific information that will assist them in making their case. As noted above, a central tenet of procedural fairness is that individuals must be aware of the case they must meet to obtain the outcome they desire. This being the case, counsel play an important role in safeguarding procedural fairness rights. Cases are generally established by adducing evidence, and counsel must ensure that they are accurately eliciting the necessary evidence from, and for, their clients.
- [40] This brings us to the first, and most important, shortcoming in the Intervener's representation of the Applicant. As noted above, Mr. Singh vehemently maintains that he was, at all times, forthcoming with the Intervener about his UK immigration history and his prior visa refusals from Canada and the United States. This, he states, was why he retained the Intervener in the first place. For his part, the Intervener denies that the Applicant adequately informed him of his immigration history, and maintains that the consequences of this failure to disclose therefore lie squarely with the Applicant. On my review of the record, I find the Applicant's recollection of events to be more reliable.

- [41] The first indication that the Intervener did not elicit the necessary information from Mr. Singh lies in the form used by Precise Immigration to populate the IRCC documentation. As noted above, the IRCC work permit application form requires applicants to indicate whether they have "ever been refused a visa or permit, denied entry or ordered to leave Canada or any other country or territory." Rather than replicate this question, however, the only question related to past immigration history contained in the Precise Immigration questionnaire is as follows: "Have you ever been refused any kind of visa to Canada or any other country? If yes, give details." Crucially in this case, the Precise Immigration questionnaire does *not* ask clients if they have ever been ordered to leave a country, which the IRCC forms require. It was the omission of this information that led directly to the Applicant's inadmissibility finding.
- [42] Precisely the same issue arose in the *Aluthge* matter. In commenting on the deficiencies in the consultant's forms in that case, Justice Sadrehashemi stated:

The question on the "Personal Details" form does not specifically ask the Consultant's firm's clients whether they were ever "ordered to leave" any country. It only asks whether they were ever refused a visa for admission. Instead of assisting the Consultant's position, in my view, the "Personal Details" form supports the Applicants' experience that the Consultant did not understand that applicants for permanent residence are required to disclose whether they were ever ordered to leave a country. (*Aluthge* at para 35).

- [43] I find the same rationale applies to this application.
- [44] As noted above, in addition to the questionnaire, the record also contains a series of follow-up emails between Precise Immigration and the Applicant. These emails further support the Applicant's contention that he was not asked whether he was ordered to leave the UK. In the

emails, the Intervener asked the Applicant to provide various documents, including previous passports and a UK police clearance certificate, but there is no request for any further documentation related to the Applicant's period of stay in the UK. The Record also discloses that the Applicant promptly responded to the Intervener's request for further documentation. If, as the Intervener maintains, he had asked the Applicant for documentation related to his stay in the UK, it is odd, at the very least, that no mention of this documentation is made in the follow-up emails from his office related to outstanding materials.

- [45] The record also contains email correspondence between the Applicant and Precise Immigration in which the Applicant sought to ensure that the information related to his US visa refusal had been included in the application. As mentioned above, the Intervener responded by indicating that such information had been included, but this was not true. In fact, it appears that this information was never submitted to IRCC.
- [46] Finally, the record also contains an email sent from the Applicant to the Intervener after he had received the procedural fairness letter. In the email, the Applicant clearly articulates confusion as to why he was being asked to explain the reason he had not disclosed information that he thought he had shared. He states: "I had no idea about that letter, if I knew it then I would definitely tell you, but if we had already mentioned my overstay in the application then I'm not getting why did the visa officer ask me that question."
- [47] I also reiterate at this point that the Applicant was never asked to sign the completed IRCC forms prior to their submission and was not provided with a copy of the completed IRCC application forms after they were submitted.

- [48] As noted above, where there is disagreement between the Applicant and the Intervener as to the factual underpinnings of this application, I have generally found the Applicant's account to be more reliable. This is because the Applicant's account finds at least some corroboration in the written record, whereas the Intervener's version of events is based almost entirely on his recollection of his encounters with the Applicant.
- [49] From the above, I draw the following conclusions:
 - a. it is more likely than not that the Applicant proactively disclosed his overstay in the UK to the Intervener;
 - b. the Intervener did not adequately follow up on this disclosure to enquire of the Applicant whether he had ever been ordered to leave the UK;
 - c. the Applicant, having disclosed his overstay in the UK, and his visa refusals to Canada and the United States, thought that he had proved all necessary information to the Intervener in support of his visa application; and
 - d. the Applicant was not given an opportunity to review his application for completeness prior to submission.
- [50] On the latter point, it may well be that IRCC does not insist that applicants sign forms that are submitted online, despite the fact that these forms contain signature boxes and do not indicate that signatures are not required for online submission. Whether this is true or not, however, does not change the fact that it is extremely ill-advised for representatives to forego the practice of having clients review and sign key factual documents prior to their submission, particularly where these documents generally require signatures: *Brown v Canada (Minister of Citizenship and Immigration)*, 2012 FC 1305 at paras 63-64 [*Brown*].

- [51] This is certainly the case for applicants, given that their right to be heard is contingent upon the accurate completion of these documents, and given that they are generally the holders of the information provided in them. But it is also important for representatives, as can be plainly seen in this case. Indeed, had the Intervener allowed Mr. Singh to review the work permit application, and had he signed a form that omitted reference to his UK overstay, the result of this application for judicial review may very well have been different.
- [52] Another point arises from my finding that Mr. Singh thought that he had provided all the necessary information to complete his application. In many circumstances, while clients will possess the information necessary to complete an application, it is counsel who, given their specialized knowledge, must advise their clients as to what information must be shared. In *Guadron v Canada (Citizenship and Immigration)*, 2014 FC 1092 [*Guadron*], Justice Diner noted the following at para 29:

[29] Rather, I find that as the duly appointed legal representative under the Act, it was the representative's responsibility to make reasonable attempts to seek out crucial information required for the Applicant to overcome the significant hurdles in obtaining a highly discretionary and exceptional H&C remedy. It is not good enough to state that the Applicant (or her family) did not volunteer it. That approach undermines the reason for hiring a licensed representative, be it a lawyer, or a consultant in this case. To find otherwise would posit the question as to why one would bother to hire a professional in the first place. [Emphasis added].

(See also *Brown* at para 62 and *Yang v Canada* (*Minister of Citizenship and Immigration*), 2019 FC 402 at paras 41-42).

[53] I find the above reasoning finds clear application in this case.

- [54] Much like in *Aluthge*, *Guadron*, and *Brown*, I find that the Intervener's representation of the Applicant in this case fell outside the range of reasonable professional assistance, such that it constitutes incompetence. The Applicant's allegations of incompetence are "sufficiently specific and clearly supported by the evidence" (*Brown* at para 56). As an immigration professional, the Intervener was expected to identify the significance of the Applicant's UK overstay and to ensure that all questions provided in the application form were accurately and completely answered.
- [55] As a result of the above, I find that the Applicant has established that his former representative's acts or omissions constituted incompetence. Consequently, the first part of the test for establishing an infringement of procedural fairness due to ineffective assistance of counsel has been met.
- (3) The Applicant has established he was prejudiced by the incompetence
- [56] The second component of the test, which turns on the prejudice suffered by the Applicant, is met where an applicant demonstrates that, but for the alleged conduct, there is a reasonable probability that the original result would have been different (*Aluthge* at para 39; *Guadron* at para 11; *Brown* at para 56; *GDB* at para 26).
- [57] In the case at hand, it is plain and obvious that the shortcomings in the Intervener's representation led directly to the finding of misrepresentation, which was the sole basis of the Officer's decision. But for the omission of the Applicant's immigration history, which I have

already found arose because of the Intervener's incompetence, there was simply no other reason provided in the decision to have rejected the work permit application.

- [58] Of course, there may be other reasons for rejecting Mr. Singh's application that were not articulated in the Officer's reasons, but the decision as drafted is based entirely on the omissions for which the Intervener was responsible. As such, I find that Mr. Singh has experienced prejudice due to the incompetence of his former representative, and that but for this incompetence, there is a reasonable chance that his work permit application would have been accepted.
- [59] In terms of prejudice, I reiterate here that the misrepresentation finding in this case also resulted in a five-year ban on submitting any new application pursuant to section 40(2)(a) of the IRPA. This would prevent Mr. Singh from reuniting with his wife in Canada for an extended period of time. The stakes of this application are clearly high for Mr. Singh and his spouse, and the corresponding prejudice as a result of the Intervener's shortcomings is palpable.
- (4) The Intervener was given notice and the opportunity to respond
- [60] Finally, and as noted above, the third element of the test for establishing an infringement of procedural fairness due to ineffective assistance of counsel has clearly been met. The Intervener was informed of the allegations made against him, and he has had the opportunity to make fulsome representations defending his conduct in this matter.
- [61] Consequently, all three parts of the test are met. Mr. Singh has established that his procedural rights were breached due to the incompetent representation of the Intervener.

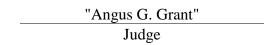
VII. <u>CONCLUSION</u>

- [62] This application for judicial review is granted for the reasons set out above.
- [63] Furthermore, similar to the situation in *Aluthge*, given my findings that Mr. Singh's failure to disclose his immigration history in the UK was due to the ineffective assistance of his former consultant, this misrepresentation issue does not need redetermination. In other words, Mr. Singh should not again suffer prejudice as a result of the omission of his UK immigration history from his initial application process.
- [64] The parties to this application did not propose a question for certification, and I agree that none arises.

JUDGMENT in IMM-8249-22

THIS COURT'S JUDGMENT is that:

- 1. The application for judicial review is granted.
- 2. The matter is returned for redetermination by a different decision-maker.
- 3. No question is certified for appeal.



FEDERAL COURT

SOLICITORS OF RECORD

DOCKET IMM-8249-22

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