

Federal Court



Cour fédérale

Date: 20250716

Docket: IMM-17271-24

Citation: 2025 FC 1272

Ottawa, Ontario, July 16, 2025

PRESENT: The Honourable Madam Justice Heneghan

BETWEEN:

MUHAMMAD MOEEZ

Applicant

and

**MINISTER OF CITIZENSHIP
AND IMMIGRATION**

Respondent

REASONS AND JUDGMENT

[1] Mr. Muhammad Moez (the “Applicant”) seeks judicial review of the decision of the Immigration and Refugee Board, Refugee Protection Division (the “RPD”), dismissing his claim for protection on the grounds that the claim is manifestly unfounded, pursuant to section 107.1 of the *Immigration and Refugee Protection Act*, S.C. 2001, c. 27 (the “Act”).

[2] The Applicant is a citizen of Pakistan. He claimed protection on the basis of his sexual orientation, that is as a homosexual man.

[3] The Minister of Citizenship and Immigration (the “Respondent”) intervened to provide a Basis of Claim (“BOC”) from an unrelated claimant.

[4] The RPD made several credibility findings. The most important finding was that the Applicant had produced a fabricated BOC.

[5] Although the RPD sent a copy of the questionable BOC to Counsel for the Applicant, Counsel did not disclose the document to the Applicant.

[6] In the course of the virtual hearing, the RPD member questioned the Applicant about the questionable document but did not present it to him for review during the examination.

[7] The Applicant now argues that he suffered prejudice and a breach of natural justice arising from the misconduct of his lawyer. He also submits that he suffered a breach of procedural fairness from the conduct of the RPD in questioning him about the “similar” BOC without showing him the document in the course of the questioning.

[8] The Respondent contends that there was no breach of procedural fairness and that there is no basis for judicial intervention.

[9] Any issue of procedural fairness is reviewable on the standard of correctness; see the decision in *Canada (Citizenship and Immigration) v Khosa*, [2009] 1 S.C.R. 339.

[10] I see no merit in the submissions about the conduct of Counsel since the Applicant did not follow the prescribed steps about raising any misconduct issue. I do not endorse the conduct of Counsel but without following the procedural protocol *Allegations Against former Counsel or other Authorized Representatives in Citizenship, Immigration and Protected Person Cases before the Federal Court*, there is no foundation to support this argument.

[11] However, I am satisfied that a breach of procedural fairness arose from the manner in which the member of the RPD examined the Applicant, that is without showing him the impugned document, even in a virtual hearing.

[12] Members of the RPD are afforded significant leeway in the conduct of hearings, but procedural fairness must be respected.

[13] In the result, the application for judicial review will be granted, the decision set aside and the matter remitted to another member of the RPD for redetermination. There is no question for certification.

JUDGMENT IN IMM-17271-24

THIS COURT'S JUDGMENT is that the application for judicial review is allowed, the decision is set aside and the matter is remitted to another member of the Immigration and Refugee Board, Refugee Protection Division for redetermination. There is no question for certification.

"E. Heneghan"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-17271-24

STYLE OF CAUSE: MUHAMMAD MOEEZ v. MCI

PLACE OF HEARING: CALGARY, ALBERTA

DATE OF HEARING: JULY 10, 2025

REASONS AND JUDGMENT: HENEGHAN J.

DATED: JULY 16, 2025

APPEARANCES:

Lori O'Reilly	FOR THE APPLICANT
Priya Sankarapapa	FOR THE RESPONDENT

SOLICITORS OF RECORD:

O'Reilly Law Office Calgary, Alberta	FOR THE APPLICANT
Attorney General of Canada Edmonton, Alberta	FOR THE RESPONDENT