

**Date: 20080114**

**Docket: IMM-2193-07**

**Citation: 2008 FC 21**

**BETWEEN:**

**MANPREET SINGH BRAR**

**Applicant**

**and**

**MINISTER OF CITIZENSHIP  
AND IMMIGRATION**

**Respondent**

**REASONS FOR JUDGMENT**

**Pinard J.**

[1] This is an application for judicial review of a decision of Roger Houde, for the Refugee Protection Division of the Immigration and Refugee Board (hereinafter the RPD), that the applicant is not a “Convention Refugee”, or a “person in need of protection” within the meaning of the definitions given under sections 96 and 97 of the *Immigration and Refugee Protection Act*, S.C. 2001, c. 27.

[2] The applicant alleges that the decision-maker made several errors justifying the intervention of this Court.

[3] First, the applicant refers to the following passage from the decision:

The claimant testified that no arrest warrant has been issued against him, that he is not sought by the police and that it was his cousin they were after.

[4] The applicant contends that the panel was wrong to consider that he had testified to the effect that he was not wanted by the police. The applicant is correct. The opposite clearly appears from his Personal Information Form and from his testimony at the hearing.

[5] Second, the applicant alleges that the RPD determined that there was an internal flight alternative (IFA) based on the fact that in India, an internal flight alternative is possible when a person is wanted by non-State players, without recognizing that in this case, it was the police that were looking for him.

[6] In its decision, the RPD referred to the document entitled *Operational Guidance Note: India*: “Sikhs from the Punjab are able to move freely within India and internal relocation to escape the attention of individuals in their home area would not be unduly harsh.” As stated by the applicant, this reference is in the section entitled “Sikhs in fear of non-State agents.” Although the panel’s decision could be supported by another section of the same document entitled “Sikhs in fear of State Persecution”, the fact remains that the panel expressly cited a passage that does not apply to the applicant’s case.

[7] Thirdly, the applicant refers to the following passage of the decision at issue:

The claimant filed, under Exhibit C-8, a series on the resurgence of terrorism. Although counsel is of the opinion that it is valid, this documentary evidence consists of newspaper articles. As respectable as these newspapers may be according to the claimant's counsel, the panel attaches more probative value to the report in the Montreal Regional Binder, which is taken from a disinterested source.

[8] The applicant alleges that the panel relied on a document that was not before it and which it could have in all likelihood reviewed in the three week interval between the date of its decision and the date of its reasons. In fact, "the report in the Montreal Regional Binder" is not listed in the documents that the panel stated that it consulted and does not appear anywhere in the Tribunal record. It appears therefore that the panel's decision was based on a document which the applicant was not able to review in a timely fashion, i.e. before the decision was rendered.

[9] In my view, these are three errors which, collectively, taint and vitiate the decision. In my view, a party who fears persecution in the country to which his removal is sought is entitled to a more rigorous decision if he is refused refugee status.

[10] Accordingly, the application for judicial review is allowed, the decision of Roger Houde, for the RPD, is set aside, and the matter is referred before a differently constituted panel of the Refugee Protection Division for redetermination.

\_\_\_\_\_  
"Yvon Pinard"

Judge

Ottawa, Ontario  
January 14, 2008

Certified true translation

Kelley A. Harvey, BCL, LLB

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

**DOCKET:** IMM-2193-07

**STYLE OF CAUSE:** MANPREET SINGH BRAR v. MINISTER OF  
CITIZENSHIP AND IMMIGRATION

**PLACE OF HEARING:** Montréal, Quebec

**DATE OF HEARING:** December 4, 2007

**REASONS FOR JUDGMENT:** Pinard J.

**DATE OF REASONS:** January 14, 2008

**APPEARANCES:**

Michel Le Brun FOR THE APPLICANT

Andrea Shahin FOR THE RESPONDENT

**SOLICITORS OF RECORD:**

Michel Le Brun FOR THE APPLICANT  
Montréal, Quebec

John H. Sims, Q.C. FOR THE RESPONDENT  
Deputy Attorney General of Canada