

IMMIGRATION AND REFUGEE BOARD
(APPEAL DIVISION)



LA COMMISSION DE L'IMMIGRATION
ET DU STATUT DE REFUGIE
(SECTION D'APPEL)

V96-02752

APPELLANT(S)/APPLICANTS

APPELANT(S)/REQUÉRANT(S)

NARINDER PAL CHEEMA

RESPONDENT

INTIMÉ

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

DATE(S) OF HEARING

DATE(S) DE L'AUDITION

July 10, 1997
October 14, 1997

PLACE OF HEARING

LIEU DE L'AUDITION

Vancouver, B.C.

DATE OF DECISION

DATE DE LA DÉCISION

October 14, 1997

CORAM

CORAM

Edith Nee

FOR THE APPELLANT(S)/APPLICANT(S)

POUR L'APPELANT(S)/REQUÉRANT(S)

D. Boyd
Barrister & Solicitor

FOR THE RESPONDENT

POUR L'INTIMÉ

Jeff Williamson

DECISION FROM THE BENCH

PRESIDING MEMBER

This is the appeal of Narinder Pal Cheema, pursuant to Section 70 of the *Immigration Act*¹, (the “Act”) from a deportation order issued against him on August 29, 1996 at Matsqui, British Columbia.

The deportation order was issued because the appellant was found to be a permanent resident described in subparagraph 27(1)(d)(i) of the *Act*, a person who has been convicted of an offence under any Act of Parliament for which a term of imprisonment of more than six months has been imposed, and subparagraph 27(1)(d)(ii) of the *Act*, a person who has been convicted of an offence under any Act of Parliament for which a term of imprisonment of five years or more may be imposed.

On June 5, 1995 the appellant was convicted of one count of forcible confinement contrary to Section 279-2 of the *Criminal Code*, and two counts of utter threats contrary to Section 264.1 of the *Criminal Code*. Counsel for the appellant did not contest the validity of the deportation order. I find the deportation order valid in law.

The appeal is pursuant to paragraph 70(1)(b) of the *Act* in that, having regard to all the circumstances of the case, the appellant should not be removed from Canada.

The appellant was born in Birmingham, England on December 19, 1972. He comes from a traditional Sikh family background. While in England he received a college education in business and finance. In July of 1991 the appellant and his parents were admitted into Canada as permanent residents under the sponsorship of the appellant’s only brother. Since his arrival in Canada, the appellant has been continuously employed in the insurance industry until early 1995. He has also taken various courses to upgrade his skills in the insurance field.

The appellant testified to the following events which led up to his criminal convictions in Canada. In the latter part of 1993 the appellant’s cousins attempted to arrange a marriage for the appellant and Parmjit. Parmjit is also of the Sikh background. She and her family are residing in Winnipeg. In December of the same year the appellant became engaged to Parmjit. The wedding was to take place after the completion of Parmjit’s university education in May of 1995. In August of 1994, the appellant broke off the engagement and Parmjit’s family reacted with hostility. Thereafter, Parmjit tried to contact the appellant at both his workplace and his friends. She informed the appellant and his mother that she was pregnant with the appellant’s child.

Sometime in December of 1994 the appellant travelled to Winnipeg to visit Parmjit. On December 19, 1994 he was arrested and charged with kidnapping Parmjit and uttering threats. On December 21st, 1994 he was released on bail. On January 3 or 4, 1995 he was allowed to return to Surrey, British Columbia.

¹ *Immigration Act*, R.S.C. 1985, c. I-2, as amended.

The appellant continued his work and found his workload to be overbearing under the emotional strain suffered by him at the time. In January or February of 1995 the appellant consulted a doctor who prescribed some medication for his depression and anxiety. The same doctor also suggested counselling for the appellant, which he refused. The doctor also insisted for the appellant to take some leave time from his work.

In February of 1995 the appellant took some leave from his work to travel to Winnipeg. Before his departure he tried to buy a handgun, but he was unsuccessful. Thereafter, he bought a pellet gun with the intention to take revenge on Parmjit by killing her. He arrived in Winnipeg and late one evening he waited for Parmjit outside her family home. When she returned home he confronted her. At one point Parmjit's mother intervened and the appellant pointed his pellet gun at the mother. The appellant then fled in Parmjit's car to his own car. Thereafter, the appellant returned to his hotel and attempted suicide. He was revived and subsequently charged with further criminal offences.

In May of 1995 a trial took place with respect to all the charges which were laid against the appellant. The appellant entered into a plea and he was convicted of one count of kidnapping and two counts of uttering threats. He was sentenced to 42 months of incarceration.

On November 28, 1996 the appellant was released on parole with the condition that he receives counselling, abstains from all intoxicants, and refrains from any contacts with the victims. Both during and after the appellant's incarceration he has participated in a variety of programs and courses on behavioural modification.

After his parole, he worked on a voluntary basis for the publication The Indo-Canadian Voice. Currently the appellant lives in halfway house and receives psychological counselling every two weeks from a therapist designated by Corrections Services Canada.

The appellant has been in Canada for six years. During this period he has had continuous employment up until the early 1995 incident. The appellant has no assets in Canada. He testified that the legal costs relating to his criminal offences have financially depleted him. The appellant has no extended family in England and he has not kept in contact with his friends in England. Should he return to England he would have no immediate means of support. The appellant testified that he would have to start all over again and to struggle. He candidly admitted that he would not be in lack of a job in England.

The appellant testified that the purpose of the immigration from England to Canada in July of 1991 was to reunite with his brother here. He described his family as being close knit. He further testified that should he be deported to England, his parents will most likely move with him there. His mother is partially disabled by arthritis and employment prospects in England for his father are bleak.

A plethora of evidence was adduced to suggest that the appellant has substantial family and community support here in Canada. The appellant testified that since his conviction his family has been fully supportive of

him. He also testified that his family is supporting him in his endeavours to start and to operate a restaurant business with a partner. 15 letters from family members, friends, and community workers were adduced as character reference for the appellant. A letter from Angela Dyck from the John Howard Society dated November 20th, 1996 specifically states:

I believe that Pal has gained a lot of insight and has established meaningful community contacts through his institutional programs and voluntary work while incarcerated, and therefore is prepared for his release.

There were also two letters, one from the Indo-Canadian Voice and the other from the Budget Kitchen Cabinets, which offer employment to the appellant upon his release.

The appellant admitted to the seriousness of his offences. He was forthright in admitting that he had initially denied any wrongdoing on his part. However, he now takes full responsibility for his crimes and admits to having caused a great deal of emotional injury to Parmjit and her family. When he was asked if he still resents Parmjit, he replied that the provocation was there but the actions were his and his actions were pretty bad. Since his conviction he has had no contacts with any one of the victims.

Documentary evidence adduced supports the appellant's allegation that he has completed three mandatory courses during his incarceration and they were: number one, cognitive skills training program; number two, the anger and emotional management program; and, number three, living without violence program. Documentary evidence adduced also supports the appellant's allegation that he had voluntarily taken other courses, such as Alternatives to Violence Project Canada and interpersonal communications.

A letter from the appellant's therapist, Brenda Sawatzky, dated October 3, 1997, indicates that she has been providing psychological counselling to the appellant on a bi-monthly basis since December of 1996, for the past ten months. Ms. Sawatzky reports that the appellant has displayed good progress on working on issues raised in therapy. He demonstrates a positive attitude and displays an openness to feedback within the sessions. He appears concerned about obtaining employment and becoming a productive member of society. Ms. Sawatzky also expresses her opinion that the appellant presents as a low risk to re-offend in a violent manner.

Having considered the recommendation of both counsels, the documentary evidence, and the testimony of the appellant, the Appeal Division is prepared to stay the execution of the removal order and to order that the case be reviewed after three years, or earlier as it considers necessary or advisable.

I agree with counsel's recommendation of a three-year period, as this will give the appellant time and opportunity to truly turn his life around as he has indicated he has begun to do so. The appellant therefore is allowed to remain in Canada on the following terms and conditions.

The appellant shall report any change of address to the nearest Canada Immigration Centre and to the Vancouver office of the Immigration and

Refugee Board, Immigration Appeal Division, within five business days after making such a change. Number two, make reasonable efforts to seek and maintain employment. Number three, engage in or continue psychological counselling. If the appellant withdraws his consent to the foregoing conditions, he must immediately bring an application to the Appeal Division to have the condition removed. Number four, respect all parole conditions and court orders. Number five, refrain from illegal use of drugs and alcohol. Number six, keep the peace and be of good behaviour.

If the appellant is in breach of these conditions and terms, the Minister may apply, pursuant to Rule 33 of the *Immigration Appeal Division Rules*, for a review of the stay of execution of the removal order and for an order that the appeal may be dismissed and the appellant be removed from Canada as soon as practicable.

“Edith Nee”

Edith Nee

Dated at Vancouver, B.C. this 30 day of October, 1997.