

Court of King’s Bench of Alberta

Citation: Sidhu v Alberta (Director of SafeRoads), 2025 ABKB 492

Date: 20250826
Docket: 2301 09477
Registry: Calgary

Between:

Jagdev Sidhu

Applicant

- and -

Director of SafeRoads Alberta

Respondent

**Reasons for Decision
of the
Honourable Justice M.R. Gaston**

[1] Jagdev Sidhu seeks judicial review of an adjudicator’s decision (the “**Decision**”) to uphold a Notice of Administrative Penalty (the “**NAP**”) issued pursuant to section 88.1(1)(a) of the *Traffic Safety Act*, RSA 2000, c T-6 (the “**TSA**”).

I. Introduction and Background

[2] At approximately 11:48 PM on May 21, 2023, the Calgary Police Service (“**CPS**”) received a complaint that an individual had parked a Calgary United Cab on the driveway of a residence in Calgary, Alberta (the “**Residence**”). The complainant advised they observed the individual stumble out of the vehicle’s driver side door and fall to the ground approximately four meters from the vehicle.

[3] CPS arrived at the Residence approximately 45 mins following receipt of the complaint and discovered Mr. Sidhu asleep on the driveway. CPS detected a strong odour of alcohol “emanating from [Mr. Sidhu]” and observed his phone and car keys on the ground next to him. CPS described Mr. Sidhu as “too intoxicated to get off the ground”, incoherent, and unable to understand what was happening. Mr. Sidhu required CPS assistance to walk to the police vehicle.

[4] Mr. Sidhu's wife and father reside the Residence. However, Mr. Sidhu was living elsewhere with his sister because he was not permitted contact with his wife as a result of criminal proceedings. CPS placed Mr. Sidhu under arrest for impaired driving, outstanding warrants, and breaching his release conditions. CPS subsequently searched the vehicle in the driveway and found two empty bottles of alcohol on the passenger seat. Mr. Sidhu was "Chartered" and cautioned.

[5] On May 25, 2023, Mr. Sidhu requested an oral review of the NAP pursuant to section 7 of the *Provincial Administrative Penalties Act*, SA 2020, c P-30.8 ("**PAPA**"). At the review before the adjudicator on June 12, 2023, Mr. Sidhu and his father provided affidavit and oral evidence. Mr. Sidhu relied on section 4(e)(i) of the *SafeRoads Alberta Regulation*, Alta Reg 224/2020 ("**SAR**") as grounds for cancelling the NAP. Section 4(e)(i) provides:

4. The grounds for an adjudicator to cancel a notice of administrative penalty
 - (e) issued for a contravention of section 88.1(1)(a) of the Act are
 - (i) that the recipient did not operate the motor vehicle,
 - [...]

[6] According to Mr. Sidhu's testimony:

- At approximately 6:00 PM on May 20, 2023, he parked his taxi at his father's residence because parking at his sister's residence is limited;
- On May 21, 2023, he went to a party with some friends and became intoxicated;
- At the party, his friends called him a taxi and gave the driver Mr. Sidhu's father's address because they mistakenly believed Mr. Sidhu still lived there;
- Upon being dropped off at his father's Residence, Mr. Sidhu fell onto the driveway; and
- Mr. Sidhu had his vehicle keys because he wore the same pants on May 20 and 21 and had left his keys in the pocket of his pants.

[7] According to Mr. Sidhu's father's testimony:

- He went for a walk around 8:00 AM on May 21, 2023, and recalls seeing Mr. Sidhu's car parked in the driveway of the Residence;
- He returned from temple around 8:00 or 9:00 PM on May 21, 2023, and recalls seeing Mr. Siddhu's car in the driveway; and
- He recalls seeing the car in the driveway around 10:00 PM on May 21, 2023, when he went to bed as his bedroom window faces the driveway.

[8] On June 20, 2023, the adjudicator issued written reasons (the "**Decision**") confirming the NAP: *Sidhu (Re)*, 2023 ABSRA 1075.

[9] On July 18, 2023, Mr. Sidhu filed an Originating Application for judicial review of the Decision pursuant to *PAPA*, section 24(2) seeking quashing of the Decision, cancelling of the NAP, and/or a directing a different adjudicator conduct a review.

[10] For the reasons set out below, the application for judicial review is dismissed.

II. Legal Framework

[11] The “SafeRoads” statutory scheme includes the operation of various legislation and regulations such as the *TSA*, *PAPA*, *Provincial Administrative Penalties Regulation*, Alta Reg 217/2020 (*PAPR*) and *SAR: Lord-Kissner v Alberta (Director of SafeRoads)*, 2024 ABKB 515 at para 16. Rather than being criminal or penal, the SafeRoads scheme creates an administrative licence suspension regime: *Lausen v Alberta (Director of SafeRoads)*, 2023 ABCA 176 at para 36.

III. Standard of Review

[12] Both parties agree that the standard of review is reasonableness. Reasonableness is the presumptive standard of review of an administrative decision: *Lausen* at para 32, citing *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at paras 16, 25, 170. Further, section 24(3) of *PAPA* provides that on an application for judicial review of a decision of an adjudicator, the standard of review is reasonableness: *Lausen* at para 32.

[13] Reasonableness review focuses on the decision made by the decision maker, including both the decision maker’s reasoning process and outcome: *Vavilov* at para 83. Where there are written reasons, a reviewing court “must begin its inquiry into the reasonableness of a decision by examining the reasons provided with ‘respectful attention’ and seeking to understand the reasoning process followed by the decision maker to arrive at its conclusion”: *Vavilov* at para 84. A decision is reasonable where it transparent, intelligible, and justified in relation to the relevant factual and legal constraints that bear on the decision: *Vavilov* at para 99.

[14] As noted in *Vavilov*, to be reasonable, a decision must be based on reasoning that is both rational and logical: *Vavilov* at para 102. A reviewing court does not conduct a “line-by-line treasure hunt for error” but must “be able to trace the decision maker’s reasoning without encountering any fatal flaws in overarching logic” and “be satisfied that there is a line of analysis in the reasons that could reasonably lead the tribunal from the evidence before it to the conclusion at which it arrived”: *Vavilov* at para 102.

IV. Issue

[15] The issue in this case is whether the Decision confirming the NAP was reasonable. Specifically, was the Decision pursuant to *SAR* section 4(e)(i) reasonable?

V. Analysis

A. Was the Decision pursuant to SAR Section 4(e)(i) reasonable?

1. The Adjudicator's Reasons

[16] SAR section 4(e)(i) provides that a NAP issued under TSA section 88.1(1)(a) may be cancelled if “the recipient did not operate the motor vehicle.”

[17] Before the adjudicator, Mr. Sidhu argued that he did not drive home from the party he attended on May 21, 2023. Instead, his friends called him a taxi and mistakenly sent it to his father's address. He further argued that the only inculpatory evidence against him was the statement from the complainant. Mr. Sidhu submitted that the complainant's statement is hearsay and should be given less weight than the sworn testimony of himself and his father.

[18] The adjudicator determined she preferred the evidence of the police and the complainant to that of Mr. Sidhu and his father for a few reasons.

[19] First, the complainant's statement, as described in the police narrative, is consistent with the evidence the police observed upon arriving at the Residence. As the complainant reported, the police located Mr. Sidhu asleep on the ground approximately four meters from the vehicle. In contrast, Mr. Sidhu provided minimal evidence to corroborate his version of events. Mr. Sidhu could have, but did not, provide any evidence to prove he had taken a taxi. He did not provide a taxi record or receipt. He did not lead the evidence of any of his friends whom he asserted had called a taxi for him. While Mr. Sidhu's father's offered evidence that he observed Mr. Sidhu's car parked in the driveway at various points on May 21, 2023, the adjudicator found Mr. Sidhu's father's evidence less credible given his relationship with Mr. Sidhu. Given her concerns regarding Mr. Sidhu's evidence, she was unable to afford the father's evidence significant weight.

[20] Further, Mr. Sidhu's keys were located next to him rather than in his pocket. The adjudicator found the keys being out of his pocket and next to him more consistent with Mr. Sidhu having driven, “rather than taking out his keys and holding them for an unknown reason, when he does not live at the residential address”: *Sidhu (Re)* at para 17.

2. Did the Adjudicator Weigh the Evidence Reasonably?

[21] In this judicial review, Mr. Sidhu argued that the adjudicator acted unreasonably in rejecting the sworn evidence of Mr. Sidhu and his father and accepting the complainant's hearsay evidence. Namely, he argued that more weight should be given to sworn testimony than unsworn hearsay testimony.

[22] The Director argued that the adjudicator reasonably found that Mr. Sidhu had driven. Under section 18(3) of *PAPA*, adjudicators are statutorily entitled to determine the weight to be given to the evidence before them: *Thyr v Alberta (Director of SafeRoads)*, 2024 ABKB 488 at para 13. Under section 18(1) of *PAPA*, Mr. Sidhu bore the burden of satisfying the adjudicator that he had not driven. The adjudicator was not satisfied that Sidhu met this burden.

[23] The adjudicator's assessment of the evidence and subsequent finding that Sidhu had driven were reasonable.

[24] Section 12 of *PAPR* sets out the evidence adjudicators are entitled to consider. Under section 12(a), adjudicators may rely on “any relevant records submitted by an officer.” The complainant’s statement was provided through the officer’s record and was therefore evidence the Adjudicator was entitled to consider.

[25] That the complainant’s statement was unsworn does not mean the adjudicator could not consider it. Section 12 of *PAPR* does not require a particular type of evidence such as witness statements or recordings of 911 calls: *Turner v Alberta (Director of SafeRoads) (19 February 2025)*, Grande Prairie 2404/00369 (ABKB). Under *PAPR* section 12(a), adjudicators are entitled to rely on “any relevant records submitted by an officer.” Both section 12 of *PAPR* and *Turner* support the adjudicator’s consideration of the complainant’s unsworn statement.

[26] The weight the adjudicator gave to the complainant’s evidence was also reasonable. Section 18(3) of *PAPA* gives adjudicators broad discretion to determine the weight to give any documents, records, representations, or evidence: *McWilliam v Alberta (Director of SafeRoads)*, 2024 ABKB 559 at para 86. As with other administrative bodies, and as noted by this Court, “adjudicators have a wide discretion to weigh evidence and make credibility findings, and they are entitled to deference”: *Aleman v Alberta (Director of SafeRoads)*, 2024 ABKB 332 at para 33.

[27] While the complainant’s evidence was hearsay, under section 18(4) of *PAPA*, adjudicators “are not bound by the rules respecting evidence applicable to judicial proceedings.” The role of this Court is not to re-weigh evidence: *Comeau v Alberta (Director of SafeRoads)*, 2023 ABKB 140 at para 52. It was reasonable for the adjudicator to weigh the evidence and give the complainant’s statement more weight than the evidence Mr. Sidhu presented.

3. Did the Adjudicator Treat Mr. Sidhu’s Evidence Unfairly?

[28] Mr. Sidhu argued that the adjudicator unfairly treated his evidence and started from the presumption that the police evidence was correct. I disagree. Conflicting evidence requires adjudicators to make assessments regarding credibility. The mere preference of police evidence over a complainant’s evidence is not an error. Indeed, where evidence conflicts, an adjudicator must determine which evidence is preferred.

[29] In her reasons, the adjudicator grappled with the evidence provided by both Mr. Sidhu and the Director. Faced with two conflicting stories, the Adjudicator chose which evidence to give more weight. In *Rempel v Alberta (Director of SafeRoads)*, 2023 ABKB 478 at para 34, Justice Bourque adopted the reasoning of the British Columbia Court of Appeal with respect to conflicting evidence in *Nagra v British Columbia (Superintendent of Motor Vehicles)*, 2010 BCCA 154 at para 27:

[27] The fact that a driver provides evidence capable of refuting the BAC test results does not mean that the adjudicator is left in the position of being unable to decide. Whether there is conflicting evidence or not, the adjudicator's decision will be based on the review record. It is for the adjudicator to decide what evidence in that record to accept, and what to reject. In this respect, I agree with the following from the judgment of Madam Justice Gray in *Shadow v. British Columbia (Superintendent of Motor Vehicles)*, 2002 BCSC 790, 29 M.V.R. (4th) 145:

[13] Making findings of fact, including choosing what or who to believe and not believe, and drawing inferences from the evidence, is the responsibility of the adjudicator. If there is some evidence upon which a finding could reasonably be made, this court should not interfere.

[Emphasis added.]

[28] To hold otherwise would be incompatible with the intent of the legislation. That there is conflicting evidence in the record does not, in my view, negate an adjudicator's ability to make the findings necessary to arrive at one of the two decisions available under s. 94.6, even if credibility may be an issue.

[30] Similarly, here, the evidence before the adjudicator supported her finding. The adjudicator gave the Director's evidence more weight upon noting that the details provided by the complainant were consistent with what the police observed upon arriving at the Residence. The adjudicator's finding is entitled to deference: *Comeau* at para 4.

[31] As outlined in paragraph 12 of her Decision, the adjudicator also bore in mind Mr. Sidhu's burden under section 18(1) of *PAPA* to satisfy her on a balance of probabilities that he did not operate a motor vehicle. While Mr. Sidhu had the opportunity to corroborate his version of events by providing evidence that he took a taxi to the Residence, he did not do so. Evidence that Mr. Sidhu had taken a taxi was obviously important evidence in a determination regarding whether he had operated a motor vehicle.

[32] The adjudicator reasonably concluded that Mr. Sidhu had not met his burden of establishing that he did not operate a motor vehicle. The adjudicator's assessment of credibility and the weight she gave to evidence are entitled to deference. There is no reviewable error in the adjudicator's treatment of the evidence before her.

VI. Conclusion

[33] The Decision was reasonable. The application for judicial review is dismissed and the adjudicator's confirmation of the NAP remains.

Heard on the 4th day of February, 2025.

Dated at the City of Calgary, Alberta this 26th day of August, 2025.

M.R. Gaston
J.C.K.B.A.

Appearances:

Timothy E. Foster, K.C.
for the Applicant

Zachary Wilson
for the Respondent