

# PARISH PATIENCE IMMIGRATION LAWYERS

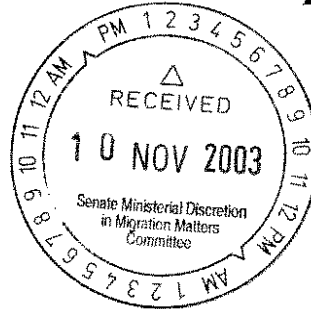
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Contact: David Bitel  
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Our Reference:

04 November 2003

Mr A Sands  
Secretary  
Select Committee on Ministerial Discretion  
and Migration Matters  
Parliament House  
CANBERRA ACT 2600



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Dear Mr Sands

I refer to the evidence I gave to the Committee on 21 October. The Committee asked me to forward copies of correspondence I had had with Senator Hardgrave in one matter recently and same is enclosed. I am in the process of compiling the statistics in relation to Ministerial appeals processed through my office and will provide these shortly to the Committee.

Finally, I note I have received the transcript of the evidence I gave and do not have any corrections to advise to the Committee. If I can be of further assistance, please contact me.

**Parish Patience Immigration**

  
**D L Bitel**  
**Partner**  
**Registered Migration Agent No 9255523**

Encl



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Contact: David Bitel  
Email: dbitel@ppilaw.com.au  
Our Reference:

10 October 2003

The Hon Gary Hardgrave MP  
Minister for Citizenship and Multicultural Affairs  
Parliament House  
CANBERRA ACT 2600

Dear Mr Hardgrave

**Gurvinder Singh**

I refer to your letter of the 5<sup>th</sup> of September, a copy of which is enclosed. My client has in fact made arrangements to depart Australia. I was of course aware of the Code of Conduct but considered it important on behalf of this client to make the application, having regard to the particular merits of this case and to highlight the problem that the inflexible legislation raises to applicants whose situation would otherwise have merited in accordance with current Ministerial policy, a likely favourable consideration under Ministerial review. In fact I had raised the case before the current Parliamentary inquiry, at which I will be speaking later in October, in my submission and it is my intention also to table before the committee your response. I am of course aware of the Migration Legislation (Migration Agents Integrity Measures) Bill and whilst I am a supporter of its general thrust, I have serious concerns at the implications for advisers who are called upon to assist applicants who have complex and difficult cases where the approval of the application will rest in a residual discretion of the Minister or a departmental officer. I do not believe that the proposed legislation adequately addresses this most important area. One consequence, if the legislation is passed, could well be that reputable advisers will decline to act for applicants with difficult cases, which will place them at considerable disadvantage. We would appreciate your comments on how you propose to address this particular issue.

I am happy to meet with you to discuss the issues at your convenience.

**Parish Patience Immigration**

**D L Bitel**  
**Partner**  
**Registered Migration Agent No 9255523**  
Encl



Mr D.L. Bitel  
338 Pitt Street  
SYDNEY NSW 2000

10 SEP 2003

Dear Mr Bitel

Thank you for your letter of 29 July 2003 to the Minister for Immigration and Multicultural and Indigenous Affairs, the Hon Philip Ruddock MP, requesting that he exercise his public interest power under section 417 of the *Migration Act 1958* (the Act) to substitute a more favourable decision in Mr Gurvinder Singh's case. Mr Ruddock has asked that I respond on his behalf.

The Minister's power under section 417 is only available if the Refugee Review Tribunal has made a decision under section 415 of the Act. The Tribunal did not make a decision under section 415 in Mr Gurvinder Singh's case. The Tribunal determined that it had no jurisdiction to consider his application because it was lodged outside the period allowed for lawful lodgement. There is no capacity to waive the statutory time limits.

As there has been no decision of the Tribunal under section 415, the power in section 417 is not available in Mr Singh's case.

I now ask that Mr Singh contact the nearest Regional Office of the Department to discuss his status in Australia.

Please note that the migration agent's Code of Conduct requires you to have a sound working knowledge of the *Migration Act 1958* and not to carry out work in a manner that unnecessarily increases the cost to the client. You should not lodge requests under section 417 of the Act where Mr Ruddock has no power to exercise the public interest powers. The Migration Agents Registration Authority (MARA) has recently reminded all agents of the professional standards they are expected to meet concerning these requests. Instances of such requests may be referred to the MARA.

Thank you for bringing this matter to attention.

Yours sincerely



Gary Hardgrave

05 SEP 2003