

Federal Court



Cour fédérale

Date: 20190829

Docket: IMM-3077-18

Citation: 2019 FC 1114

Ottawa, Ontario, August 29, 2019

PRESENT: The Honourable Mr. Justice Shore

BETWEEN:

CARL ALPHAEUS ASHTON

Applicant

and

**MINISTER OF CITIZENSHIP
AND IMMIGRATION
AND
MINISTER OF PUBLIC SAFETY AND
EMERGENCY PREPAREDNESS**

Respondents

JUDGMENT AND REASONS

[1] This is an application for judicial review of an Opinion of the Minister's delegate dated May 23, 2018. The Opinion concluded that the Applicant not be allowed to remain in Canada as he is considered a danger to the Canadian public as per paragraph 115(2)(a) of the *Immigration and Refugee Protection Act*, SC 2001, c 27.

[2] The Applicant was born and is a citizen of Saint Vincent and the Grenadines. The Applicant was granted Convention Refugee status at the age of fifteen in June 2003, and Permanent Resident status in Canada in June 2004.

[3] The Applicant had committed:

- offences comprised of possession of property obtained by crime on October 29, 2007, contrary to paragraph 354(1)(a) of the *Criminal Code*, RSC, 1985, c C-46 [CC];
- failure to comply with conditions of undertaking or recognizance contrary to paragraph 145(3)(b) of the CC on June 20, 2007;
- possession of substances in schedule II for the purpose of trafficking, contrary to paragraph 5(2)(3)(a) of the *Controlled Drugs and Substances Act*, SC 1996, c 19, on February 13, 2008, and two further convictions for possession of substances included in schedule II for the purpose of trafficking; also for which he was convicted of robbery, contrary to subsection 344(b) of the CC and several failures to comply with conditions of undertaking, contrary to paragraph 145(3)(b) of the CC.

[4] After the 2014 Opinion of the Minister, the Applicant was convicted of failure to stop as requested by a police officer, contrary to subsection 249.1(01) of the CC; also of dangerous driving, contrary to paragraph 249(01)(a); in addition to resisting police, contrary to subsections 129(a) and 129(d).

[5] Furthermore, on March 2, 2018, for crimes committed on February 25, 2018, the Applicant failed to comply with condition or recognizance, contrary to paragraph 145(3)(a) of

the CC; also dangerous driving as per paragraphs 249(01)(a) and 249(02)(a) of the CC; the Applicant also failed to stop as requested by a police officer, contrary to subsection 249.1(01) and paragraph 249.1(02)(a) of the CC; also, resisting police, contrary to subsections 129(a) and 129(d) of the CC.

[6] All of which together constituted a danger opinion; for the latest crimes committed by the Applicant was serving in prison when the danger opinion was rendered.

[7] The delegate's opinion is reasonable under the circumstances as the danger to the public is considered to be more substantial than any risk to the Applicant.

[8] In addition, the Minister's delegate did consider the best interests of the children in accordance with the jurisprudence thereon.

[9] The evidence in respect to the children, family, spouse and applicant, was considered as is evident for the Minister delegate's opinion. It is significantly noted that when the Opinion was rendered by the Minister's delegate, the Applicant, as a father was absent from his children and wife as he was incarcerated.

[10] It is also noted that the psychologist's report of 2015 was superseded by the evidence of the Applicant having committed more crimes after the psychologist's report was written.

[11] It is of primary consideration that the Applicant was deemed inadmissible to Canada for serious criminality due to convictions for possession for the purpose of trafficking and robbery in addition to dangerous driving and attempting to avoid arrest.

[12] Danger to the public implies that a person may reoffend and creates thereby an unacceptable risk danger to the public (*Williams v Canada (Minister of Citizenship and Immigration)*, [1997] 2 FC 646 (CA); reference is also made to *Canada (Citizenship and Immigration) v Khosa*, [2009] 1 SCR 339).

[13] Subsequent to its review of the evidence in its entirety, the Court through consideration and analysis has reached the conclusion that the Opinion of the Minister was reasonable (*Bhoonahesh Ramnanan v Canada (Citizenship and Immigration)*, 2008 FC 404). Therefore, the Court dismisses the application for judicial review.

JUDGMENT in IMM-3077-18

THIS COURT'S JUDGMENT is that the application for judicial review be dismissed.

There is no serious question of general importance to be certified.

"Michel M.J. Shore"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-3077-18

STYLE OF CAUSE: CARL ALPHAEUS ASHTON v MINISTER OF
CITIZENSHIP AND IMMIGRATION, AND, MINISTER
OF PUBLIC SAFETY AND EMERGENCY
PREPAREDNESS

PLACE OF HEARING: MONTRÉAL, QUEBEC

DATE OF HEARING: AUGUST 19, 2019

JUDGMENT AND REASONS: SHORE J.

DATED: AUGUST 29, 2019

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