

Federal Court



Cour fédérale

Date: 20200220

Docket: IMM-1807-19

Citation: 2020 FC 272

Ottawa, Ontario, February 20, 2020

PRESENT: The Honourable Mr. Justice Fothergill

BETWEEN:

MARLON ALPHANSO RICKETTS

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

I. Overview

[1] Marlon Alphanso Ricketts is a citizen of Jamaica. He seeks judicial review of an adverse pre-removal risk assessment [PRRA] by a Senior Immigration Officer [Officer]. The Officer found that Mr. Ricketts' perceived wealth would not expose him to a sufficiently personalized risk of harm in Jamaica.

[2] For the reasons that follow, the Officer's decision was reasonable. The application for judicial review is dismissed.

II. Background

[3] Mr. Ricketts is 33 years old and married to a Canadian citizen. He said in his PRRA request that he was helping to raise his wife's two children from a previous relationship. His wife sponsored him for permanent residence, but the relationship broke down and she withdrew her sponsorship. Mr. Ricketts is currently charged with assaulting his wife. He also has two children of his own in Jamaica, whom he supports financially by sending money to their mother.

[4] Mr. Ricketts first entered Canada on August 28, 2013 as a temporary foreign worker [TFW]. His work permit was valid until December 15, 2013, when he returned to Jamaica. He entered Canada again as a TFW on August 28, 2014. His work permit was valid until December 15, 2015, when he returned to Jamaica. On May 20, 2015, he was issued another work permit that was valid until December 15, 2015. His most recent entry into Canada was on July 26, 2016, with a work permit that was valid until December 15, 2016. He has remained in Canada ever since.

[5] Mr. Ricketts requested a PRRA on July 19, 2018. He says that the official from whom he obtained the paperwork told him he could complete and submit his request without the assistance of a lawyer. He completed the forms with the help of a friend. He described the risks he would face in Jamaica as follows:

The gun war is lavish in Clarendon, Jamaica where I would be returning to. Guns are killing people everyday over money. If I were to go back to Jamaica from Canada I will be seen as wealthy and will be subject to loosing [sic] my life. The rise of attacks is higher in 2018 and growing.

III. Decision under Review

[6] The Officer considered whether the risks identified by Mr. Ricketts had a nexus to any of the grounds for refugee protection in s 96 of the *Immigration and Refugee Protection Act, SC 2001, c 27* [IRPA]. The Officer concluded that they did not. The Officer found that Mr. Ricketts feared criminality and poverty, not state persecution.

[7] The Officer then considered whether the risks identified by Mr. Ricketts caused him to be a person in need of protection under s 97(1)(b) of the IRPA. The Officer acknowledged that Mr. Ricketts had provided numerous articles regarding the high incidence of crime in Jamaica, and the relative impunity of offenders. The Officer also conducted independent research into current country conditions.

[8] The Officer concluded that the risk faced by Mr. Ricketts in Jamaica was not sufficiently personalized, and was the same as would be faced by anyone in that country. She also found that Jamaica has effective control of its territory, a functioning police force, and a judicial system capable of and committed to protecting its citizens from criminal violence.

IV. Issue

[9] The sole issue raised by this application for judicial review is whether the Officer's decision was reasonable.

V. Analysis

[10] A PRRA officer's decision is subject to review by this Court against the standard of reasonableness (*Talipoglu v Canada (Citizenship and Immigration)*, 2014 FC 172 at para 22; *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [*Vavilov*] at para 48). The Court will intervene only if "there are sufficiently serious shortcomings in the decision such that it cannot be said to exhibit the requisite degree of justification, intelligibility and transparency" (*Vavilov* at para 100). These criteria are met if the reasons allow the Court to understand why the decision was made, and determine whether the decision falls within the range of acceptable outcomes defensible in respect of the facts and law (*Vavilov* at paras 85-86, citing *Dunsmuir v New Brunswick*, 2008 SCC 9 at para 47).

[11] Mr. Ricketts concedes that the risks he identified in support of his PRRA request lacked a nexus to any of the grounds for refugee protection in s 96 of the IRPA, and his request for protection was limited to s 97(1)(b).

[12] Mr. Ricketts says he did not understand the seriousness of his PRRA request, as he was unrepresented by a lawyer at the time. This is a peculiar argument. Mr. Ricketts said his life

would be in danger if he returned to Jamaica. It is hard to overstate the gravity of the situation he claimed to be in. He appears to have had no difficulty articulating the risks he faced in Jamaica, which are the same risks his counsel alleges before this Court. Mr. Ricketts has failed to demonstrate that his lack of legal representation rendered the Officer's decision unfair or unreasonable.

[13] A more substantive argument is that the Officer's independent research was inadequate and insufficiently balanced. The Officer relied solely on excerpts from a report of the U.S. Department of State. He says the portions of the report relied on by the Officer presented a more positive account of conditions in Jamaica than was warranted, and she failed to mention other parts that were more critical and pessimistic regarding country conditions.

[14] The Minister does not dispute that the Officer had an obligation to conduct independent research, and to do so in a thorough and even-handed manner. However, the Minister says that PRRA officers are specialists, and may be presumed to have acquired knowledge of country conditions in the course of their work. It was therefore unnecessary for the Officer to cite every document in the National Documentation Package [NDP] for Jamaica. The U.S. Department of State is considered a credible source of information, and its reports are commonly relied upon by applicants and PRRA officers alike.

[15] It is well established that wealth or the perception of wealth is not a sufficient basis upon which to establish personalized risk (*Vickram v Canada (Citizenship and Immigration)*, 2007 FC 457 at para 13; *Prophète v Canada (Citizenship and Immigration)*, 2008 FC 331 at paras 20-23).

Furthermore, there was no evidence that Mr. Ricketts was ever targeted personally during his many return trips to Jamaica.

[16] Mr. Ricketts referred to numerous articles confirming high rates of crime and the relative impunity of offenders. However, according to these articles, the victims of violent crime are predominantly gang members, political activists, those involved in lucrative lottery scams and those living in “garrison” communities. Mr. Ricketts exhibited none of these risk factors.

[17] While Mr. Ricketts may have preferred the Officer to have cited different sources, it is difficult to see how this could have changed the PRRA. Mr. Ricketts provided no evidence to demonstrate he was personally at risk (*Wage v Canada (Citizenship and Immigration)*, 2009 FC 1109 at paras 101-105; *Sanchez v Canada (Citizenship and Immigration)*, 2007 FCA 99 at para 15).

[18] The Officer acknowledged that “murder, kidnappings and assaults among other crimes are rampant in Jamaica and a vast number of Jamaicans are victimized by criminals”. This is broadly consistent with what Mr. Ricketts said in his PRRA request. Without evidence of personalized risk, however, no amount of independent research could have led to a PRRA that was favourable to Mr. Ricketts.

VI. Certified Question

[19] Mr. Ricketts asks the Court to certify a question for appeal regarding the nature and extent of a PRRA officer's obligation to conduct independent research, and whether this obligation encompasses all documents contained in the NDP.

[20] The determinative issue in this case is Mr. Rickett's failure to demonstrate a personalized risk of harm, not the quality of the Officer's research. The proposed question would not be dispositive of an appeal, and is therefore not suitable for certification (*Lewis v Canada (Public Safety and Emergency Preparedness)*, 2017 FCA 130 at para 36).

VII. Conclusion

[21] The application for judicial review is dismissed.

[22] Mr. Ricketts asks the Court to correct the spelling of his name from Alphonso to Alphanso. The Minister agrees. The style of cause will be amended accordingly.

JUDGMENT

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is dismissed.
2. The style of cause is amended to correct the name of the Applicant to Marlon Alphanso Ricketts.

"Simon Fothergill"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-1807-19

STYLE OF CAUSE: MARLON ALPHANSO RICKETTS v THE MINISTER
OF CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: TORONTO, ONTARIO

DATE OF HEARING: JANUARY 23, 2020

JUDGMENT AND REASONS: FOTHERGILL J.

DATED: FEBRUARY 20, 2020

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