Federal Court  Cour fédérale

Date: 20120910

Docket: IMM-2691-12

Citation: 2012 FC 1066

[UNREVISED ENGLISH CERTIFIED TRANSLATION]
Ottawa, Ontario, September 10, 2012

PRESENT: The Honourable Madam Justice Gagné

BETWEEN:

DAILON RONALD SCOTT
DEXTON KIMRON C SCOTT

Applicants

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

REASONS FOR JUDGMENT AND JUDGMENT

[1] This is an application for judicial review of a decision dated February 28, 2012, of the Refugee Protection Division [RPD] of the Immigration and Refugee Board [IRB], which rejected the claim for refugee protection of the applicants (the principal applicant and his minor brother), finding that the applicants were not Convention refugees or persons in need of protection under sections 96 and 97 of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [IRPA].

[2] Having carefully reviewed the applicant's arguments against this decision, in light of all of the evidence in the record, the Court finds that there is no reason for it to intervene in this case since the impugned RPD decision was reasonable in the circumstances.

Facts

[3] The applicants, who are brothers, are citizens of Saint Vincent and the Grenadines; their father is a retired police officer of that country. They are aged 28 (in the case of the principal applicant) and 13 (in the case of the minor brother, whose designated representative before the RPD was the principal applicant).

[4] The two brothers' claims for refugee protection are based on completely separate grounds.

[5] The principal applicant alleges that his problems began in December 2002, when a group of men accosted him and punched him in the face, asking him for money. When the applicant tried to escape, one of the assailants (later identified as Steve) stabbed him in the back with a pair of scissors. He fell to the ground and was beaten up by his assailants. As a result of the police's intervention, two individuals (identified as Steve and Baker) were arrested and tried. Since they were minors at the time the incident occurred, they managed to obtain a pardon following their conviction, subject to their keeping the peace and not approaching the principal applicant.

[6] In 2003, members of the same group allegedly again approached the applicant on his way home from work. Two individuals known as Boyle and Dario beat him with a board and punched

him. Again, the principal applicant filed a complaint, and the assailants were convicted and pardoned by the courts because they were minors.

[7] The applicant alleges that, following these events, in January 2005, he found refuge on Canouan Island, where he found work. In June 2006, he had to return to Saint Vincent, however, to take care of his sick mother.

[8] The applicant was allegedly attacked a third time in July 2008. He alleges that, during the Jouvert carnival, some masked men threatened him, telling him that he would be killed and that he was a [TRANSLATION] "dead man walking".

[9] The applicant alleges that, following this incident, he travelled to Canada to seek refuge with his aunt who lives in Toronto. He stayed there for three weeks before returning to Saint Vincent and the Grenadines, but came back to Canada on November 28, 2008. His claim for refugee protection was filed in June 2009.

[10] The minor applicant's claim for refugee protection is dated August 2010. The minor applicant joined his brother in Canada following their mother's death on June 16, 2010. He is seeking Canada's protection on the grounds that he fears having to live with his violent and abusive father since his mother died.

[11] The minor applicant alleges that, in December 2005, after his father assaulted his mother and made death threats against them, his mother decided to leave the family home with him. He

then lived safely with his mother until her death in June 2010. In August 2010, the applicants' older brother who lives and studies in Barbados took him to Canada. The applicants allege that, today, no one but the principal applicant can give the minor applicant a home and take care of him.

The impugned decision

[12] Regarding the principal applicant, the RPD was not satisfied that his narrative was true since his vague and imprecise testimony did not shed any further light on his subjective fear. The RPD noted that the applicant had very little knowledge about the activities of the gang that allegedly attacked him. He knew neither the gang's leader nor the personal or criminal profile of its members. The RPD concluded that, if the principal applicant had truly been persecuted by this gang, he would have found out more about its members, by paying attention to everything that was said or written about them.

[13] Moreover, the RPD found that the principal applicant's return to his country after he spent three weeks in Canada in August 2008 and the delay before he claimed refugee protection in 2009 (about seven months) were inconsistent with how one might expect someone who truly fears for his life to behave. When questioned about this by the RPD, the applicant replied that he was unfamiliar with the Canadian refugee protection system, that he had been ashamed of claiming refugee protection and that he had feared being deported from Canada. These explanations did not satisfy the RPD, which found that the applicant's testimony on this subject was unclear, illogical and inconsistent. The RPD concluded that, on a balance of probabilities, the applicant was not telling the truth and had failed to establish a subjective fear.

[14] The RPD also noted that, even if it believed the principal applicant, he had not demonstrated that he had tried to protect himself from the Saints by travelling or by seeking state protection.

[15] The RPD first stated that the principal applicant could have gone to live somewhere other than Greenhill (where he was attacked twice) and that, in doing so, he would have been relatively safe given the very nature of street gangs which operate at a highly local level. The RPD noted in this regard that the applicant had already lived and worked on Canouan for several months without difficulty and that there was no evidence to contradict the fact that he was still free to move to one of the larger islands of the Grenadines, such as Bequia or Canouan.

[16] Furthermore, the RPD noted that adequate state protection was available to the principal applicant in Saint Vincent and the Grenadines. The fact that the police had been unable to identify the individuals who attacked the principal applicant at the Jouvert carnival was not surprising since the assailants had been masked and the applicant himself had not been able to recognize them. The RPD noted that the police had intervened at the time of the previous attacks and that the assailants had been found guilty, partly because of the principal applicant's testimony. This would be impossible in countries where the courts are reluctant to intervene in order to prosecute crimes committed by street gangs. In addition, the applicant himself was not completely sure that the last attack, which allegedly took place at the carnival, was related to the previous incidents.

[17] Lastly, the RPD noted that the objective evidence in the National Documentation Package on Saint Vincent and the Grenadines, dated November 30, 2001 [Package], did not contain any information suggesting that the police or courts of this country were corrupt or lacked independence

with respect to street gangs (Tab 9.1 of the Package: VCT102596.E). 11 September 2007. *Sections of the criminal code that outline provisions for bodily harm and assault causing bodily harm*). The statistics available show rather that the country has a police and judicial system to punish violent crimes (Tab 9.2 of the Package: Justice Studies Center of the Americas. 2007. "Saint Vincent and the Grenadines." *Judicial Systems in the Americas 2006-2007*, pp. 535–538).

[18] The RPD concluded that the principal applicant did not discharge his burden of proving that he had been involved in something more serious than a street fight and had failed to establish his risk of persecution or harm to be able to avail himself of Canada's protection under paragraph 97(1)(*b*) of the IRPA.

[19] The RPD also found that the minor applicant had not discharged his burden of demonstrating that he faced any risk from his father's presence in Saint Vincent and the Grenadines, a risk that would justify his claim for protection under subsection 97(1) of the IRPA. There was no evidence to establish that the father of the minor applicant was looking for him or that, given the time that had gone by since 2005, he would abuse or assault him should he find him. The RPD also noted that, on a balance of probabilities, the applicants' father had been involved in the process for obtaining the passport and US visa for his minor son. In that regard, the applicants testified that the minor applicant had travelled to Canada with their brother and that they did not know whether their father had agreed to his minor son's leaving the country.

[20] The RPD added that if the minor applicant did not need his father's consent for leaving the country, which it doubted, this meant that someone else had signed the minor applicant's passport

application and that this person could therefore care for him. According to the RPD, this is a likely possibility according to the documentary evidence (Tab 5.10 of the Package: VCT103742.FE. 19 May 2011. *Information on the protection and resources provided by the government and non-governmental organizations (NGOs) to orphaned children and orphans who have one parent subject to a prohibition order* (pages 99–105, Panel Record)).

[21] In light of the information contained in the Response to Information Request (from the Director of Research at the IRB), the RPD concluded that the minor applicant could also be placed in a foster family. For a better understanding of the RPD's reasons, the relevant excerpt from the consulted document is reproduced below:

> The Director [of the Ministry of National Mobilization, Social Development, the Family, Persons with Disabilities, Youth, Sports and Culture] noted that when a particular case involving a child is brought to the attention of the State, either by a citizen or a social worker, the State tries to provide assistance (Saint Vincent and the Grenadines 29 Apr. 2011). 2011). However, the Director pointed out that since Saint Vincent and the Grenadines is not a rich country, it can only provide "limited assistance" (*ibid.*). The Director also explained that children are considered orphans if one or both of their parents have died (*ibid.*).
>
> According to the Director, members of the orphaned children's families are sometimes the ones looking after them after their parents have died (*ibid.*). In some cases, the people who have taken the children in have the means to look after them without assistance from the State (*ibid.*). However, the Director also explained that the State may offer monthly financial assistance, depending on the specific needs of the children (*ibid.*). He indicated as an example that the State may provide assistance in purchasing school supplies (*ibid.*).
>
> Saint Vincent and the Grenadines also has a foster home placement program (Saint Vincent and the Grenadines 29 Apr. 2011; *ibid.* n.d.b). According to the website of the Family Services Division, this program is intended for children who cannot live with their biological parents and includes orphans (*ibid.*). The children placed

> with foster families also include children whose parents cannot take responsibility for them and those whose parents have rejected, mistreated or abandoned them (*ibid.*). According to the Director, there are approximately 225 children living with foster families in the country (*ibid.* 29 Apr. 2011). The website explains that children between the ages of 0 and 16 can be placed in foster families (*ibid.* n.d.b). According to the site, the foster family may be provided with some financial assistance by the State (*ibid.*).

[22] The RPD also quoted the following excerpt to support its finding that it was possible for the minor applicant to find a foster family:

> Sources indicate that the country has a foster care system (St. Vincent and the Grenadines 3 Oct. 2011; SVGHRA 30 Sept. 2011), that serves children up to 16 years (St. Vincent and the Grenadines 3 Oct. 2011). According to the Family Services director, approximately 200 children are in foster care (St. Vincent and the Grenadines 3 Oct. 2011). Of the 200 children, he claims that approximately 60 to 70 per cent are victims of child abuse, including physical abuse, sexual abuse, and gross neglect (*ibid*).

[23] It should be noted here that the RPD also referred to the document contained at Tab 5.2 of the Package, namely VCT103849.E. *Prevalence and forms of child abuse, including legislation, state protection and availability of child protection services* (2008–2011), but that only the document found at Tab 5.10 is reproduced in the Panel Record. Since the responses to requests for information are not available electronically, the Court assumes that the excerpt quoted in the last paragraph of the decision under review comes from Tab 5.2.

[24] In light of all of these reasons, the RPD concluded that the risk of abuse alleged by the minor applicant was no more than a mere possibility, which is not sufficient to justify his claim for refugee protection. Lastly, the RPD noted that, in the alternative, the applicant's older brother who

brought him to Canada could care for him in the event that the child is forced to live with his father and the father abuses or assaults him.

Issues and applicable standards of review

[25] The applicants raised the following issues in their application for judicial review:

a. Did the RPD err in its assessment of the principal applicant's credibility with regard to his subjective fear and the minor applicant's fear?
b. Did the RPD err in finding that state protection was available for the applicants?
c. Did the RPD's failure to inform the principal applicant that the internal flight alternative was an important issue deny him of the procedural fairness to which he was entitled?

[26] The first issue concerns the RPD's assessment of the evidence and of the applicants' credibility, which is reviewable on the standard of reasonableness. Consequently, the RPD's conclusions should stand unless the underlying reasoning was flawed and falls outside "a range of possible, acceptable outcomes which are defensible in respect of the facts and law" (*Dunsmuir v New Brunswick*, 2008 SCC 9 at paragraph 47, [2008] 1 SCR 190 [*Dunsmuir*]; *Byaje v Canada (Minister of Citizenship and Immigration)*, 2010 FC 90 at paragraph 5, [2010] FCJ 103).

[27] The same applies to questions of mixed law and fact such as the RPD's determination of state protection (*Greaves v Canada (Minister of Citizenship and Immigration)*, 2012 FC 736 at paragraph 5, [2012] FCJ 754) and its findings of fact regarding an internal flight alternative (*Franklyn v Canada (Minister of Citizenship and Immigration)*, 2005 FC 1249 at paragraph 18, [2005] FCJ 1508; *Rueda v Canada (Minister of Citizenship and Immigration)*, 2009 FC 828 at paragraph 58, [2009] FCJ 937).

[28] Lastly, the issue whether the applicant had the opportunity to make submissions regarding the internal flight alternative is a question of procedural fairness, reviewable on the standard of correctness (*Gomes v Canada (Minister of Citizenship and Immigration)*, 2006 FC 419 at paragraph 6, [2006] FCJ 520 [*Gomes*]).

Analysis

[29] For the reasons that follow, it is my view that the Court's intervention is not required in the present matter.

Did the RPD err in its assessment of the principal applicant's credibility with regard to his subjective fear and the minor applicant's fear?

Credibility of principal applicant

[30] The principal applicant submits that the RPD's analysis of his credibility was speculative and inferential and that it was unreasonable for the RPD to criticize him for not knowing the leader or members of the gang that attacked him, for not keeping informed about the gang through newspapers and for not really knowing whether members of the gang had committed crimes or served sentences. He alleges that the RPD imposed an excessive burden of proof on him given that he has not lived in Saint Vincent since 2008. He also claims that had he paid special attention to the gang's activities, he could have incurred the gang members' wrath even further. He submits that the RPD could not expect him to carry out the investigative work of a police officer.

[31] Considering that this was the very basis of the principal applicant's claim for refugee protection, there is no doubt that it was reasonable for the RPD to question the facts to ensure that

they were true. Upon reading the hearing transcripts, the Court shares the RPD's and the respondent's opinion that the principal applicant's testimony on the gang was generally vague and imprecise. It was not until he was re-examined several times on the activities and the crimes committed by the members of the gang in question that the principal applicant finally mentioned some murders and assaults, without, however, clarifying or providing more information on the outcome of these incidents or the people involved in them. Contrary to what the applicant asserts, I am not satisfied that his burden was excessive. His testimony raises reasonable doubts about the genuineness of his feeling targeted and harassed by the gang. The panel's reasoning that if the principal applicant had felt harassed, he would have found out more about the gang is not unreasonable as such. The RPD's questions on this matter clearly concerned the time the applicant lived in his country.

[32] The Court cannot intervene to reassess the evidence if the RPD's finding is defensible as being reasonable on the basis of the evidence. I consider that to be the situation here. Since the applicant failed to explain why he believed he had been the target of members of the gang, the RPD was unable to determine whether the alleged risk was personalized and prospective.

[33] The principal applicant submits that the RPD identified contradictions where there were none in its analysis of the applicant's reasons for not making a refugee claim at the first opportunity, that is, on his first trip to Canada in August 2008.

[34] Upon reviewing the hearing transcripts, it is my view that the principal applicant's testimony in this respect does not contain any major contradictions, even though the RPD's conclusions do not

seem to be unreasonable either. It was reasonable for the RPD to draw a negative inference on the credibility of the principal applicant, with regard to his subjective fear of persecution, the time that elapsed between his arrival in Canada and his claiming refugee protection and the fact that he returned to Saint Vincent after his first visit to Canada.

[35] In an older decision, the Federal Court of Appeal indicates that "(t)he delay in making a claim to refugee status or in leaving a country of persecution is not a decisive factor in itself. It is, however, a relevant element which the tribunal may take into account in assessing both the statements and the actions and deeds of a claimant" (*Huerta v Canada (Minister of Citizenship and Immigration)*, 1993 FCA 271, 1993, 157 NR 225 (FCA)). This Court's case law recognizes that a refugee claimant's delay in seeking protection can be a reasonable factor when assessing the truthfulness of his or her subjective fear, particularly when the credibility of his or her narrative is already tainted (*Peti v Canada (Minister of Citizenship and Immigration)*, 2012 FC 82 at paragraph 42, [2012] FCJ 68; *Valera v Canada (Minister of Citizenship and Immigration)*, 2008 FC 1384 at paragraph 13, [2008] FCJ 1775). Furthermore, a refugee protection claimant's returning to his or her country after having left it a first time is another factor that it is reasonable to take into account (*Rocha v Canada (Minister of Citizenship and Immigration)*, 2010 FC 195 at paragraphs 8–10, [2010] FCJ 228). In light of this case law, I find that the RPD's conclusion in the present matter was not unreasonable.

[36] With regard to the medical report filed by the principal applicant, while it corroborated the fact that the principal applicant had been physically harmed in the past, it could not corroborate his alleged subjective and prospective fear of persecution. Since the RPD concluded that the principal

applicant had likely been involved in street fights, the medical report was of no help, and the RPD was not required to refer to it in its reasons. The mere fact of not referring to it does not allow the Court to conclude that it failed to consider it (*Florea v Canada (Minister of Employment and Immigration)* (FCA), [1993] FCJ 598).

[37] The role of this Court in the context of an application for judicial review is not to repeat the exercise of assessing the evidence and thus "usurp the Board's role as trier of fact", to quote Justice Mosley in *Gardanzari v Canada (Minister of Citizenship and Immigration)*, 2005 FC 1047 at paragraph 14, [2005] FCJ 1320.

Minor applicant's fear

[38] With regard to the risk alleged by the minor applicant, namely having to live with his father, a clarification must be made before reviewing the applicants' arguments.

[39] The applicants are challenging all the other solutions proposed by the RPD, such as the possibility of the minor applicant being placed in a foster family, living with other members of his family or, alternatively, living with the brother who accompanied him to Canada, if, indeed, he has no other choice but to live with his father and his father turns out to be violent or abusive. It must not be forgotten that this part of the decision is but a logical extension of the RPD's conclusion on the merit of the minor applicant's claim for refugee protection. The RPD concluded, on a balance of probabilities, that the minor applicant would not be at risk of being abused by his father if he had to return to his country, given that he had not had any problems since 2005 and that there were valid grounds for believing that his father had agreed to the minor applicant's getting a passport and leaving the country.

[40] The applicants failed to submit any evidence that the father had been denied his parental authority or that the parental bond between the minor applicant and his father had been broken to the point that the father's consent was not required for the minor applicant to leave the country. According to the RPD, if that were the case, the minor applicant would not have to live with his father should he return to his country, but could live with the person who signed his passport application, be that his brother or another relative.

[41] The applicants submit that this conclusion has no factual basis and that the panel should have taken all reasonable measures to refine its understanding of the facts if it wanted to base its decision on this conclusion.

[42] The respondent refers the Court to a Response to Information Request (Tab 3.5: VCT103090.E. 23 March 2009. *Procedure for a minor to be issued a passport; whether written authorization from both parents is a requirement*), which sets out the instructions for applying for a passport for a minor, available on the Web site of the Organisation of Eastern Caribbean States. The document states that "(c)hildren under 16 must complete Form B and have the application signed by the parent".

[43] Even though the RPD did not specifically refer to this document in its reasons, it nonetheless has specialized knowledge of such procedures. I am of the opinion that, in the circumstances, the Court owes a certain level of deference to the RPD's observations, particularly in the context where

the applicants were unable to shed any light on the issue. The onus was theirs (*Soares v Canada (Minister of Citizenship and Immigration)*, 2007 FC 190 at paragraph 22, [2007] FCJ 254).

[44] It is my view that all the other arguments of the minor applicant, with whom we can certainly sympathize, fall more within the purview of an application for permanent residence on humanitarian grounds (if the principal applicant's claim for refugee protection were allowed) than a claim for refugee protection on the grounds listed at sections 96 and 97 of the IRPA. In other words, it was sufficient for the RPD to conclude that the minor applicant has no subjective fear of persecution should he return to his country to dispose of his claim for refugee protection in Canada.

[45] I conclude therefore that the RPD did not err in its assessment of the minor applicant's fear or make other erroneous findings of fact in respect of his claim for protection.

Did the RPD err in finding that state protection was available for the applicants?

[46] The applicants' arguments about state protection in their country essentially rely on the facts. The principal applicant submits that the fact that his assailants successfully obtained a pardon (after being convicted) demonstrates not only that the courts are unwilling to punish members of street gangs, but also that they cannot intervene at the group level even if they can punish individual members. In other words, convicting the assailants will not stop other gang members from attempting to take their revenge on him or continuing to persecute him.

[47] Both parties rely on the Federal Court of Appeal's decision in *Carillo v Canada (Minister of Citizenship and Immigration)*, 2008 FCA 94, [2008] FCJ 399 [*Carrillo*], to argue that state

protection does (according to the applicant), or does not (according to the respondent), have to be adequate. According to most of the case law of this Court, the accepted standard is "adequate" and not "effective" or "perfect" state protection (*Canada (Minister of Employment and Immigration) v Villafranca*, [1992] FCJ 1189, 99 DLR (4th) 334 (FCA); *Mendez v Canada (Minister of Citizenship and Immigration)*, 2008 FC 584 at paragraphs 18–23, [2008] FCJ 771; *Cueto v Canada (Minister of Citizenship and Immigration)*, 2009 FC 805 at paragraphs 27–28, [2009] FCJ 917).

[48] In the decision before me, the RPD relied on objective documentary evidence to conclude that Saint Vincent and the Grenadines have a police and judicial system to punish violent crimes and that there was no evidence that this system is corrupt or biased. The RPD's finding that this principle is confirmed in the case of the principal applicant who obtained some protection in the two instances where he was attacked is also reasonable. The fact that the principal applicant's assailants were pardoned does not demonstrate that the state was unable to act or refused to act, given that in the case of the first two attacks, the assailants were minors, and in the case of the third incident, the principal applicant himself was unable to identify his assailants.

[49] Adequate protection does not include preventive protection as the applicant understands it, namely, his assailants' conviction systematically saving him from any future attacks. The risk the principal applicant faces was analyzed by the RPD, which concluded, on a balance of probabilities, that it was not significant. The RPD's decision is defensible and reasonable in that respect.

[50] As regards the minor applicant, the Court notes that it is presumed that states are capable of protecting their citizens unless they are unable to do so because of a complete breakdown of state

apparatus (*Canada (Attorney General) v Ward*, [1993] 2 SCR 689 at paragraph 50). It is well established that it is the refugee claimant's responsibility to rebut this presumption by adducing "relevant, reliable and convincing" evidence that shows, on a balance of probabilities, that state protection is inadequate in his or her case (*Carrillo*, above, at paragraph 30). Nothing of the sort was done by the applicants in this case to attempt to obtain the state's protection of the minor applicant; they also failed to establish that it was objectively unreasonable to do so.

Did the RPD's failure to inform the principal applicant that the internal flight alternative was an important issue deny him of the procedural fairness to which he was entitled?

[51] The principal applicant submits that the RPD violated its duty of procedural fairness since it did not raise the issue of an internal flight alternative at the start of the hearing and that, consequently, he was denied the opportunity to make submissions on this issue. The applicants referred to several decisions of this Court—including *Augustine v Canada (Minister of Citizenship and Immigration)*, [1998] FCJ 1069; *Sivamayam v Canada (Minister of Citizenship and Immigration)*, [1999] FCJ 1218; and *Gomes*, above—to argue that the RPD had an obligation, at the beginning of the hearing, to bring all the important issues raised by their claim for refugee protection to their attention.

[52] In *Gomes*, Justice Barnes, reviewed the case law applicable in this matter. It emerges that the RPD's duty is to ensure that the claimant is aware of all the issues "it considers to be . . . potentially determinative" (*Gomes*, above, at paragraph 7). At the outset, the RPD told the applicants:

> So with respect to the issues, well we'll have to investigate the fear of the claimant today, what the claimants fear if they were

> returned. Credibility of course is always in play, and state protection is of course the key concern.

[53] It is true that the issue of the internal flight alternative was not mentioned at this stage of the hearing, but counsel for the applicants examined the principal applicant on this point. He submits, however, that had this issue been identified as being determinative at the start of the hearing, he would have spent more time on it during his examination.

[54] The transcript of the hearing and the written submissions of counsel for the applicants before the RPD reveal not only that counsel was aware of this aspect of the claim, but also that he considered it to be important and determinative enough to address it in both his oral and written submissions. This argument is therefore rejected (see *Thevarajah v Canada (Minister of Citizenship and Immigration)*, 2004 FC 1654 at paragraph 16, [2004] FCJ 2008).

[55] In conclusion, the Court's intervention in this case is not required. No question of general importance has been proposed, and none arises from this case.

JUDGMENT

THIS COURT ORDERS AND ADJUDGES that

1. This application for judicial review be dismissed.

2. No question is certified.

"Jocelyne Gagné"
Judge

Certified true translation
Johanna Kratz, Translator

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	IMM-2691-12
STYLE OF CAUSE:	Dailon Ronald Scott & Dexton Kimron C Scott and MCI
PLACE OF HEARING:	Montréal, Quebec
DATE OF HEARING:	August 29, 2012
REASONS FOR JUDGMENT AND JUDGMENT BY:	THE HONOURABLE MADAM JUSTICE GAGNÉ
DATED:	September 10, 2012

APPEARANCES:

Éric Taillefer	**FOR THE APPLICANT**
Gretchen Timmins	**FOR THE RESPONDENT**

SOLICITORS OF RECORD:

Éric Taillefer Montréal, Quebec	**FOR THE APPLICANT**
Deputy Attorney General of Canada Guy Favreau Complex Montréal, Quebec	**FOR THE RESPONDENT**