

Federal Court



Cour fédérale

**Date: 20130125**

**Docket: IMM-3173-12**

**Citation: 2013 FC 053**

**Ottawa, Ontario, January 25, 2013**

**PRESENT: The Honourable Mr. Justice O'Reilly**

**BETWEEN:**

**GREGORY SHAWN JOHNSON**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP  
AND IMMIGRATION**

**Respondent**

**REASONS FOR JUDGMENT AND JUDGMENT**

I. Overview

[1] Mr Gregory Shawn Johnson has lived in Canada since 1988 when he arrived here from Jamaica. He was 15 at the time. He became a permanent resident two years later.

[2] In 2007, Mr Johnson was convicted of assault with a weapon, aggravated assault, and criminal negligence causing bodily harm. The victim was his two-year-old daughter. He was sentenced to seven years' imprisonment, less three years' credit for pre-trial custody.

[3] In 2008, based on his crimes, Mr Johnson was found to be inadmissible to Canada.

[4] While in prison, Mr Johnson was diagnosed with schizophrenia. In 2010, he was transferred to the Regional Treatment Centre (RTC) at Kingston Penitentiary. He was prescribed anti-psychotic drugs to control his symptoms.

[5] After completing his sentence in 2011, Mr Johnson was transferred to the Toronto West Detention Centre to await deportation. He applied for a pre-removal risk assessment (PRRA), but the officer conducting the PRRA dismissed his application. The officer concluded that Mr Johnson had not established that his life would be at risk in Jamaica, or that he would be exposed to a risk of cruel and unusual treatment.

[6] Mr Johnson argues that the officer's decision was unreasonable given that she overlooked evidence about his condition, failed to recognize that mistreatment of mentally ill persons is widespread in Jamaica, and neglected to appreciate the nature of the risk he fears.

[7] In essence, the sole issue is whether the officer's decision was unreasonable.

## II. The officer's decision

[8] The officer reviewed the evidence before her relating to Mr Johnson's condition. This evidence consisted of medical notes from the Correctional Service of Canada (CSC) and the Toronto West Detention Centre, and documentary evidence about schizophrenia in general. The officer also reviewed evidence about the availability of treatment in Jamaica particularly, and general country conditions in Jamaica.

[9] The medical notes are difficult to decipher. The officer found that these notes showed that Mr Johnson experiences schizophrenia and presents active symptoms of the disease, but they did not actually describe those symptoms. The notes also indicated that Mr Johnson takes anti-psychotic medications (olanzapine and risperidone) and, if he discontinued them, that he would experience a relapse.

[10] However, the officer noted that there was no evidence about Mr Johnson's medical history prior to his diagnosis, little information about his symptoms or treatment compliance history, and few details about his family support network. Given that symptoms can vary widely, the officer felt she could not draw a conclusion about Mr Johnson's particular experience of schizophrenia.

[11] Included in the documentary evidence were letters written by physicians about other patients. The letters describe the limited treatment available to schizophrenia patients in Jamaica. The officer gave these letters little weight since they were not about Mr Johnson.

[12] The officer referred to other documentary evidence showing that people with mental health issues are stigmatized in Jamaica. Treatment is generally community-based rather than institutional.

Police receive special training in dealing with mental health issues. However, some of the relatively new, atypical anti-psychotic drugs are unavailable, and some patients are homeless.

[13] The officer felt there was insufficient evidence showing that Mr Johnson could not obtain the treatment he needs in Jamaica. While his current medication may not be available, the officer could not determine that other medications would be unsuitable. Since it appears that he takes his medication now, one would expect that he will continue to comply with his treatment in Jamaica.

[14] The officer also noted that there was little evidence that abuse of people with mental illness is widespread in Jamaica. Further, the rate of homelessness among the mentally ill is quite low.

[15] The officer also referred to documentary evidence showing the high crime rate and poor human rights situation in Jamaica. However, conditions are improving and, in any case, any risk to Mr Johnson would be generalized, experienced by the population as a whole.

[16] In sum, the officer concluded that Mr Johnson had failed to establish a risk that fell within s 97 of the *Immigration and Refugee Protection Act*, SC 2001, c 27 (see Annex).

### III. Was the officer's decision unreasonable?

[17] Mr Johnson points to three areas where the officer may have erred. I will consider each in turn.

1. Did the officer overlook the medical evidence relating to Mr Johnson's condition?

[18] The evidence before the officer included the following information about Mr Johnson and related topics:

- his prescription regimen (injections of risperidone and ingestion of olanzapine tablets);
- his overall condition was good, but he continued to have auditory hallucinations which did not bother him greatly;
- he experienced psychotic symptoms on admission, but those went away when he was medicated;
- his symptoms would likely return within weeks without proper medication;
- it was unclear what medications were available in Jamaica;
- his designated representative believed Mr Johnson was unable to understand the nature of the detention review proceedings;
- general information about schizophrenia and its treatment;
- information about the situation and resources in Jamaica, including the availability of older medicines and the cost of newer medicines, the degree of discrimination against the mentally ill, and the rate of homelessness among the mentally ill.

[19] In my view, the officer's conclusion – that the evidence about Mr. Johnson's mental health issues and the circumstances he would likely face in Jamaica lacked detail – was not unreasonable.

The officer's reasons, as set out above, included a fair summary of the actual evidence relating to

Mr Johnson's condition.

2. Did the officer fail to recognize that mistreatment of mentally ill persons is widespread in Jamaica?

[20] As the officer acknowledged, documentary evidence showed that the mentally ill in Jamaica are often stigmatized, abused or discriminated against, particularly those who have been deported from abroad. However, documents also indicated that the mentally ill can often be treated at home or in community facilities, the police are usually able to calm down agitated persons, and volunteer groups and group homes offer treatment to people with schizophrenia.

[21] Given the range of evidence before the officer, I cannot find that the officer's conclusion – that mistreatment of the mentally ill is not widespread in Jamaica – was unreasonable.

3. Did the officer neglect to appreciate the nature of the risk he fears?

[22] Mr Johnson argues that the officer unreasonably failed to recognize that the conditions facing him in Jamaica amount to cruel and unusual treatment.

[23] In light of the evidence reviewed above, I cannot agree with Mr Johnson's submission. The evidence did not contain particularities about Mr Johnson's personal circumstances or future needs. Nor did it support Mr Johnson's contention that he would face a substantial risk of mistreatment,

abuse and homelessness. Accordingly, I cannot conclude that the office failed to appreciate the nature of the risk underlying Mr Johnson's PRRA application.

IV. Conclusion and Disposition

[24] The officer's conclusion represented a defensible outcome based on the facts and the law. Therefore, it was not unreasonable, and I must dismiss this application for judicial review. Neither party proposed a question of general importance to be certified, and none is stated.

**JUDGMENT**

**THIS COURT’S JUDGMENT is that:**

1. The application for judicial review is dismissed;
2. No question of general importance is stated.

“James W. O’Reilly”

---

Judge



## Annex "A"

***Immigration and Refugee Protection Act, SC 2001 c 27******Loi sur l'immigration et la protection des réfugiés, LC 2001, ch. 27***

## Person in need of protection

97. (1) A person in need of protection is a person in Canada whose removal to their country or countries of nationality or, if they do not have a country of nationality, their country of former habitual residence, would subject them personally

(a) to a danger, believed on substantial grounds to exist, of torture within the meaning of Article 1 of the Convention Against Torture; or

(b) to a risk to their life or to a risk of cruel and unusual treatment or punishment if

(i) the person is unable or, because of that risk, unwilling to avail themselves of the protection of that country,

(ii) the risk would be faced by the person in every part of that country and is not faced generally by other individuals in or from that country,

(iii) the risk is not inherent or incidental to lawful sanctions, unless imposed in disregard of accepted international standards, and

(iv) the risk is not caused by the inability of that country to provide adequate health or medical care.

## Person in need of protection

(2) A person in Canada who is a member of a class of persons prescribed by the regulations as being in need of protection is also a person in need of protection.

## Personne à protéger

97. (1) A qualité de personne à protéger la personne qui se trouve au Canada et serait personnellement, par son renvoi vers tout pays dont elle a la nationalité ou, si elle n'a pas de nationalité, dans lequel elle avait sa résidence habituelle, exposée :

a) soit au risque, s'il y a des motifs sérieux de le croire, d'être soumise à la torture au sens de l'article premier de la Convention contre la torture;

b) soit à une menace à sa vie ou au risque de traitements ou peines cruels et inusités dans le cas suivant :

(i) elle ne peut ou, de ce fait, ne veut se réclamer de la protection de ce pays,

(ii) elle y est exposée en tout lieu de ce pays alors que d'autres personnes originaires de ce pays ou qui s'y trouvent ne le sont généralement pas,

(iii) la menace ou le risque ne résulte pas de sanctions légitimes — sauf celles infligées au mépris des normes internationales — et inhérents à celles-ci ou occasionnés par elles,

(iv) la menace ou le risque ne résulte pas de l'incapacité du pays de fournir des soins médicaux ou de santé adéquats.

## Note marginale : Personne à protéger

(2) A également qualité de personne à protéger la personne qui se trouve au Canada et fait partie d'une catégorie de personnes auxquelles est reconnu par règlement le besoin de protection.

**FEDERAL COURT**

**SOLICITORS OF RECORD**

**DOCKET:** IMM-3173-12

**STYLE OF CAUSE:** GREGORY SHAWN JOHNSON  
v  
THE MINISTER OF CITIZENSHIP AND  
IMMIGRATION

**PLACE OF HEARING:** Toronto, Ontario

**DATE OF HEARING:** December 11, 2012

**REASONS FOR JUDGMENT  
AND JUDGMENT:** O'REILLY J.

**DATED:** January 25, 2013

**APPEARANCES:**

Alyssa Manning FOR THE APPLICANT

Kristina Dragaitis FOR THE RESPONDENT

**SOLICITORS OF RECORD:**

Alyssa Manning FOR THE APPLICANT  
Refugee Law Office  
Barrister & Solicitor  
Toronto, Ontario

William F. Pentney FOR THE RESPONDENT  
Deputy Attorney General of Canada  
Toronto, Ontario