Federal Court  Cour fédérale

Date: 20140307

Docket: IMM-7176-13
IMM-6541-13
IMM-8249-13
IMM-549-14
IMM-934-14

Citation: 2014 FC 230

Ottawa, Ontario, March 7, 2014

PRESENT: The Honourable Mr Justice de Montigny

BETWEEN:

CARMELO BRUZZESE

Applicant

and

THE MINISTER OF PUBLIC SAFETY AND EMERGENCY PREPAREDNESS

Respondent

REASONS FOR JUDGMENT AND JUDGMENT

[1] These are applications for judicial review, pursuant to subsection 72(1) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 (*"IRPA"*) of two decisions to continue the detention of Mr Carmelo Bruzzese (the "Applicant" or "Mr Bruzzese") made by the Immigration Division ("ID") Member Ronald Stratigopoulos on October 4, 2013 (file IMM-6541-13) and by ID Member Mary Lou Funston on November 1, 2013 (file IMM 7176-13). Both of these decisions rely upon the

initial decision made to continue Mr Bruzzese's detention by ID Member Iris Kohler on September 16, 2013.

[2] In light of the revolving nature of these detention reviews, and because each of these decisions build upon the previous ones, the Court also decided to take up the following three applications filed by the Applicant whereby he challenges the decisions to further continue his detention made by ID Member Ama Beecham on December 10, 2013 (IMM-8249-13), ID Member Lori Del Duca on January 14, 2014 (IMM-549-14) and ID Member David Young on February 7, 2014 (IMM-934-14).

1. Facts

[3] Mr Carmelo Bruzzese is an Italian citizen and a permanent resident in Canada. He first immigrated to Canada on May 3, 1974. He returned to Italy in 1977, and travelled back and forth to Canada many times since then. He came back to Canada on December 12, 2009 with the intention to settle here. His wife, Carla Calabro, is a Canadian citizen. He has five adult children, some residing in Canada and others in Italy.

[4] In 2008, Mr Bruzzese was charged and faced a trial in Italy on the allegation that he was associated with the Rizzuto criminal organization. He was acquitted of this charge. At the hearing, the presiding judge noted however that Mr Bruzzese is definitely associated with the Calabrian mafia, the 'Ndrangheta. Charges were later laid against Mr Bruzzese on the basis of his association with the 'Ndrangheta. On September 2010, a warrant was issued for his arrest by the Italian

authorities pursuant to article 416-bis of the *Italian Criminal Code*, which deals with mafia-type association crime.

[5] According to an Europol paper (*'NDRANGHETA – Criminal Structure of the Calabrese Mafia*, Application Record in IMM-7176-13, p 294), the 'Ndrangheta is a powerful criminal organization deeply involved in drug trafficking, money laundering, corrupt tendering, extortion, loan sharking, weapons trafficking and prostitution. The 'Ndrangheta uses intimidation to exercise power, threatening the person's health, property or economic interests, and does not refrain from killing those who do not cooperate. It has established many "locali" across the globe, and it is believed that it operates a number of different locali in Canada, most of them in the Greater Toronto Area.

[6] On August 21, 2013, a section 44 *IRPA* report was written alleging that Mr Bruzzese is inadmissible under paragraph 37(1)(a) of the *IRPA* for membership in the 'Ndrangheta, a criminal organization. The report was referred to the Immigration Division. On August 22, 2013, a warrant was issued for Mr Bruzzese's arrest and on August 23, 2013, Mr Bruzzese was arrested and detained by the immigration authorities on the allegation of being unlikely to appear and of being a danger to the public. As previously mentioned, Mr Bruzzese has had six detention reviews so far.

2. Decisions under review

[7] As indicated above, the Applicant's judicial reviews at bar concern the decisions on the 7-day and 30-day detention reviews. To the extent that these decisions heavily rely on the first review,

the 48-hour detention review, it is relevant to summarize that decision as well. A word will also be said about the last three detention reviews.

- **The 48-hour detention review (September 16, 2013)**

[8] Member Kohler ordered the Applicant's continued detention on the basis that he is a danger to the public and that he was unlikely to appear for removal. With respect to danger, the member accepted, on a balance of probabilities, that the 'Ndrangheta is a criminal organization pursuant to section 467.1 of the *Criminal Code*, RSC 1985, c C-46. She also found that Mr Bruzzese has an association with that organization, on the basis of a number of factors: he is facing charges in Italy for his association with a mafia organization, a warrant was issued for his arrest, his son was convicted of mafia association and his daughter is married to a man believed to be a high ranking official in the 'Ndrangheta, an Italian judge had found strong evidence that Bruzzese was deeply involved in the 'Ndrangheta, and Mr Bruzzese had been caught on surveillance and wiretaps associating with known members of the 'Ndrangheta.

[9] Member Kohler also observed that the circumstances of Mr Bruzzese's life in Canada indicated an association with a criminal organization: he admitted under oath that he had his children physically bring large sums of cash from Italy on a regular basis instead of using bank wire transfers or electronic transfers, he also acknowledged during his testimony that he drove a BMW registered in another person's name whose last name he did not know, he claimed medications prescribed to another person as his own, he bought a $600,000 home in Canada with one of his sons despite stating in the hearing that he did not earn enough money in Canada to file a tax return, and there was a news article quoting the Italian judge describing a sophisticated hiding place in Mr

Bruzzese's Italian home. Member Kohler found that, on a balance of probabilities, all that evidence indicated that Mr Bruzzese was associated with a criminal organization.

[10] Member Kohler also found that the Applicant was likely to appear for his admissibility hearing but unlikely to appear for a removal order if one is issued. Mr Bruzzese has an arrest warrant issued against him in Italy. As there is no Canadian equivalent for the charge of association with a mafia-like organization (article 416-bis of the *Italian Criminal Code*), Canada would not extradite him. Therefore, the only thing standing between Mr Bruzzese and the Italian justice system is an admissibility hearing; as noted by Member Kohler, the stakes are high but the benefit is priceless, and he will therefore likely appear for his admissibility hearing. That being said, Mr Bruzzese could be considered a fugitive from justice as he would likely have known from the Italian Judge's findings on his previous prosecution that the authorities would investigate him further, and he knew of the criminal charges subsequently laid against him in Italy, yet he chose not to return to Italy to address them. Member Kohler was of the view that subsection 245(a) of the *Immigration and Refugee Protection Regulations*, SOR/2002-227 ("*IRPR*") is broad enough to cover a person who fled when aware of an ongoing investigation that could implicate him in criminal conduct. It is on that basis that Member Kohler found on a balance of probabilities that Mr Bruzzese is unlikely to appear for removal.

[11] The ID Member also found that Mr Bruzzese misled Canadian officials about his criminal charges in Italy, as well as the location of his passport. On his application to change the conditions of or extend his stay in Canada, Mr Bruzzese did not disclose the criminal charges in Italy. The fact that he surrendered his passport on the first day of that hearing was given little weight, given that it

expires on November 4, 2013, that he does not require a passport if he goes underground, and that an individual associated with a criminal organization can easily obtain a fraudulent one.

[12] Member Kohler also found that Mr Bruzzese ought to be detained immediately to ensure his availability for removal should that be required. She was of the view that by the time the admissibility hearing decision is rendered, Mr Bruzzese would already have made preparations and gone underground in anticipation of an unfavourable decision. Being associated with a criminal organization, he would have tremendous resources to avail himself of, to repay breached bonds and to assist with eluding the authorities.

[13] The proposed bondspersons were rejected. Mr Savarino, who is Mr Bruzzese's great-nephew, was willing to post $50,000 in cash and $40,000 conditional. He has never spoken to Mr Bruzzese by phone prior to his detention and only sees him on random Sundays at his grandmother's house. He was not sure where Mr Bruzzese lived and had only a vague understanding of his legal problems in Italy. While Mr Savarino claimed to be close to Mr Bruzzese's son Carlo, he was unsure whether Carlo faced charges or had been convicted of a crime in Italy. Mr Savarino's plan to supervise Mr Bruzzese consisted of calling the house and taking him to lunch on occasion, hoping that he would notice a break in Bruzzese's routine and then act thereon. Member Kohler did not accept Mr Savarino as a suitable bondsperson. He did not have a sufficiently close relationship with Mr Bruzzese for the purposes of a release order. Mr Savarino demonstrated little concerns for the seriousness of the allegations against Mr Bruzzese, and no ability to effectively supervise Mr Bruzzese. His respect for his great-uncle as an elder did not give confidence that he could ensure Mr Bruzzese's compliance.

[14] Mr Bruzzese's wife, Ms Calabro, was willing to post $10,000 in cash. There was much she did not know about her husband's activities. She could not remember whether she was on title for the family home in Canada. She did not know that Mr Bruzzese and his son Carlo had bought a house together. She did not know what credit cards her husband has, or how he pays the mortgage. She did not know the name of the person who owns the car that Mr Bruzzese drives or the names of the companies that he works for. Ms Calabro was inconsistent with her husband as to how much money their children would send them from Italy. She knew that Mr Bruzzese faced charges in Italy in 2008, but was unaware of the recent charges or the warrant for his arrest. Ms Calabro explained that she does not read the documents that she signs as she trusts her husband. Her plan to ensure that Mr Bruzzese didn't flee included calling him on the phone to ask what time he was coming home and trying to contact him through relatives if he did not answer. Member Kohler determined that Ms Calabro was not an effective surety, as she has no ability to be an effective supervisor, let alone offset the issue of danger. While her husband said she shared in decision making, this was not apparent from her testimony. There was much she did not know about her husband's activities. She cannot just change this relationship and become the boss of her husband to effect control over him. She would accept her husband's decision to remain in Canada and not leave when required. She is clearly dedicated to Mr Bruzzese and the family, and would not call the police on Mr Bruzzese and help police locate him.

[15] The third bondsperson to testify before Member Kohler is Mr Giuseppe Bruzzese, Mr Bruzzese's nephew. He was willing to post $50,000 in cash and $25,000 conditional. He had seen Mr Bruzzese only once in the past year, and had gone to Mr Bruzzese's home once. He was not aware that Mr Bruzzese was facing any legal problems and that he was wanted in Italy until Mr

Bruzzese's lawyer in Canada told him. Member Kohler found that he could not be trusted, as he had failed to follow the simple direction not to discuss his evidence with any of the other proposed bond signers or anyone else.

- **The second detention review (October 4, 2013)**

[16] At the 7-day detention review, Member Stratigopoulos ordered the Applicant's continuing detention on the grounds that he was a danger to the public and will be unlikely to appear for his removal order (see page 12 of the Oct 4 decision "Now having found that there are concerns as Member Kohler indicated, for danger and less so but still concerns about flight risk, …"). New evidence was presented by both sides in this detention review. There was a confirmation that Mr Bruzzese has no criminal record in Italy and no criminal proceedings are outstanding in the town of Locri, a town in the province of Reggio Calabria. The Minister presented a rebuttal that while there were no charges in Locri, there were outstanding charges or court proceedings in other places in Italy. The Minister also presented an audio recording (CD) of an Italian police officer's interview outlining information that Mr Bruzzese is involved in the 'Ndrangheta. Counsel for Mr Bruzzese noted that there were problems with the translation of the audio file. The panel indicated that the complaints about the translation were made by people who do not speak Italian, and decided to accept the CD.

[17] Member Stratigopoulos agreed with Member Kohler that Mr Bruzzese is likely to appear for his admissibility hearing. He noted that Mr Bruzzese has no history of eluding immigration authorities in Canada and did not appear to be in hiding when he was arrested. He did not accept that it was clear Mr Bruzzese is a fugitive, as it appears from the audio recording that the police

officer in Italy was not clear that Mr Bruzzese was aware of the investigation and that he fled because of it. There were still concerns about flight risk but the panel believed that these could be addressed by the use of a GPS monitoring system, suggesting that this could be a possible alternative to detention. Having said that, the panel member concluded that there is less but still some concerns about flight risk.

[18] The panel concluded as well that the release proposal does not offset the concerns about danger to the public. The panel found that the CD provided ample evidence of the dangers of the 'Ndrangheta and the fact that it operates in Canada. Even though there is no evidence that Mr Bruzzese had any convictions anywhere or that he was involved in violence offences, these were not a pre-requisite to a dangerousness finding. There was evidence from Italian authorities implicating the Applicant as a senior leader of the 'Ndrangheta in Italy, there was evidence that he faces serious charges in Italy arising from his suspected involvement in the group, and there was information from surveillance and wiretaps records showing him discussing 'Ndrangheta business with other 'Ndrangheta members. Moreover, his son Carlo has been convicted, and his daughter is married to an alleged senior 'Ndrangheta member. Member Stratigopoulos found that all of this supported the contention that Mr Bruzzese was associated with the 'Ndrangheta. He also concluded that there was insufficient information on which to conclude that the alternative to detention that Mr Bruzzese proposed would attenuate the risks posed by his release.

- **The third detention review (November 1, 2013)**

[19] No new evidence was provided to Member Funston, who decided to continue Mr Bruzzese's detention. The ID Member rejected the suggestion that the person needed a criminal

record or a propensity to violence to be a danger to the public as dangerousness could be made on any of the factors listed in section 246 of the *IRPR*. The 'Ndrangheta is a criminal organization operating in Canada, and it goes without saying that danger to the public is inherent in the activities of such a group.

[20] The evidence before Member Funston – Italian judicial decision and newspaper articles citing judicial and law enforcement authorities, documentation of the investigations conducted by the Italian police of the 'Ndrangheta, and the warrant for Mr Bruzzese's arrest for mafia association in Italy – was sufficient to establish the Applicant's association with the 'Ndrangheta. This evidence was challenged, but the panel was not presented with any evidence to challenge the fairness or the integrity of the Italian justice system. It was satisfied that Mr Bruzzese would not be subject to the current warrant pursuant to article 416-bis if there were no sufficient persuasive evidence of association with a criminal organization.

[21] Further *indicia* of Mr Bruzzese's association with the 'Ndrangheta existed in the finding of Judge Montoni in Italy in 2009 (that Bruzzese was involved in a criminal organization) as did the evidence of Mr Bruzzese's personal circumstances – the source of his funds in Canada, driving a BMW registered in the name of another person, the use of medication prescribed to another, the fact that a hiding place has been found in his house in Italy and the connection of other family members to organized crime. All of this supports the conclusion on a balance of probabilities that Mr Bruzzese is likely to pose a present and future danger to the public.

[22] Member Funston adopted Member Kohler's findings on the Applicant's first three proposed bondspersons, noting that she had not heard anything at the thirty-day review that demonstrated that those bondspersons were otherwise suitable. The ID Member also disagreed with ID Member Stratigopoulos and agreed with ID Member Kohler in finding that Mr Bruzzese is a fugitive from justice. The serious charges that the Applicant faces in Italy were a strong incentive for him to remain in Canada and made it less likely that he would show up for removal. While Member Funston noted that GPS monitoring could serve as an alternative to detention, it did not do so here as the bondspersons proposed were not suitable bondspersons.

- **The fourth detention review (December 10, 2013)**

[23] No new evidence was presented, and Member Beecham directed that Mr Bruzzese's detention be continued, finding that Mr Bruzzese was both a danger to the public and a flight risk. Member Beecham found that he was a flight risk because there is an active warrant for his arrest in Italy where he is wanted to face charges. This could very well impact Mr Bruzzese's desire to present himself willingly for possible removal should an order be issued. She noted that Mr Bruzzese is alleged to be a high ranking member of a criminal organization that gives assistance to fugitives from justice and gives shelter to people who are fugitives, thus giving the ability to people within this organization to go off the radar.

[24] The panel member once again considered the sentencing of Mr Bruzzese's son, his daughter's marriage to a leader of the organization, and his access to significant amounts of money. Member Beecham also pointed to the Applicant's lack of credibility, referring to the fact that he

drives someone else's car, takes his medications under someone else's name, and provided inaccurate information when he applied for some status in Canada.

[25] As for the danger to the public finding, the panel member was satisfied, based on her own assessment of the totality of the evidence, that the Applicant's arguments fail to refute the *prima facie* case that was established by the Minister. She also pointed out that the Applicant's arguments of November 28, 2013 are not new arguments and do not differ significantly from those made in prior reviews.

[26] Member Beecham maintained that subsection 246(b) of the *IRPR* is the factor to consider for determining whether or not the Applicant is a danger to the public as a result of being associated with a criminal organization. Therefore, it is important to determine whether or not the 'Ndrangheta is a criminal organization. The panel member concluded that there is enough evidence before her to find that the 'Ndrangheta is an organization or a group, composed of several persons, and engaged in economic and financial crimes, drug trafficking, money laundering, providing assistance to fugitives, etc. She also determined that subsection 246(b) of the *IRPR* does not require that a person be found complicit in order to be described as a danger to the public. Based on the evidence before her, Member Beecham concluded that Mr Bruzzese is an integral part of a criminal group and not only lightly associated with it.

[27] The panel member also addressed the alternative to detention, i.e. the four bondspersons along with the electronic monitoring and found that no additional information was provided that would make her deviate from the previous decisions. She highlighted that the ID should ensure that

a bondsperson is a surety and a supervisor at the same time, otherwise the ID would abdicate its responsibility. None of the potential bondspersons were identified as such. She was also of the view that the GPS monitoring would not be efficient in preventing the Applicant to re-establish the contacts, the networks and the connections with the 'Ndrangheta group.

[28] As for the length of detention, the panel member found that the Applicant had only been detained for three and half months, that the disclosure was understandably delayed because the Minister had to obtain and translate documents from Italy, and that persons detained benefit from faster admissibility hearings. As a result, length of detention was not an argument in favour of the release.

- **Fifth detention review (January 14, 2014)**

[29] The panel Member Lori Del Duca maintained the decisions of the previous members. Member Del Duca noted that there is no evidence of Mr Bruzzese having any convictions and any drug-related charges in or outside Canada. However, based on what Member Del Duca believed to be credible and trustworthy evidence before her and previous panel members, the panel found that Mr Bruzzese has an association with a criminal organization and continues to be a danger to the public under subsection 246(b) of the *IRPR*.

[30] The panel also concludes that Mr Bruzzese remains a flight risk. The panel relied on the previous findings that Mr Bruzzese is a fugitive and drew negative inferences from his lifestyle in Canada as did the previous members. Having been given no clear and compelling reasons to depart

from the flight risk finding made and relied upon by other members, Member Del Duca was therefore satisfied on a balance of probabilities that if released Mr Bruzzese would be a flight risk.

[31] Member Del Duca then considered the additional bondspersons offered and the total amount of bonds provided and noted that the approximately $400,000 amount being offered is a very high amount in most circumstances; yet in this case the amount does not carry the significance it would normally have. The panel was influenced by the documentary evidence showing that the 'Ndrangheta group provides money, shelter and respect to those on the run; viewed in this light, what appears at first sight to be a large amount is not so substantial. The panel also noted that the bondspersons lacked knowledge about Mr Bruzzese and could not effectively supervise him.

- **The sixth detention review (February 7, 2014)**

[32] After having heard counsel for both parties, Member Young decided to continue the detention. No new evidence was presented, but counsel for the Applicant put forward three arguments: 1) the reference to a "judge" by Board Member Kohler should have been to a "prosecuting judge"; 2) there is a two-year window from the time the warrant was issued to take action on it, and no action has been taken yet; and 3) there has been no supporting evidence regarding the wiretaps referred to in previous submissions by the Minister and as such, the weight to be given to this evidence should diminish over time and the *onus* on the Minister increase to present this supporting evidence.

[33] The panel found that the news article referencing to the "judge" rather than "prosecuting judge" was only one of a number of pieces of information which led to the findings that Mr

Bruzzese is associated with a criminal organization. The distinction between a judge and a prosecuting judge is not sufficient to amount to compelling reasons to revisit the decision, and Judge Montoni's statement was only one of many pieces of evidence on which the previous finding of association with a criminal organization was based. As for the warrant, the panel noted that this has been dealt with at great length by Member Beecham and that there is no reason to revisit her decision; the warrant still served as evidence of Mr Bruzzese's association with the 'Ndrangheta. With respect to the wiretaps, Member Young indicated that it would have been preferable if the wiretaps and the warrant had been translated, but concluded that it was not fatal as the Minister has provided information that supports the contention made about those wiretaps as time went by.

[34] Moving on to the matter of unlikely to appear, the ID Member noted that there was not much raised during that detention review. The fact that Mr Bruzzese stated that he will not flee does not counterbalance other findings regarding his previous absence of forthrightness with the authorities and the impressions created by his way of arranging his living in Canada. The panel was also convinced that the previous reviews were correct in concluding that the bondspersons were not sufficient as the proposed ones didn't even have knowledge of Mr Bruzzese's issues. This was a strong indication, for the panel member that they could not possibly be suitable to supervise the Applicant and to deal with the concerns for the security of the public.

[35] Finally, Member Young noted that the detention to date has not been lengthy as there have been a number of factors that contributed to the number of months that Mr Bruzzese has been detained, and the case is a complex one. He noted that counsel for the Applicant was not available for an earlier admissibility hearing, and that it has now been set for April 15, 2014.

3. Issues

[36] The question to be decided in this application for judicial review is whether the decisions of the Immigration Division are reasonable. That question can be subdivided into three separate issues: Did the various panel members err 1) in assessing that the Applicant poses a danger to the public? 2) in determining that he is unlikely to appear for removal? 3) in evaluating the other factors, namely the length of time in detention and the existence of alternatives to detention?

[37] Since all the decisions rely to a large extent on the decision made on the first detention review and rest more or less on the same reasoning, they will be reviewed collectively without referring to any particular one except when appropriate.

4. Legislative scheme for detention reviews

[38] Section 55 of the *IRPA* permits an enforcement officer to detain a permanent resident or a foreign national only when there is reasonable ground to believe that he or she is inadmissible, and is either a danger to the public or unlikely to appear for an examination, for an admissibility proceeding or for removal. Section 245 of the *IRPR* sets out the factors to be considered in determining whether a person facing removal from Canada is unlikely to appear for removal. They include whether the person could be considered a fugitive from justice in a foreign jurisdiction in relation to an offence that, if committed in Canada, would constitute an offence under an Act of Parliament (subsection 245(a)), as well as whether they have a history of avoiding examination by Immigration authorities (subsection 245(e)).

[39] Section 246 of *IRPR* sets out the factors on which a danger to the public finding may be made. This includes whether a person has an association with a criminal organization (subsection 246(b)).

[40] As with all sections of the *IRPA* and the *IRPR*, these sections must be interpreted and applied in light of the stated objectives of the *IRPA*. As noted by the Supreme Court in *Medovarski v Canada (MCI)*, 2005 SCC 51, (at para 10), these objectives "indicate an intent to prioritize security and, viewed collectively, communicate a strong desire to treat criminals and security threats less leniently than under the former Act".

[41] The *IRPA* provides for an independent and impartial review of detention by the Immigration Division (section 54). Detention reviews occur at 48 hours, seven days and thirty days after removal, with continuing reviews every thirty days thereafter (subsections 57(1) and (2)). The Immigration Division must order release unless it is satisfied that the person is, *inter alia*, a danger to the public or unlikely to appear for examination, for an admissibility proceeding, or for removal (subsections 58(1) and (2)). In a detention review, the person may be represented by counsel (section 167), receive disclosure of the case against him or her, cross-examine the Minister's witnesses, call his or her own witnesses, and challenge the case for detention (*Immigration Division Rules*, SOR/2002-229, Rules 26 and 32).

5. Standard of review

[42] The Supreme Court of Canada in *Dunsmuir v New Brunswick*, 2008 SCC 9 [*Dunsmuir*], held that a standard of review analysis need not be conducted in every instance. Where the standard

of review applicable to a particular question before the court is settled in a satisfactory manner by past jurisprudence, the reviewing court may adopt that standard of review. If no standard of review has been established or where precedents appear to be inconsistent with new developments in the common law principles of judicial review, the reviewing court must undertake a consideration of the four factors comprising the standard of review analysis (*Agraira v Canada (MPSEP)*, 2013 SCC 36, at para 48).

[43] A number of cases have established that the ID's detention review decisions are fact-based decisions which attract deference: see, *Tursunbayev v Canada (MPSEP)*, 2012 FC 504 [*Tursunbayev*]; *Canada (MCI) v B046*, 2011 FC 877; *Canada (MCI) v Li*, 2008 FC 949, *Canada (MCI) v Thanabalasingham*, 2004 FCA 4 [*Thanabalasingham*]. The standard of review, therefore, is that of reasonableness. On such a standard, the ID panel's decisions should stand unless the reasoning process was flawed and the resulting decision falls outside the range of possible, acceptable outcomes which are defensible in respect of the facts and the law (*Dunsmuir*, at para 47).

[44] Counsel for the Applicant tried to argue that the interpretation to be given to subsection 246(b) of the *IRPR*, and more particularly of what is required to be considered "associated" with a criminal organization, is a pure matter of law that must be reviewed on a standard of correctness. I disagree. When interpreting the relevant criteria governing the detention reviews, the ID members are clearly applying their home statute and regulations, and they are owed a significant degree of deference: *Dunsmuir*, at para 54; *Smith v Alliance Pipeline Limited*, 2011 SCC 7, at para 26. As for the application of this criterion to the particular situation of Mr Bruzzese, it is clearly a mixed question of fact and law also subject to the reasonableness standard.

[45] It is also clear from the jurisprudence that while each ID member must decide the matter afresh, the member must have compelling reasons to deviate from decisions of previous panel members. The Minister always bear the *onus* to demonstrate that continued detention is warranted, but this burden can quickly shift if previous decisions to continue the detention are found compelling by the ID Member presiding the review: *Thanabalasingham* at paras 9-10 and 16.

6. Analysis

a) Did the ID Members err in assessing that the Applicant poses a danger to the public?

[46] Counsel for the Applicant submitted that when determining whether or not Mr Bruzzese is a danger to the public, all members assessed the information about the 'Ndrangheta and Mr Bruzzese's association to that organization, but failed to consider whether or not Mr Bruzzese posed a danger to the public. In other words, all members assumed that Mr Bruzzese is a danger to the public because he was found to be associated with a criminal organization. Counsel argues that this is wrong: membership or association in a criminal organization is not a *prima facie* indication that the person is a danger to the public, but only one factor that must be considered in this determination pursuant to section 246 of the *IRPR*. The Applicant further contends that there is no definition in the legislation for "danger to the public", and that the courts have recognized that it is an individual determination based on facts related to each case. Even if in some instances an association with a criminal organization may be sufficient to conclude that a person is a danger to the public, this cannot be automatic.

[47] I agree with the Respondent that each and every one of the factors listed in section 246 of the *IRPR* is a sufficient ground to find that a person is a danger to the public. The list of factors enumerated in that provision is quite detailed, and reflects the government's commitment "to promote international justice and security by fostering respect for human rights and by denying access to Canadian territory to persons who are criminals or security risks" (paragraph 3(1)(i) of the *IRPA*). As such, a person who is found to be associated with a criminal organization may be considered, on a balance of probabilities, a danger to the public without the need of any further assessment, just as would be the case, for example, for a person convicted in Canada of trafficking, importing and exporting, or producing a controlled drug. In any event, criminal organizations do pose an inherent danger to the public, as we have all witnessed when war broke out between criminal biker gangs in major cities of this country. Indeed, Member Kohler in her decision referred to some evidence showing that the 'Ndrangheta infiltrates the business community and politics and avoids causing public disturbance, preferring to operate through threats and coercion. The fact that there is no evidence that Mr Bruzzese is personally engaged in violence in Canada is irrelevant; this is not the test. Neither section 244 nor section 246 of the *IRPR* provide engaging in violence as a prerequisite for detention on the basis of being a danger to the public; many of the activities listed in subsections 246(c) to (g) of the *IRPR* do not involve violence, and subsection 246(b) does not require the commission of a crime (as do subsections 246(d) to (g)). Directing others to commit crimes is no less dangerous than the perpetration of these crimes.

[48] The Applicant does not dispute that the 'Ndrangheta is a criminal organization. The real issue was whether the evidence established that Mr Bruzzese has an association with the 'Ndrangheta. Not only did the evidence before the ID Members support a finding that Mr Bruzzese

has an association with the ‘Ndrangheta, it also suggested that he is one of the leaders of that organization.

[49] Counsel for the Applicant submitted that the information before the Immigration Division did not constitute evidence sufficient to support a finding that Mr Bruzzese is associated with a criminal group. The Italian warrant, for example, is disputed as a basis of his association with a criminal organization. Not only has the warrant never been actually produced before the ID members, but it had expired without steps ever having been taken to proceed to trial. Moreover, the test for a finding of association under Italian law is apparently that of “slight contribution”, whereas the test for complicity applied in Canada requires a “significant contribution”.

[50] I agree with the Applicant that it would have been preferable if the warrant itself had been produced in the early detention reviews. But it is trite law that the rules of evidence before the ID are not the same as those applying before a court of law. The Immigration and Refugee Protection Board is not bound by any legal or technical rules of evidence, and may therefore rely on direct and indirect evidence (*Bailey v Canada (MCI)*, 2008 FC 938), on hearsay evidence (*Temahagali v Canada (MCI)*, 2000 CanLII 16771), and generally speaking on evidence that is credible and trustworthy even if it might otherwise be inadmissible in civil or criminal proceedings (*Re Jaballah*, 2003 FCT 640).

[51] The existence of the warrant has been confirmed by a variety of sources, including a news article from the Toronto Star, an Italian police officer and Mr Bruzzese’s own lawyer in Italy, who produced a copy of it with translated excerpts. This warrant of arrest was issued by the Judge of

Preliminary Investigations of the Court of Reggio Calabria for Mr Bruzzese in September 2010, for the offense of "association mafia-type criminal", and calls for the application of the precautionary measure of custody in prison of a number of persons.

[52] The warrant could support a finding that Mr Bruzzese is associated with the 'Ndrangheta. The fact that this warrant may have expired – an issue of foreign law upon which this Court is loath to make a finding in the absence of expert evidence – is not material. I note that Member Beecham found in her December 10, 2013 ruling that the Italian warrant continues to remain in force; indeed, the documentation sent by INTERPOL to the RCMP seems to confirm that there is still a criminal proceeding that is pending in the Reggio Calabria Court of Appeal against Mr Bruzzese. Be that as it may, I agree with the Respondent that the warrant can serve as *indicia* of Mr Bruzzese's association with the 'Ndrangheta. The fact that a warrant was issued shows, at the very least, that the Italian authorities believed that the nature of Mr Bruzzese's involvement with the 'Ndrangheta could support a charge under Italian law; it is not for the ID nor for this Court to speculate as to why charges have not yet been laid in this respect.

[53] As for the Applicant's argument that the ID members erred in relying on the warrant as evidence of association with a criminal organization, given that slight contribution is all that is needed under Italian law to be found guilty of the mafia-type association, I find it totally misplaced. It is no doubt true that in *Ezokola v Canada (MCI)*, 2013 SCC 40, the Supreme Court found that complicity under article 1F(a) of the *Refugee Convention* requires the voluntary significant and knowing contribution to the crimes or criminal purpose of a group. Such a heightened *mens rea*

requirement does not apply, however, for membership in an organization pursuant to paragraph 37(1)(a) of *IRPA*. As Justice Russell wrote in *Chung v Canada (MCI)*, 2014 FC 16, at para 84:

> Under subsection 37(1)(a), the person concerned, as well as being a member in the criminal organization, only needs to have knowledge of the criminal nature of the organization. See *Stables* [*Stables v Canada (MCI)*, 2011 FC 1319], at para 37. I see nothing in *Ezokola*, above, to suggest that the Supreme Court also intended its remarks to apply to subsection 37(1)(a) of the Act or to change the law that was identified and applied in this case. The Applicant is arguing that, in his view, *Ezokola* should be applied to the present situation, but I cannot accept that 1F(a) of the *Refugee Convention* can be equated with 37(1)(a) of the Act, because the two provisions use different language and it seems plain that the knowledge requirements are different.

[54] Even more importantly, this Court is not called upon to determine if the ID members erred in finding Mr Bruzzese inadmissible; the decisions challenged only dealt with the continued detention of Mr Bruzzese and whether he was a danger to the public and a flight risk. Subsection 246(b) of the *IRPR* does not qualify the nature of the association with a criminal organization, nor do we know the extent of the contribution given by Mr Bruzzese to the 'Ndrangheta upon which the Italian warrant is predicated. In those circumstances, the ID members could rely on the existence of that warrant as *indicia* of association to a criminal organization.

[55] Moreover, the finding of association with a criminal organization is not based on the warrant alone. The statements made by Judge Montoni in another proceeding were also relied upon. Judge Montoni is quoted in the Toronto Star article as stating that Mr Bruzzese was "deeply embedded in Italian and Canadian organized crime" and "definitely part of the Calabria mafia". The same article quotes an associate prosecutor as saying that Mr Bruzzese is considered a "fugitive on charges of Mafia association" in Italy. We also have an Italian police officer who reported, in a teleconference

with the RCMP and the CBSA, that courts have found that Mr Bruzzese is "one of the top bosses" of the 'Ndrangheta.

[56] Counsel for the Applicant objected to that evidence, arguing that it was not reliable. I wholeheartedly agree that it would have been much preferable to have a fully translated version of the published decision of Justice Montoni, even if I am mindful of the fact that it is apparently a lengthy decision. For that reason, it would obviously be a mistake to give too much weight to that decision or to rely exclusively on that evidence. This is not to say, however, that it could not be considered by the ID members in assessing whether Mr Bruzzese is associated with the 'Ndrangheta.

[57] It is no doubt true that news articles could not be considered as evidence of specific facts about specific incidents in a court of law, that the author of an article is not available for cross-examination, and that news reports are sometimes inaccurate, unreliable and based on hearsay. That being said, the article of the Toronto Star is well documented and quotes from Italian authorities and Italian decisions. The Applicant has not seen fit to refute the information reported and has not pointed to any factual error save on a tangential point. He was contacted by the journalist for an interview but declined to respond. In those circumstances, the ID members could reliably use this media article to make a finding of association.

[58] Mr Bruzzese has also been caught on surveillance discussing 'Ndrangheta business with other members. The Toronto Star article reports Italian police wiretaps of Mr Bruzzese in friendly conversations with Vito Rizzuto, the most powerful mafia kingpin in Canada. He was also secretly

filmed by the Italian police, according to the same news article, while he and many suspected mafia associates met with the leader of the 'Ndrangheta. He met twice with that man in August of 2009, discussing disagreements and messy infighting within various clans. The details of the wiretaps are said to be contained in a 271-page ruling by Judge Montoni, which was obtained by the Star and Radio-Canada.

[59] There is also on the record a report of the Carabinieri Special Operational Group dated January 31, 2012 detailing its surveillance of Mr Bruzzese, outlining which Carabinieri officer conducted the surveillance at what time, who was with Mr Bruzzese at that time, and what penal and civil sanctions the organization had in mind when conducting the surveillance. Finally, the Carabinieri officer interviewed by CBSA and the RCMP confirms that Italian authorities have recordings demonstrating Mr Bruzzese's involvement at senior levels of the organization and provides specific details of some conversations.

[60] Counsel for the Applicant similarly objected to that evidence, because the interview with the Italian police officer provided in CD format had not been transcribed and raised translation issues. As for the report emanating from the Special Carabinieri Operational Group, counsel claimed that it could not be received as credible and trustworthy since it is not signed or authored, no source is provided and no explanation is given as to why it would be issued in English. Moreover, police reports cannot be considered reliable and credible evidence unless corroborated by other evidence that is itself reliable and credible.

[61] At the risk of repeating myself, I agree that the surveillance and wiretap evidence could be more trustworthy. Even if I accept that the Minister can choose how to make its case and what evidence to rely on when doing so, he makes the decision not to bring the best and most reliable evidence at his own peril. At the same time, it is conceivable that the transcription and translation of these documents could represent a massive undertaking. Moreover, the Applicant does not point to any particular problem with the translation, and has not offered the evidence of an independent and qualified interpreter of his choice to support his claim that the interpretation of the interview with the Carabinieri officer was defective. The summary of facts prepared by the Special Carabinieri Operational Group appears to be an official document, with the name of a "commander" on the first page. The claim that it should have been provided in Italian with an English version rests on pure speculation. On the face of it, this document appears to be authoritative, accurate and valid, and the ID members could rely on it, as well as on the interview with the Carabinieri officer, as further evidence of Mr Bruzzese's association with the 'Ndrangheta.

[62] When considered in its totality, the evidence that was before the various ID members was sufficiently reliable and trustworthy to allow a finding, on a balance of probabilities, that Mr Bruzzese is associated with a criminal organization. There is no evidence to refute the facts that Mr Bruzzese faces outstanding charges in Italy, that there is a warrant for his arrest, that Judge Montoni found him to be deeply involved in organized crime, or that Mr Bruzzese was caught on surveillance and wiretaps discussing 'Ndrangheta business with other members of the organization. These findings are supported by a number of sources, each of which could be found lacking in some respects when viewed in isolation but, considered in their totality, are more than sufficient on a

reasonableness standard to ground the conclusion of the six ID members who have reviewed Mr Bruzzese's detention that he is a danger to the public.

[63] Even if I were prepared to accept that the jurisprudence to which counsel for the Applicant referred, which was developed in a different context, does apply to the "danger to the public" provision relating to detention and supports an individualized assessment, such an assessment was made by the various ID members who reviewed the Applicant's detention. Not only did they rely on Mr Bruzzese's legal predicaments in Italy, but they also considered the particulars of his life in Canada to assess his profile and determine whether or not he is associated with a criminal organization.

[64] The ID members noted that Mr Bruzzese's lifestyle suggests a person living in the shadows of society. He receives on a regular basis large amounts of cash from Italy carried by his family through international borders instead of using electronic transfers or bank wire transfers. He drives a car registered to another person he could not even name. He takes medication prescribed to another person. It was also noted that his son was convicted of mafia association and his daughter is married to a man believed to be a high ranking official in the 'Ndrangheta. While these considerations would not be sufficient, in the absence of the evidence originating from Italy, to find that Mr Bruzzese is associated with a criminal organization, they do suggest a pattern that is not inconsistent with such an association.

[65] For all of the foregoing reasons, I am therefore of the view that the ID members could reasonably determine that Mr Bruzzese is a danger to the public pursuant to section 55 of the *IRPA* and subsection 246(b) of the *IRPR*.

b) Did the ID Members err in determining that Mr Bruzzese is unlikely to appear for removal?

[66] Counsel for the Applicant argues that the root of the decision to continue detention is the ID members' conclusion that Mr Bruzzese lacked credibility in his dispute of the allegations he faces and his assertion that he would comply with conditions of release. Neither Member Kohler nor the following ID members who reviewed Mr Bruzzese's detention made a general negative credibility finding, yet they found that he would not appear for removal should he not be successful at his admissibility hearing because he did not cooperate when asked about his passport and he lied when he completed a form in 2010 for his permanent residence card. Counsel submits that the ID members erred in making that assumption. Not only his family and community ties to persons in Canada would strengthen his reasons for compliance, but it is pure speculation to suggest that he would have access to resources allowing him to go underground by the time his admissibility hearing is concluded.

[67] I do not need to determine if Mr Bruzzese is a "fugitive" for the purposes of subsection 245(a) of the *IRPR*. I would tend to agree with Member Stratigopoulos that the evidence is far from clear that Mr Bruzzese would have been aware of an investigation or that he fled because of it. I am far from convinced that a person who becomes aware after departure of investigations or charges subsequently laid and is unwilling to return to face them should be considered a fugitive. I agree

with my colleague Justice Mactavish that the notion of "fugitive from justice" should not be restricted to those who flee their home jurisdiction after legal proceedings have been formally instituted, and is broad enough to include those who are sought by law enforcement officials, who were aware of an ongoing investigation at the time they left the country and who have no intention of voluntarily returning to face the charges: *Tursunbayev*, at para 58. In the case at bar, however, it is not at all clear that Mr Bruzzese knew that he was the subject of an investigation or that he was sought by the authorities. In such circumstances, I believe that to characterize Mr Bruzzese as a fugitive would stretch the ordinary meaning of this word too far. In any event, no case law has been offered for the proposition that Canada has made a commitment to use the deportation process to send individuals to face criminal charges which are not equivalent to any offence known in Canadian law.

[68] Is that to say that the ID members could not find Mr Bruzzese to be a flight risk? I do not think so. The factors listed in sections 245 and 246 of the *IRPR* to assess flight risk and danger to the public are not meant to be exhaustive. They must be taken into consideration, but they are not meant to curtail the considerations that can be taken into account by the ID when reviewing a detention. In the case at bar, I cannot say that it was an unreasonable inference to find, on the basis of the evidence submitted, that the 'Ndrangheta would offer almost unlimited assistance to Mr Bruzzese and would take care of the money lost by bondspersons, that Mr Bruzzese has easy access to large amounts of cash, and that he will likely do whatever it takes to avoid being removed to Italy.

[69] I am of the view, therefore, that the ID members could reasonably conclude that Mr Bruzzese is a flight risk.

c) Did the ID members err in evaluating the other factors?

- The existence of alternatives to detention

[70] Counsel for the Applicant submits that the ID members erred in rejecting all sureties and the GPS monitoring as sufficient alternatives to offset danger concerns and flight risks. The applicant argues that the ID members failed to focus on positive aspects such as family relationship and the significant amounts posted in assessing the suitability of the proposed sureties and failed to provide a compelling reason for not following ID Member Stratigopoulos who accepted the sureties in conjunction with the GPS monitoring to offset flight risks. The Applicant submits that GPS monitoring, in combination with bonds, was found to be suitable in cases where people were suspected of being terrorists.

[71] The evaluation of the suitability of sureties falls squarely within the jurisdiction and expertise of the ID members. Mr Bruzzese has not convinced me that the various ID members erred in assessing the suitability of the sureties offered, the sufficiency of the amounts of the bonds, or the efficiency of the GPS monitoring.

[72] Member Kohler found that Mr Savarino, Mr Bruzzese's great-nephew, did not have a sufficiently close relationship with Mr Bruzzese, demonstrated no concern regarding the seriousness of the Canadian immigration allegations and the Italian criminal allegations against Mr Bruzzese, and is willing to do anything or whatever he can to help his uncle and his uncle's family. This was

more than sufficient to conclude that Mr Savarino cannot effectively supervise Mr Bruzzese let alone offset the danger to the Canadian public.

[73] Member Kohler also found that Mr Bruzzese's wife, Ms Calabro, has no ability to be an effective supervisor of her husband, based on the fact that she seriously lacked knowledge of Mr Bruzzese's activities, is not informed of decisions he makes, is unconcerned by her lack of knowledge, did not even know her husband had bought a $600,000 residential property with her son until she was told by the Minister, she has no idea of Mr Bruzzese's finances. Member Kohler determined that Ms Calabro had relinquished control of most aspects of their shared life to Mr Bruzzese and was content with this arrangement. In light of this situation, Member Kohler could reasonably conclude that if Mr Bruzzese decides that he does not want to leave Canada if he is required to, it is more likely than not that she will accept his decision as being in the best interest of the family.

[74] As for Mr Giuseppe Bruzzese, the Applicant's nephew, Member Kohler found that he failed to follow her instructions not to talk to any of the other proposed bondspersons or to anyone else about what he heard or said at the hearing, does not have a close relationship with Mr Bruzzese, and never asked about his uncle's legal problems in Italy. In those circumstances, Member Kohler could reasonably infer that he would not be able to ensure Mr Bruzzese's compliance with terms and conditions of a release order.

[75] Mr Bruzzese's brother, Franco, was also put forward as a bondsperson. Member Funston noted that, like the other bondspersons that were offered, he had little contact with Mr Bruzzese,

was unaware of the allegations against him, and for those reasons could not adequately supervise him.

[76] Over the course of further detention reviews, other bondspersons (all family members) were also offered, and the total amount of money put forward totals approximately $400,000. This is a huge amount of money in most circumstances, but Member Del Duca found, in the January 14, 2014 decision, that in this particular case, it does not carry the significance it would typically have. For this conclusion, Member Del Duca relied on the evidence showing that the 'Ndrangheta collects excessive sums from various criminal activities and provides money, shelter and respect for those on the run. Member Del Duca did not deny that this is a close-knit family, but noted that they all know not to ask questions relating to uncharted areas. In the end, Member Del Duca did not believe that any of the bonds people or the amalgamation of all of them together would have any significant supervisory power over someone with ties to the 'Ndrangheta, which is "so much bigger than all of them put together" (Transcript, p 12).

[77] I agree with the Respondent that the ID members cannot be faulted for not ordering release despite the family relationships between Mr Bruzzese and the proposed bondspersons. This is not the proper test to assess the suitability of a proposed bondsperson. Paragraph 47(2)(b) of the *IRPR* is clear that a person who posts a guarantee "must be able to ensure that the person or group of persons in respect of whom the guarantee is required will comply with the conditions imposed". Therefore, the closeness of relationship must be assessed in light of the ability to effectively supervise, not just the unwillingness of the person concerned to cause their family members any financial loss. When

measured against this yardstick, I am of the view that the various ID members' assessment of the bondspersons offered by the Applicant was reasonable.

[78] Finally, I have also come to the conclusion that ID members could reasonably find that the GPS monitoring was not sufficient to overcome the shortcomings of the bondspersons offered by the Applicant. There is no doubt that such a device, in combination with appropriate bondspersons, can sometimes provide an acceptable alternative to detention. In the case at bar, however, there were good reasons to find that it would not be sufficient to offset the concerns with respect to danger to the public. First of all, Mr Bruzzese did not present the ID members with a comprehensive proposal whereby any risk of flight could allegedly be managed, as was done in *Tursunbayev*. It appears that the bracelet used by the proposed company could be cut with a simple pair of scissors, that it might take six hours to notify the authorities should the system breaks down, and that the monitoring would discontinue should the monthly bill not be paid. Maybe more importantly, the system would only control Mr Bruzzese's location, not his activities, who he talks to and what he says. The GPS, therefore, might conceivably be an alternative to detention as far as the flight risk is concerned, but it would not be sufficient to ensure that Mr Bruzzese is not involved in the criminal activities of the 'Ndrangheta, either in Canada or abroad.

- **The length of time in detention**

[79] Mr Bruzzese has now been detained for almost seven months. This is admittedly a long period of time, irrespective of the circumstances, for a person to be deprived of his liberty. Having carefully considered the record before me, however, I am not prepared to find that this factor should have weighed in favour of Mr Bruzzese's release.

[80] First of all, there is no indication that the Minister acted in bad faith or in any way misled the ID members with respect to the prospects of the length of Mr Bruzzese's detention. This is obviously a complex case, with most of the evidence coming from the Italian authorities with the attendant consequences of translation and interpretation. It could not be expected that an admissibility hearing would take place within a few weeks of the referral by the Minister of the inadmissibility report to the Immigration Division.

[81] There is no evidence that the Minister has delayed his production of disclosure, as suggested by the Applicant. It appears from a reading of the transcripts of the many detention reviews that the Minister progressively provided evidence as soon as it became available. The Minister cannot be held responsible for the inevitable delay in obtaining documents from a foreign country, sifting through them for relevancy purposes, and in translating them.

[82] ID Member Young also noted that dates for the admissibility hearing have now been set for April 15 and 25, 2014, thus providing a foreseeable end to the detention if Mr Bruzzese is found not to be inadmissible. Counsel for the Applicant submitted that it was unlikely the admissibility hearing would be completed within the two scheduled days, but this is pure speculation.

[83] Considering all the factors listed in section 248 of the *IPRP*, including the reason for the detention (i.e. Mr Bruzzese is not only a flight risk but also a danger to the public), the ID members could reasonably conclude that the grounds for detention are not mitigated by these factors.

7. Conclusion

[84] In light of the foregoing, I find that the applications for judicial review submitted by the Applicant must be dismissed. I have not been persuaded that the decisions rendered by the ID members on the detention reviews are unreasonable. Considering the high degree of deference that such determinations must be accorded by this Court, I am unable to find that the decisions fall outside the range of possible, acceptable outcomes which are defensible in respect of the facts and the law.

[85] Counsel for the Applicant raised the two following questions for certification purposes:

> 1. Is a finding by a member of the Immigration Division that a person is described in subsection 246(b) of the *IRPR* determinative of the issue of whether the person poses a danger to the public?
>
> 2. Does a lack of knowledge of potentially embarrassing matters about a detainee, including alleged criminal or shady activities and criminal proceedings, support a conclusion that a proposed surety is not suitable, notwithstanding an otherwise close familial relationship?

[86] Neither of these questions, in my opinion, meets the test set forth in *Zazai v Canada (MCI)*, 2004 FCA 89. They do not raise serious issues of general importance, and they are not dispositive of the appeal.

[87] There is no doubt that the factors listed in section 246 of the *IRPR* may serve as a sufficient basis, in and of themselves, to find that a person is a danger to the public. Each of the factors is an indicator that a person is, at least *prima facie*, a danger to the public. Once the Minister has made out such a *prima facie* case, the burden shifts on the person detained to lead evidence as to why he or she would nevertheless not be a danger to the public. In the case at bar, the ID members did not

only find that Mr Bruzzese was associated with the 'Ndrangheta, but that his shadowy lifestyle in Canada was consistent with such an association. Mr Bruzzese was afforded every opportunity to dispel that notion, and it cannot be claimed that he was found a danger to the public as a result of some sort of mechanical application of the factors found in section 246 of the *IRPR*. In any event, the proposed question would not be dispositive of the appeal, as my decision and the decisions of the ID members are also based on the flight risk posed by Mr Bruzzese.

[88] The second proposed question is similarly not suitable for certification. As mentioned earlier, the determination as to whether a proposed bondsperson is acceptable as a surety turns essentially on the facts of the case and falls squarely within the jurisdiction and expertise of the Immigration Division. Such an issue does not lend itself to the type of generic approach on a question of law that lies at the heart of the certified question regime.

[89] Consequently, no question will be certified.

[90] These reasons will be filed in file number IMM-7176-13 and placed on the file in file number IMM-6541-13, IMM-8249-13, IMM-549-14 and IMM-934-14.

JUDGMENT

THIS COURT'S JUDGMENT is that these applications for judicial review are dismissed.

No question is certified.

"Yves de Montigny"

Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	IMM-6541-13, IMM-7176-13, IMM-8249-13, IMM-549-14, IMM-934-14
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