

**Date: 20090114**

**Docket: A-513-07**

**Citation: 2009 FCA 4**

**CORAM: DÉCARY J.A.  
NOËL J.A.  
BLAIS J.A.**

**BETWEEN:**

**ANTONIO CIAVAGLIA**

**Appellant**

**and**

**MINISTER OF PUBLIC SAFETY  
AND EMERGENCY PREPAREDNESS**

**Respondent**

Hearing held at Montréal, Quebec, on January 14, 2009.

Judgment delivered from the bench at Montréal, Quebec, on January 14, 2009.

**REASONS FOR JUDGMENT OF THE COURT BY:**

**BLAIS J.A.**

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**REASONS FOR JUDGMENT OF THE COURT**

**(Delivered from the bench at Montréal, Quebec, on January 14, 2009)**

**BLAIS J.A.**

[1] This is an appeal from the judgment of Mr. Justice Pinard of the Federal Court, *Antonio Ciavaglia v. Minister of Public Safety and Emergency Preparedness*, 2007 FC 1075, dismissing the appellant's application for judicial review concerning the seizure of US \$17,271.00 by Canadian customs officers at Montréal's Trudeau Airport.

[2] The appellant suggests, on the one hand, that the Minister failed to provide sufficient reasons for his decision and that he was influenced by an unidentified third party and, on the other hand, that Pinard J. failed to consider certain matters in the record and that he improperly relied on the appellant's criminal record.

[3] The evidence in the record actually shows that the Minister's delegate meticulously reviewed the file, that he noted the lack of credible, reliable and independent evidence as to the origin of the currency that was found in the appellant's possession. The Minister's delegate also examined the e-mails and affidavits filed by the appellant, compared them to the appellant's own contradictory and inconsistent statements and concluded there were reasonable grounds to believe that the currency in question was proceeds of crime.

[4] Moreover, the appellant was unable to identify the third party who allegedly influenced the Minister nor did he demonstrate that his criminal record was considered by the judge who, in fact, did not refer to it at all.

[5] The applications judge concluded in his decision, with the agreement of the parties at the time, that the standard was "patent unreasonableness".

[6] The recent Supreme Court of Canada decision in *Dunsmuir v. New Brunswick*, 2008 SCC 9, reviewed the notion of the appropriate standard of review and determined that the "patently unreasonable" standard should be set aside and that, henceforth, the appropriate standard of review

is either “reasonableness” or “correctness”. Our Court decided that the appropriate standard of review for this type of decision is reasonableness; on this point, see *Yang v. Minister of Public Safety and Emergency Preparedness*, 2008 FCA 281 and *Minister of Public Safety and Emergency Preparedness v. Ahmad Qasem*, 2008 FCA 300.

[7] Applying *de novo* the tests established by the Supreme Court to the Minister’s decision, we have no hesitation in concluding that the Minister’s decision was reasonable.

[8] Accordingly, we find that the intervention of our Court is not justified under the circumstances.

[9] The appeal will be dismissed with costs.

“Pierre Blais”

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J.A.

**FEDERAL COURT OF APPEAL**

**SOLICITORS OF RECORD**

**DOCKET:** A-513-07

**(APPEAL FROM A JUDGMENT OF MR. JUSTICE YVON PINARD OF THE FEDERAL COURT DATED OCTOBER 19, 2007, DOCKET NO. T-1994-06)**

**STYLE OF CAUSE:** ANTONIO CIAVAGLIA v.  
MINISTER OF PUBLIC SAFETY  
AND EMERGENCY  
PREPAREDNESS

**PLACE OF HEARING:** Montréal, Quebec

**DATE OF HEARING:** January 14, 2009

**REASONS FOR JUDGMENT OF THE COURT BY:** DÉCARY J.A.  
NOËL J.A.  
BLAIS J.A.

**DELIVERED FROM THE BENCH BY:** BLAIS J.A.

**APPEARANCES:**

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Jacques Mimar FOR THE RESPONDENT

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