

Federal Court



Cour fédérale

Date: 20230119

Docket: IMM-7276-21

Citation: 2023 FC 73

St. John's, Newfoundland and Labrador, January 19, 2023

PRESENT: The Honourable Madam Justice Heneghan

BETWEEN:

KEITH MICHAEL PAUL SILVERA

Applicant

and

**THE MINISTER OF CITIZENSHIP
AND IMMIGRATION**

Respondent

REASONS AND JUDGMENT

[1] Mr. Keith Michael Paul Silvera (the “Applicant”) seeks judicial review of the decision of the Immigration and Refugee Board, Immigration Appeal Division (the “IAD”). In the decision, the IAD dismissed the appeal from a decision of the Immigration and Refugee Board, Immigration Division (the “ID”), issuing a Deportation Order for the Applicant’s removal from Canada to Jamaica.

[2] The Applicant is a citizen of Jamaica. He entered Canada in 1996 at the age of two years, in the capacity of a permanent resident; his grandmother had sponsored him and his mother.

[3] The Applicant was convicted on May 25, 2018, of an indictable offence with a potential sentence of life imprisonment. This conviction led to the issuance of a Deportation Order by the ID, pursuant to subsection 45(d) of the *Immigration and Refugee Protection Act*, S.C. 2001, c. 27 (the “Act”).

[4] The Applicant appealed to the IAD, pursuant to section 63 of the Act. He did not challenge the validity of the Deportation Order but sought the positive exercise of discretion pursuant to paragraph 67(1)(c) of the Act, which is on humanitarian and compassionate (“H and C”) grounds.

[5] The IAD referred to the decisions in *Ribic v. Canada (Minister of Employment and Immigration)*, [1985] I.A.B.D. No. 4 (Q.L.), and *Chieu v. Canada (Minister of Citizenship and Immigration)*, [2002] 1 S.C.R. 84 (S.C.C.), which set out the factors that are relevant to its exercise of discretion on H and C grounds.

[6] The decision of the IAD is reviewable on the standard of reasonableness, pursuant to the decision in *Canada (Minister of Citizenship and Immigration) v. Vavilov*, [2019] 4 S.C.R. 653 (S.C.C.).

[7] In considering reasonableness, the Court is to ask if the decision under review "bears the hallmarks of reasonableness — justification, transparency and intelligibility — and whether it is justified in relation to the relevant factual and legal constraints that bear on the decision"; see *Vavilov, supra* at paragraph 99.

[8] In its decision, the IAD reviewed the seriousness of the offence, the possibility of rehabilitation, the length of time spent by the Applicant in Canada and his establishment, support from his family and the community, and hardship to him if removed to Jamaica. These factors are specifically mentioned in *Ribic, supra* at pages 4 and 5.

[9] The IAD noted that the Applicant is the father of four children, born between 2013 and 2017. It observed that the Applicant had not shown that his presence in their lives is in the best interests of his children. It found that although there were some positive factors in favour of the Applicant, there were significant negative factors, including the history of escalating criminal behaviour from 2011 to 2018.

[10] In light of the evidence before the IAD and the applicable standard of review, I am not persuaded that the decision discloses any reviewable error.

[11] The Applicant's submissions seem to invite a review of the evidence, which is not the role of the Court upon judicial review.

[12] In the result, the application for judicial review will be dismissed, there is no question for certification.

JUDGMENT in IMM-7276-21

THIS COURT'S JUDGMENT is that the application for judicial review is dismissed,
there is no question for certification.

"E. Heneghan"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-7276-21

STYLE OF CAUSE: KEITH MICHAEL PAUL SILVERA v. THE
MINISTER OF CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: HELD BY WAY OF VIDEOCONFERENCE

DATE OF HEARING: NOVEMBER 22, 2022

REASONS AND JUDGMENT: HENEGHAN J.

DATED: JANUARY 19, 2023

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