Federal Court Cour fédérale

Date: 20250107

Docket: IMM-1526-24

Citation: 2025 FC 39

Toronto, Ontario, January 7, 2025

PRESENT: The Honourable Mr. Justice A. Grant

BETWEEN:

JOSUE LIMMONG AHUDAY

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

I. OVERVIEW

[1] This is an application for judicial review of a decision by the Immigration Division [ID] of the Immigration and Refugee Board. In that decision, the ID found the Applicant inadmissible to Canada under s. 35(1)(a) of the *Immigration and Refugee Protection Act* [IRPA], because there were reasonable grounds to believe that he was complicit in crimes committed by Philippine state authorities.

[2] For the reasons below, I believe this application should be dismissed. The ID did not commit any fatal errors in concluding that there were reasonable grounds to believe the Applicant had made a voluntary, knowing, and significant contribution to the crimes committed by the Philippine police over the course of then President Rodrigo Duterte's "war on drugs." The ID drew a clear and direct link between the Applicant's police duties and the crimes against humanity committed by Philippine authorities; in short, its conclusions were adequately justified in light of the facts and applicable legal principles. There are no errors warranting judicial intervention.

II. BACKGROUND

A. *Facts*

[3] The Applicant – Josue Limmong Ahuday – is a citizen of the Philippines. He was a police officer in the Philippine National Police force [PNP] at Jose Abad Santos Police Station in Manila from January 2012 to June 2021. He joined the PNP after graduating from college, as it was known to be a respectable career choice. From January 2012 until December 2016, he was assigned to the Mobile Patrol Unit, where his duties included patrolling roads and vehicles within his assigned area, as well as assisting in car accidents and conducting checkpoints to search for contraband and suspected persons.

[4] From June 2016 to June 2022, President Rodrigo Duterte served as the President of the Philippines. Throughout that time, he implemented a war on drugs, which the PNP executed through a strategy known as "Operation Double Barrel". This operation was, in reality, a well-documented state-sponsored "nationwide killing campaign" that encouraged police officers to

shoot and kill anyone involved with drugs at any level, as a way to control crime. Both drug dealers and drug users were targeted by the PNP in arbitrary and unlawful killings, as part of the government-directed campaign. According to multiple reports, this campaign of extra-judicial executions in largely impoverished areas of Manila and other urban areas already stood at 7,000 casualties by late January 2017.

[5] Integral to Operation Double Barrel were "Tokhang Operations" which aimed to create "watch lists" of known drug users and drug dealers, who would be visited by police and local authorities and urged to "surrender". If a suspect did not surrender, the police would attempt to "verify" their drug use, by interrogating friends and neighbours. These visits were often used to confirm the identities and whereabouts of a targeted drug suspect, and frequently ended with the violent death of the drug user.

[6] Related to these Tokhang Operations were "buy-bust" operations. After a drug suspect surrendered or was "verified" by a drug unit and put on a watch list, a faked "buy-bust" encounter would occur, in which a drug enforcement team, frequently undercover, would raid the suspect's house. All too often, these raids ended in the extrajudicial killing of the buy-bust target.

[7] In December 2016, the Applicant was assigned to a Drug Enforcement Unit [DEU] within his police station. He served in the unit until February 2017, a period of roughly three months. Mr. Ahuday and his witnesses testified that part of his duties included conducting door-to-door visits, attempting to convince suspected drug users to "surrender", and referring suspected drug users for "verifications" to other drug enforcement units, or for "intelligence" or other follow-up actions. His team in the DEU was engaged in 'community outreach', conducting

house visitations for drug suspects. They worked in parallel with a second DEU team, which was engaged in the more direct enforcement actions, including buy-busts and raids.

[8] Mr. Ahuday asked to leave the unit, as it was a dangerous position and he was getting married and, in his words, he wanted to stay alive. Some years after leaving the DEU, he received a medal for the "Implementation of Anti-Illegal Drug Campaign." Mr. Ahuday has never indicated that he sought to leave the drug unit over concerns with the nature of the Duterte war on drugs.

[9] Upon leaving the DEU, the Applicant continued working for the PNP at the same station and was awarded a promotion in May 2019. He did not resign until June 2021, and only did so for the purpose of immigrating to Canada.

[10] The Applicant moved to Canada in June 2021 on a spousal open work permit, and was included on his wife's application for permanent residence as a dependent spouse.

[11] In May 2023, the Applicant received correspondence from the Canadian Border Services Agency advising him that he had been reported as inadmissible to Canada on grounds of violating human or international rights pursuant to s.35(1)(a) of the IRPA. The Minister did not allege that Mr. Ahuday directly committed crimes against humanity. The claim, rather, was that he was complicit in acts committed as part of a widespread and systematic attack against a civilian population, as a police officer during the anti-drug campaign in the Philippines, constituting offences under sections 4 to 7 of the *Crimes Against Humanity and War Crimes Act*

[CAHWCA]. As a result of these allegations, Mr. Ahuday was referred to the ID for an admissibility hearing.

B. *Decision under Review*

[12] The ID found the Applicant inadmissible to Canada pursuant to s.35(1)(a) of the IRPA. It determined, based on documentary evidence submitted by the Minister, that there were reasonable grounds to believe that the PNP, as the primary instrument of the Duterte war on drugs, had committed crimes, and that those crimes constituted crimes against humanity. The ID then considered the Applicant's activities within the PNP and, more specifically, the DEU.

[13] In assessing these activities against the test for complicity established by the Supreme Court of Canada in *Ezokola v Canada (Citizenship and Immigration)*, 2013 SCC 40 [*Ezokola*], the ID concluded that Mr. Ahuday was complicit in the crimes associated with Duterte's drug war. It determined that the Applicant had made a voluntary, knowing, and significant contribution to the PNP's crimes against humanity, specifically as a member of the organization's DEU. In coming to that conclusion, the ID made the following factual findings.

[14] On the voluntariness of the Applicant's contribution, the ID found:

- There was no evidence that the Applicant's work with the police was involuntary; he voluntarily joined the police force and the Applicant did not claim that he was placed into the DEU against his will or under any type of duress, or even that this assignment was compulsory.
- The Applicant remained a police officer after the election of President Duterte in June 2016, and after Duterte's public statements regarding eliminating those suspected to be involved with drugs.

- The Applicant's testimony as to why he left the DEU was inconsistent. He first stated that he returned to his former post because his station was doing a "reshuffle" but later testified that he requested to leave the DEU because he was getting married and he was concerned it was a dangerous assignment and he wanted "to stay alive". His request to transfer out of the unit was granted, indicating a lack of compulsion or duress.

- The Applicant continued to work as a police officer for the PNP after his time in the DEU, and even participated in a competition for a promotion, in which he was successful;

- The Applicant only left the police force in 2021 due to his intention to immigrate to Canada; there was no evidence that he could not have resigned from the PNP at any time prior to that point. Further, upon resigning he informed his superior that he would return to the police if he was given an opportunity.

[15] On the Applicant's knowledge of the PNP/DEU's involvement in crimes against humanity, the ID found:

- The Applicant's own testimony was that he was aware that the police, and particularly the DEU, was engaged in dangerous activity including that the police needed to "neutralize those drug addicts" if they had guns, and that he had heard about things happening in other stations but never his own. The ID found that the Applicant was at least aware that there were abuses and killings occurring in the drug units of the PNP, even if he denied that his own PNP station was involved in such events;

- The Applicant's assertion that his own PNP station was not involved in such events was contrary to the evidence and not credible. Objective evidence contained numerous accounts of buy-bust operations conducted out of the Applicant's PNP station in Manila which resulted in the killing of drug users, including operations led by the Applicant's direct supervisor Mr. Manny Israel. Several other reports outlined the prevalence of suspicious deaths in Tondo, which is the district in which the Applicant's station was located – the President himself "made mention of sanctioned drug-related murders in Tondo."

- One of the Applicant's colleagues testified that the Applicant personally witnessed raids where they kicked in the door, which was consistent with the objective evidence concerning buy-bust activities. The ID observed it was highly unlikely that the Applicant would have been unaware of deaths stemming from activities at his own station given the evidence. The Applicant's statements to the contrary were not credible. The ID found the public notoriety of such events occurring in the Applicant's own station amounted to reasonable grounds to believe that the applicant was fully aware of the drug-related deaths and violence arising from the DEU's actions.

[16] Finally, with respect to the significance of Mr. Ahuday's contribution, the ID found:

- The Applicant testified that while with the DEU, he participated in Tokhang operations, which he described as a peaceful community outreach program intended to encourage suspected drug users to surrender to authorities for education and treatment. He testified he never saw anyone be non-compliant with police and that he never saw violence used, as they instead employed a strategy of "maximum tolerance";

- The ID found the Applicant's testimony in this regard lacked credibility, as it was inconsistent with the Applicant's permanent residence application where he described his duties with the DEU as "response on calls with Drug related violence" and his testimony before the ID that he requested to leave the DEU due to how dangerous the assignment was;

- The objective evidence described Tokhang operations as related to enforcement and regularly leading to or involving violent encounters, including extrajudicial killings in faked "buy-bust" encounters with police;

- The Applicant's testimony that he took the names of suspected drug users that he met with and submitted them to intelligence as a form of validation was consistent with descriptions of police tactics set out in the objective country condition evidence. That evidence described how police would meet with suspected drug users to confirm their identity and whereabouts and that police would advise such individuals to surrender, but that such individuals would later be found shot to death by armed intruders or by police during raids;

- The Applicant's testimony confirmed at a minimum that his team in the DEU worked in parallel with an intelligence team engaging in buy-bust activities, which the objective evidence confirmed was an instrumental tactic in locating and targeting individuals that were later killed under suspicious circumstances. The ID found that the Applicant's unit provided intelligence, and by extension, operational support for the enforcement teams and the buy-bust operations to be carried out. The ID considered this to be full and direct participation in the DEU's activities;

- The fact that the Applicant received a commendation medal for the "Implementation of Anti-Illegal Drug Campaign" supported a conclusion that the applicant's contribution was significant and not merely peripheral; and

- There was no evidence that the Applicant's short tenure in the DEU lessened his knowledge or diminished the significance of his participation. He clearly participated in activities entailing, at minimum, an important supporting role to other drug enforcement teams. Further, he continued to work for the PNP until 2021, and left at that point only because he intended to immigrate to Canada.

[17] The ID summarized its findings as follows:

> In examination of both witness testimony and the objective evidence, I find that there are reasonable grounds to believe that Mr. Ahuday participated in the Tokhang operations significantly and knowingly, as a police officer on a team in the drug enforcement unit of the PNP. He provided in depth knowledge of the anti-drug campaign, police operations in the drug enforcement unit (albeit he did not acknowledge any wrongdoing), and his team's particular duties. Mr. Ahuday fully and directly participated in the duties of the PNP drug enforcement unit and the team he was on, and he was described by his supervisor, who provided witness testimony, as a participant in these responsibilities. In this context, he testified to door-to-door visits of residents with or without *barangay* officials, attempting to convince suspected drug users to 'surrender', and referring suspected drug users for 'verifications' to the other drug enforcement unit or for 'intelligence' or other follow-up. As is demonstrated by the objective evidence, these activities directly contributed to targeted killings of drug users and dealers by the PNP, at the behest of President Duterte. I find that his length and breadth of his contributions, even as he described them, directly contributed to the anti-drug campaign even if for a limited period of time.

III. LEGAL FRAMEWORK

[18] S.35(1)(a) of the IRPA stipulates that:

> **35 (1)** A permanent resident or a foreign national is inadmissible on grounds of violating human or international rights for
>
> > **(a)** committing an act outside Canada that constitutes an offence referred to in sections 4 to 7 of the Crimes Against Humanity and War Crimes Act;

[19] S.6(1) of the CAHWCA reads:

> **6 (1)** Every person who, either before or after the coming into force of this section, commits outside Canada
>
> **(a)** genocide,
>
> **(b)** a crime against humanity, or
>
> **(c)** a war crime,
>
> is guilty of an indictable offence and may be prosecuted for that offence in accordance with section 8.

[20] In turn, s.6(3) of the CAHWCA sets out the definition of "crime against humanity" as follows:

> **crime against humanity** means murder, extermination, enslavement, deportation, imprisonment, torture, sexual violence, persecution or any other inhumane act or omission that is committed against any civilian population or any identifiable group and that, at the time and in the place of its commission, constitutes a crime against humanity according to customary international law or conventional international law or by virtue of its being criminal according to the general principles of law recognized by the community of nations, whether or not it constitutes a contravention of the law in force at the time and in the place of its commission.

[21] In *Ezokola*, the Supreme Court of Canada set out a contribution-based approach for determining whether an individual has been complicit in crimes against humanity. The test was formulated in the context of exclusion under article 1F(a) of the *Refugee Convention*, but is equally applicable to admissibility determinations under s.35(1)(a) of the IRPA. Under the *Ezokola* framework, an individual will be excluded from refugee protection only where there are serious reasons for considering that the person has voluntarily made a significant and knowing

contribution to an organization's crime or criminal purpose. To assist decision-makers in considering whether these contribution-based factors are present, the Court in *Ezokola* set out six non-exhaustive factors for consideration:

a) The size and nature of the organization;

b) The part of the organization with which the applicant was most directly concerned;

c) The applicant's duties and activities within the organization;

d) The applicant's position or rank in the organization;

e) The length of time the applicant was in the organization, particularly after acquiring knowledge of the group's crime or criminal purpose; and

f) The method by which the applicant was recruited and the applicant's opportunity to leave the organization.

[22] Under the *Ezokola* formulation, it is clear that passive acquiescence to, or mere association with, an organization that has committed international crimes is not sufficient to ground a finding of complicity. Rather, there must be a link between the individual and the crimes or the criminal purpose of the group: *Ezokola* at paras 8, 77. However, an individual may be complicit in a crime without being present at the crime and without having physically contributed to the crime: *Ezokola* at para 77.

[23] It is also worth noting that this link does not have to be "directed to specific identifiable crimes", but may also relate to "wider concepts of common design": *Ezokola* at para 87, citing *R. (J.S. (Sri Lanka)) v. Secretary of State for the Home Department*, [2010] UKSC 15, [2011] 1 A.C. 184 at para 38. However, where an organization is multifaceted in nature – with both legitimate and criminal purposes – the link between an individual's contribution and the criminal purpose may be more tenuous: *Ezokola* at para 94; *Bedi v. Canada (Public Safety and*

Emergency Preparedness), 2019 FC 1550 at para 26*; Canada (Citoyenneté et Immigration) v. Singh*, 2021 FC 993 at paras 30-32.

[24] With regard to the significance of an individual's contribution, the Supreme Court cautioned in *Ezokola* at para 88, that:

> Given that contributions of almost every nature to a group could be characterized as furthering its criminal purpose, the degree of the contribution must be carefully assessed. The requirement of a significant contribution is critical to prevent an unreasonable extension of the notion of criminal participation in international criminal law.

[25] Where a group's abuses are systematic, widespread and routine, there will be a stronger link between individual complicity and the crimes or criminal purpose than where the abuses are discrete, uncommon and perpetrated by few: *Talpur v Canada (Citizenship and Immigration)*, 2016 FC 822 at para 39 [*Talpur*].

[26] One difference between the assessment of *exclusion* under Article 1F of the Refugee Convention and the assessment of *inadmissibility* under s.35 of the IRPA relates to the evidentiary standard. The standard considered by the Supreme Court in *Ezokola* is characterized as the "serious reasons to consider" standard, which is embedded in the language of Article 1F of the *Refugee Convention*. By contrast, the standard associated with inadmissibility cases is commonly referred to as the "reasonable grounds to believe" standard, as codified at s.33 of the IRPA:

> The facts that constitute inadmissibility under sections 34 to 37 include facts arising from omissions and, unless otherwise provided, include facts for which *there are reasonable grounds to*

> *believe that they have occurred, are occurring or may occur*
> [emphasis added].

[27] While there may be some uncertainty as to the practical differences between these two standards, I find that this issue is not a determinative one in this case: *Khachatryan v Canada (Citizenship and Immigration)*, 2020 FC 167 at para 24.

IV. ISSUES

[28] The only issue to be determined in this matter is whether it was reasonable for the ID to conclude that Mr. Ahuday was inadmissible to Canada pursuant to s.35(1)(a) of the IRPA, for complicity in crimes against humanity stemming from his employment in the drug enforcement activities of the PNP.

[29] I note that in raising this issue, the Applicant does not dispute that members of the PNP did commit crimes against humanity over the course of the Duterte administration.

V. STANDARD OF REVIEW

[30] It is common between the parties that this matter should be reviewed on a standard of reasonableness: *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at paras 10, 16, 23, 25 [*Vavilov*].

[31] In conducting a reasonableness review, a court “must consider the outcome of the administrative decision in light of its underlying rationale in order to ensure that the decision as a whole is transparent, intelligible and justified” (*Vavilov* at para 15). It is a deferential standard,

but remains a robust form of review and is not a "rubber-stamping" process or a means of sheltering administrative decision-makers from accountability (*Vavilov* at para 13).

[32] It should also be noted here that the rights at stake in admissibility cases can be significant. The allegations associated with cases such as this are invariably serious, as are the consequences of any decisions made in relation to these allegations. Here, for example, the Applicant's ability to remain in Canada, where he has now lived for a considerable period, will likely hinge on the outcome of this admissibility process. In *Vavilo*v, the Court noted that the reasons provided in support of a decision – the justification for that decision – must reflect the stakes, which in this matter are at the moderately high end of the spectrum: *Vavilov* at para 133.

VI. ANALYSIS

[33] As noted above, the Applicant does not dispute the ID's findings that, in furtherance of Duterte's drug war, members of the PNP committed crimes against humanity. As this element of the ID decision is not in dispute, I will focus on the ID's analysis of the Applicant's complicity in those crimes.

[34] The Applicant's arguments can be distilled into the following broad assertions:

i. The ID did not have sufficient evidence to establish reasonable grounds to believe that the Applicant was complicit in crimes against humanity; and

ii. The Applicant did not engage in, and was not aware of or wilfully blind to, torture or other abuses, and hence he did not voluntarily make a significant and knowing contribution to any criminal purpose held by any part of the PNP.

[35] For the following reasons, I respectfully disagree with these submissions. I further conclude that the ID did not err in finding that there were reasonable grounds to believe that Mr. Ahuday had made a voluntary, knowing, and significant contribution to the crimes committed by the Philippine police forces during Duterte's war on drugs and, as such, that he was complicit in those crimes. The ID's rationale can be followed without encountering any overarching errors that warrant judicial intervention.

[36] Mr. Ahuday argues that the PNP is a large police force, and that not all its members were complicit in the Duterte regime's crimes. Mr. Ahuday further points to the fact that, for the bulk of his career, he worked in low-level activities such as traffic enforcement. Given his particular role within the police force, the Applicant argues that the ID erred by finding him complicit in the crimes of the PNP. The Applicant also submits that the ID erred in some instances by conflating the larger PNP and the Drug Enforcement Unit, which was more directly responsible for carrying out the drug war.

[37] In developing this argument, the Applicant relies on the decision of this Court in *Talpur*, a case that also involved a police officer, and allegations of complicity in crimes committed by a police force. More specifically, the Applicant argues that this Court's findings in *Talpur* effectively set a bar for complicity in this context, and that Mr. Ahuday's activities in this case fell below that bar. With respect, I disagree.

[38] In *Talpur*, a visa officer found that the applicant, who had been a police officer in the Sindh region of Pakistan, was complicit in crimes against humanity, because although he claimed he was never at the scene of any crimes, he played an *operational and direct* role in

police activities. These activities including carrying out arrests, interrogations and investigations in a location where police torture was well-known, widespread, and routine: *Talpur* at paras 38-39. My colleague Justice Manson dismissed the applicant's application for judicial review of this decision. In arriving at this conclusion, Justice Manson rejected the applicant's contention that the officer had effectively found that *all* Sindh police officers were complicit in abuses. Rather, the officer had focused on the operational and direct activities carried out by the applicant, and reasonably concluded that he was complicit in the applicable crimes.

[39] Having considered the reasoning of my colleague Justice Manson in *Talpur*, I agree that it is relevant to the present case, but I disagree that it is helpful to the Applicant's position, given its factual similarities to the current matter. In this case, as in *Talpur*, the decision-maker did not simply rely on the Applicant's employment with the police force to ground the complicity analysis. The ID recognized that passive membership in an organization cannot ground a finding of complicity, and instead focused on the Applicant's specific role within, and contribution to, the DEU. To this extent, I also reject the Applicant's submission that the ID conflated the different roles of the PNP and the DEU. On the contrary, the bulk of the ID's analysis related to the Applicant's (admittedly brief) period of service within the DEU.

[40] More specifically, the ID focused almost exclusively on the Applicant's participation in the Tokhang actions and, with extensive references to the documentary evidence, it outlined the operational and direct connections between this activity and the crimes against humanity carried out by the police.

[41] Indeed, the organic connections between the Applicant's participation in Tokhang Operations and the crimes of the police force are contemplated in the very structure of Duterte's Operation Double Barrel. As the ID noted, the first "barrel" of this operation consisted of the Tokhang activities – those related to the identification, investigation, verification, and surrender of suspected drug users and dealers – while the second "barrel" consisted of systemic and wide-spread human rights violations, including extra-judicial killings of those very individuals identified through the Tokhang process.

[42] In arriving at this conclusion, I also find that the ID reasonably questioned the Applicant's "relatively benign" descriptions of the Tokhang operation. As the ID noted, these descriptions were "vastly different" to the objective, and specific, evidence provided by the Minister. This evidence not only established that Tokhang operations were directly related to enforcement and violence, but also pinpointed these activities to the police station where the Applicant worked for his entire career.

[43] For example, the ID referred to an article documenting multiple deaths associated with what appear to have been "buy-bust" operations involving police officers from the Applicant's station. Another report – this one documenting the killing of six individuals just prior to the Applicant's assignment to the DEU – referred directly to the Applicant's supervisor. Given this information, it was reasonable for the ID to prefer the objective evidence related to Tokhang operations to the Applicant's testimony.

[44] Contrary to the Applicant's assertion, I also find that the ID reasonably considered the duration of the Applicant's service with the PNP and, more importantly, with the DEU. It

acknowledged that he only served in this unit for approximately three months, but also found that this brief period did not necessarily lessen his knowledge of the unfolding events, or the significance of his participation. In particular, the ID noted that Operation Tokhang appeared to have been "fully engaged" during the Applicant's tenure with the DEU, and that it had already resulted in extra-judicial killings. While length of service is an important *Ezokola* factor, I find in this case that the ID did not err in its consideration of it.

[45] The Applicant also submits that the ID erred by conflating a voluntary, knowing and significant contribution *to an organization* with a voluntary, knowing and significant contribution *to an organization's crimes or criminal purpose*. Put another way, the Applicant submits that the ID erred by failing to recognize that while he may have contributed knowingly, voluntarily and significantly to the PNP, he made no such contributions to the organization's crimes or criminal purpose.

[46] Once again, I disagree. The ID considered all of the evidence before it, and reasonably determined that the Applicant contributed voluntarily, knowingly, and significantly to the crimes associated with the Duterte war on drugs. This contribution arose through the Applicant's participation in the Tokhang operations, which the ID reasonably concluded were closely connected to drug enforcement actions that resulted in, amongst other things, the targeted killings of drug suspects.

[47] Given the focus and precision of its analysis, there is no merit to the argument that the ID unreasonably based its conclusions on the Applicant's mere employment with the PNP, or on the kind of 'guilt by association' reasoning that the Supreme Court sought to correct in *Ezokola*. On

the contrary, the ID's reasons were responsive to the evidence before it, were defensible in light of the applicable legal principles, and its conclusions were a product of a rational chain of analysis.

[48] In support of his argument, the Applicant refers to academic commentary suggesting that, while *Ezokola* sought to eliminate exclusion findings based on guilt by association, several decisions since 2013 suggest that there may be some slippage in the rigour of complicity analyses in Canadian refugee law: Aneta Bajic, Chun He, and Andrew Koltun, "Eliminating Guilt by Association: Reviewing the Limits of Ezokola in Canadian Regugee Law Complicity Decision-Making (2013-2020)" (2023) 55:1 Ottawa L Rev at 49. This slippage, the Applicant suggests, is reflected in the ID's decision, which adopted an overly broad approach to the principle of complicity.

[49] I will not comment here on whether the scope of complicity findings has broadened over recent years. Regardless of whether this is the case, I find that in this matter the ID drew reasonable conclusions from the facts before it. I also find that it clearly explained any credibility concerns it had with the Applicant's testimony, and that it adhered to the principles set out in *Ezokola*. More specifically, I have concluded that the ID reasonably (in fact, meticulously) determined that each element of the *Ezokola* framework confirmed the Applicant's voluntary, knowing, and significant contribution to the crimes associated with the Duterte war on drugs.

[50] Finally, the Applicant submits that the ID erred by failing to properly consider the Applicant's own evidence and testimony, and that the ID "did not have sufficient evidence to establish reasonable grounds to believe that the Applicant was complicit in crimes against

humanity." Respectfully, this is, quite explicitly, a request for this Court to reweigh the evidence that was before the ID. The ID thoroughly assessed the Applicant's evidence, including evidence that he is not the subject of any criminal proceedings in the Philippines, and reasonably explained why this evidence was not determinative of its complicity analysis. It also gave an intelligible, transparent and justified rationale, throughout its reasons, for its negative credibility assessments of Mr. Ahuday's inconsistent testimony and its preference for the documentary evidence.

VII. CERTIFIED QUESTION

[51] The Applicant proposes the following certified question:

> "In the context of a police officer or other public servant in a country with state-sponsored extrajudicial killings and well documented crimes against humanity, what is the level of complicity required to satisfy the elements of the *Ezokola* test?"

[52] I do not believe that this question ought to be certified, because it is improperly conceived, and in any event, was already answered by *Ezokola*. I say that it is improperly conceived because any "level of complicity" in international crimes will necessarily meet the *Ezokola* requirements. Complicity is a "doctrine that attributes criminal responsibility to those who are involved with but do not physically perpetrate a crime": Marina Aksenova, *Complicity in International Criminal Law* (Oxford: Hart, 2016). Understood as such, the question is not about levels of complicity, but about whether complicity, as a principle of international criminal law, is present.

[53] If the question is meant, rather, to capture the degree of contribution that will constitute complicity in respect of a police officer or public servant employed by an entity that has committed international crimes, this is precisely the question that the Supreme Court in *Ezokola* answered. Mr. Ezokola, for example, was a senior public servant in the Democratic Republic of Congo. It follows that the proposed question should not be certified.

VIII. CONCLUSION

[54] For the foregoing reasons, I believe this application for judicial review should be dismissed. The ID reasonably determined that Mr. Ahuday made a voluntary, knowing, and significant contribution to the crimes against humanity committed by the drug units of the PNP as part of President Duterte's war on drugs, and is therefore is inadmissible to Canada pursuant to s.35(1)(a) of the IRPA.

[55] I recognize that this will be an unsatisfactory result for Mr. Ahuday. I also recognize that, as a career rank and file police officer, he was thrust into difficult circumstances with the onset of the war on drugs. Nevertheless, I have concluded that the ID carefully considered his testimony and his arguments, and that its reasons are defensible in light of the facts and law.

JUDGMENT in IMM-1526-24

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is dismissed.

2. No question is certified for appeal.

"Angus G. Grant"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	IMM-1526-24
STYLE OF CAUSE:	JOSUE LIMMONG AHUDAY v THE MINISTER OF CITIZENSHIP AND IMMIGRATION
PLACE OF HEARING:	HELD BY WAY OF VIDEOCONFERENCE
DATE OF HEARING:	NOVEMBER 28, 2024
JUDGMENT AND REASONS:	GRANT J.
DATED:	JANUARY 7, 2025

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