

**Date: 20070727**

**Docket: IMM-4758-06**

**Citation: 2007 FC 787**

**Ottawa, Ontario, July 27, 2007**

**PRESENT: The Honourable Mr. Justice Phelan**

**BETWEEN:**

**NEVILLE WASHINGTON BEAUMONT**

**Applicant**

**and**

**THE MINISTER OF PUBLIC SAFETY  
AND EMERGENCY PREPAREDNESS**

**Respondent**

**REASONS FOR JUDGMENT AND JUDGMENT**

**I. INTRODUCTION**

[1] The Applicant claimed he was at risk of falling into the Jamaican drug culture due to the absence of family in Jamaica and the possibility that he will stop taking his medicines for his bi-polar condition. This is the judicial review of the PRRA decision denying the Applicant's application for protection.

## II. FACTUAL BACKGROUND

[2] The Applicant is a 46 year old citizen of Jamaica. He has been in Canada since he was 15 and became a permanent resident in 1978.

[3] Mr. Beaumont suffers from a bi-polar disorder and schizophrenia as a result of injuries suffered in an automobile accident. He claimed that he needed his family to help him with his mental health and to deal with his addiction to crack cocaine and heroin.

[4] The Applicant had been convicted of numerous offences in the 1980s but through stays and reconsiderations, he was not deported. He was more recently convicted of trafficking and he is to be deported.

[5] In addition to his fear of falling into the Jamaican drug culture, he also says that he is at risk of anti-social behaviour, physical and emotional harm and that he will be sent to prison and will be sexually abused.

[6] The PRRA Officer rejected his application because the Applicant's arguments are speculative. The risk of falling into a drug culture is not a risk defined in s. 96 or s. 97.

[7] As to his mental condition, the evidence is that so long as he takes his medication, he can function well. The evidence also suggests that when the Applicant does not take his medication, he engages in his drug addiction.

[8] The PRRA Officer conducted his own research into country conditions and noted the U.K. Home Office Report which confirms that Jamaica provides mental health services at a hospital, at out-patient clinics and rehabilitation units. Medications are available.

[9] The Officer also noted that while the Centre for Addiction and Mental Health indicates that family-centred care is ideal, there is nothing to suggest that individuals cannot be treated away from their family.

### III. ANALYSIS

[10] As to the standard of review, I adopt the reasoning found in *Demirovic v. Canada (Minister of Citizenship and Immigration)*, 2005 FC 1284 at paragraph 23:

23. As to the appropriate standard of review to be applied to a decision of a PRRA officer, in *Kim v. Canada (Minister of Citizenship and Immigration)*, [2005] F.C.J. No. 540 (T.D.) at paragraph 19, Mr. Justice Mosley, after conducting a pragmatic and functional analysis, concluded that "the appropriate standard of review for questions of fact should generally be patent unreasonableness, for questions of mixed law and fact, reasonableness *simpliciter*, and for questions of law, correctness". Mr. Justice Mosley also endorsed the finding of Mr. Justice Martineau in *Figurado v. Canada (Solicitor General)*, [2005] F.C.J. No. 458 (T.D.) at paragraph 51, that the appropriate standard of review for the decision of a PRRA officer is reasonableness *simpliciter* when the decision is considered "globally and as a

whole". This jurisprudence was followed by Madam Justice Layden-Stevenson in *Nadarajah v. Canada (Solicitor General)*, [2005] F.C.J. No. 895 (T.D.) at paragraph 13. For the reasons given by my colleagues, I accept this to be an accurate statement of the applicable standard of review.

[11] There is nothing to indicate that the Officer misstated evidence or failed to consider relevant evidence. In finding that the Applicant's claim was speculative, the Officer addressed both the issue of persecution under s. 96 and of risk under s. 97.

[12] The core of the Applicant's claim is that he will be at risk flowing from his failure to take his medication. There is no evidence that he is incapable of taking his medicines. The means of preventing harm lies in his own hands.

[13] The Officer also found that there was state protection. The Applicant has provided nothing that undermines this finding. The Officer even went so far as to conclude that medical care was available even though the inability of a country to provide adequate health or medical care is not a risk covered by s. 97.

[14] The conclusions of Justice Kelen in *Grant v. Canada (Minister of Citizenship and Immigration)*, [2002] F.C.J. No. 191 (QL), albeit said in the context of an irreparable harm analysis, is applicable to this situation:

8. A fundamental principle of immigration law is that non-citizens do not have a right to remain in Canada. Canada is not and will not become a haven for criminals. If a non-citizen commits a crime they are subject to the loss of their right to remain in Canada.

The jurisprudence has established that a mental or other illness does not give a non-Canadian the right to remain in Canada. The cases have also established that criminal activities, drug addiction, and illnesses cannot be the foundation for a claim of irreparable harm. Evidence proffered by the applicant regarding irreparable harm that will result from his separation from his children, separation from his treatment for PTSD, and lack of establishment in Jamaica is speculative at best, and has been addressed at length by the IAD in its original decision.

[15] Therefore, I find no basis for interfering with this decision. The application for judicial review will be dismissed. There is no question for certification.

**JUDGMENT**

**THIS COURT ORDERS AND ADJUDGES that** this application for judicial review will be dismissed.

“Michael L. Phelan”

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Judge

**FEDERAL COURT**  
**SOLICITORS OF RECORD**

**DOCKET:** IMM-4758-06

**STYLE OF CAUSE:** NEVILLE WASHINGTON BEAUMONT

and

THE MINISTER OF PUBLIC SAFETY AND  
EMERGENCY PREPAREDNESS

**PLACE OF HEARING:** Toronto, Ontario

**DATE OF HEARING:** July 24, 2007

**REASONS FOR ORDER  
AND ORDER:** Phelan J.

**DATED:** July 27, 2007

**APPEARANCES:**

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Mr. Stephen H. Gold FOR THE RESPONDENT

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