Federal Court  Cour fédérale

Date: 20130514

Docket: IMM-9110-12

Citation: 2013 FC 507

[UNREVISED ENGLISH CERTIFIED TRANSLATION]
Montréal, Quebec, May 14, 2013

PRESENT: The Honourable Mr. Justice Shore

BETWEEN:

GREGORY CHARLES

Applicant

and

THE MINISTER OF PUBLIC SAFETY AND EMERGENCY PREPAREDNESS

Respondent

REASONS FOR JUDGMENT AND JUDGMENT

[1] This decision was pursuant to an application for judicial review of a decision cancelling the applicant's stay and dismissing his appeal of a removal order by the Immigration Appeal Division (IAD) of the Immigration and Refugee Board (IRB) dated July 10, 2012.

[2] Having lived in Canada since 1995, having spent his teenage years here and having a family and child, the applicant was declared inadmissible for serious criminality, namely, the

offence described at section 348 of the *Criminal Code*, RSC 1985, c C-46. The applicant had also accumulated other convictions and criminal charges without reporting these to the IRB. The applicant has shown no remorse for these acts and blames others for how his life has turned out.

[3] After being granted a stay, the applicant showed no signs of rehabilitation and, in light of the evidence that was properly analyzed and weighed by the specialized tribunal, the IRB refused to exercise its discretion in the applicant's favour. The cancellation of the applicant's stay of removal is entirely reasonable in the circumstances.

[4] Despite a five-year stay ordered to give the applicant an opportunity to rehabilitate himself and respect the imposed conditions, he committed further criminal acts, which he did not even report to the IRB. Among other things, he was convicted of an assault that took place on March 26, 2012, and he failed to comply with a promise to appear. The applicant has not challenged his removal order; instead, he is basing his application on humanitarian and compassionate considerations, including the best interests of his child born a year and a half ago.

[5] The standard of review applicable to this case is reasonableness (see *Canada (Minister of Citizenship and Immigration) v Khosa*, 2009 SCC 12, [2009] 1 SCR 339).

[6] The applicant has not demonstrated a particularly strong emotional bond with his child. He gives money to the child's mother to cover childcare expenses. The fact that he took his child to the park before being incarcerated does not in itself establish an emotional bond, given that the child is only one and a half years old.

[7] With respect to the risks associated with returning to Haiti, the Court is cognizant of paragraph 58 of *Chieu v Canada (Minister of Citizenship and Immigration)*, 2002 SCC 3, [2002] 1 SCR 84, which states that "[i]n such cases, there will be no likely country of removal at the time of the appeal and the I.A.D. cannot therefore consider foreign hardship." This is because the applicant has no likely country of removal, so the conditions in Haiti are not relevant to the appeal at issue.

[8] For all these reasons, the Court dismisses the applicant's application for judicial review.

JUDGMENT

THE COURT ORDERS that the applicant's application for judicial review be dismissed; there is no question of general importance to certify.

"Michel M.J. Shore"
Judge

Certified true translation
Francie Gow, BCL, LLB

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	IMM-9110-12
STYLE OF CAUSE:	GREGORY CHARLES v THE MINISTER OF PUBLIC SAFETY AND EMERGENCY PREPAREDNESS
PLACE OF HEARING:	Montréal, Quebec
DATE OF HEARING:	May 14, 2013
REASONS FOR JUDGMENT AND JUDGMENT:	SHORE J.
DATED:	May 14, 2013

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