

CANADA / JUDGMENT

Michel v. Canada (Citizenship and Immigration)

2025 FC 591

COURT

Federal Court

DECIDED

1 April 2025

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IMM-1020-24, IMM-15863-23

Decision Content

Date: 20250401

Docket: IMM-15863-23

IMM-1020-24

Citation: 2025 FC 591

[ENGLISH TRANSLATION]

Montréal, Quebec, April 1, 2025

PRESENT: Mr. Justice Diner

BETWEEN:

IMM-15863-23

SAMUEL MICHEL

Applicant

and

THE MINISTER OF CITIZENSHIP

AND IMMIGRATION OF CANADA

AND BETWEEN:

IMM-1020-24

SAMUEL MICHEL

Applicant

and

THE MINISTER OF PUBLIC SAFETY AND EMERGENCY PREPAREDNESS

Respondent

REASONS FOR JUDGMENT AND JUDGMENT

[1] The applicant, Mr. Michel (“Applicant”), seeks judicial review in file IMM-15863-23 of an immigration officer’s decision dated November 21, 2023, refusing his application for a pre-removal risk assessment (“PRRA”) completed under subsection 112(3) of the Immigration and Refugee Protection Act (“IRPA”). The officer refused his application on the grounds that the evidence provided was insufficient to establish, on a balance of probabilities, that there was a personalized risk of persecution under section 97 of the IRPA should he be removed to Haiti. The application for leave and for judicial review (“ALJR”) in file number IMM-15863-23 is dismissed for the following reasons.

[2] The Court also heard file number IMM-1020-24 immediately prior to IMM-15863-23, which the Applicant had filed to seek judicial review of an enforcement officer’s decision to deny his request for deferred removal. The Applicant had, on the basis of that request, filed a motion for a stay, which he succeeded in obtaining pending this Court’s decision on the PRRA.

[3] The parties agreed at the hearing that the issue raised in IMM-1020-24 has become moot in light of *Borowski v Canada (Attorney General)*, [1989] 1 SCR 342. I agree, and therefore the ALJR in this case is also dismissed.

I. Overview [4] The Applicant is a 37-year-old citizen of Haiti. He arrived in Canada as a permanent resident when he was 16 years old.

[5] Since then, the Applicant has been charged with and convicted of several crimes, starting in 2005.

[6] Notably, the Applicant was convicted of assault with a weapon or causing bodily harm in 2012 (section 267 of the Criminal Code) and of uttering threats to cause death or bodily harm in 2022 (paragraph 264.1(a) of the Criminal Code).

[7] After a series of crimes, the offence that led to his inadmissibility occurred after he was convicted of material benefit from sexual services provided by a person under 18 years (under the heading Commodification of Sexual Activity) on November 29, 2021. This offence is described in subsection 286.2(2) of the Criminal Code and carries a maximum sentence of 14 years’ imprisonment. A report under subsection 44(1) of the IRPA led to an admissibility hearing and an inadmissibility order: the Applicant was declared inadmissible to Canada on grounds of serious criminality. A deportation order was issued against him on May 31, 2023, and a warrant for his arrest under section 55 of the IRPA was issued on July 17, 2023.

[8] The Applicant filed a PRRA application, as an applicant under paragraph 112(3)(b) of the IRPA, for conviction in Canada punishable by imprisonment for at least ten years (36(1)(a) IRPA) on October 6, 2023.

[9] On November 21, 2023, a PRRA officer (Officer) rejected the Applicant’s application. This is the decision under judicial review in IMM-15863-23 (Decision).

[10] The Applicant contends that the officer erred in drafting his PRRA and failed to adequately consider objective documentation regarding the personalized risk he will face if he returns to Haiti.

[11] The Respondent, however, maintains that the officer rendered a reasonable, intelligible and coherent decision based on the insufficiency of the evidence submitted demonstrating a personalized risk.

II. Analysis [12] The issue this Court must consider is whether the Decision by the PRRA officer was reasonable. To this end, the applicable standard of review is reasonableness (*Abdullahi v Canada (Citizenship and Immigration)*, 2024 FC 1566 at para 13; *Casseus v Canada (Citizenship and Immigration)*, 2020 FC 1104 [*Casseus*] at paras 3–4).

[13] I am of the opinion that the PRRA officer considered the evidence in a justifiable manner and handled it in such a way as to make his Decision transparent and intelligible having regard to the evidence.

[14] First, the Applicant, in the context of this judicial review, asks me to reassess the evidence and the weight given to each element raised, in particular that he would be at risk in the event of his return because of (i) detention conditions in Haiti, (ii) the stigmatization of persons who have been deported back to Haiti, and (iii) the deteriorating security situation in the country. These arguments regarding the situation in Haiti for criminalized people are similar to those pleaded in *Casseus*.

[15] It is not within my jurisdiction to conduct such a review on judicial review, as this Court must show deference to administrative decision-makers and I cannot substitute my own assessment of the evidence for that of the PRRA Officer (*Motino Soriano v Canada (Citizenship and Immigration)*, 2024 FC 1500 at paras 20–24).

[16] In this case, each piece of evidence was considered by the Officer, as were the three fears alleged by the Applicant. The Officer reasonably concluded that there was insufficient evidence to conclude that the Applicant faced a personalized risk if he were to return to Haiti.

[17] Moreover, as the Respondent points out, documentary evidence alone is insufficient to grant an application for protection. Indeed, the Applicant had to demonstrate a link between the evidence and his personal situation (see, among others, *Kapoor v Canada (Citizenship and Immigration)*, 2025 FC 365 at para 18; *Odongo v Canada (Citizenship and Immigration)*, 2025 FC 362 at para 16; *Belaroui v Canada (Citizenship and Immigration)*, 2015 FC 863 at para 17).

[18] It was therefore open to the Officer to render a negative decision as to the sufficiency of the evidence and as to the fact that the Applicant's three allegations did not establish a personalized risk (*Casseus* at paras 6–15).

[19] Before this Court, the Applicant's written and oral submissions did not address any specific evidence or excerpts from evidence that may have been filed with the Officer and refer only to documentary evidence generally. Moreover, the Applicant's record in this case contains no documents other than a copy of his ALJR, a copy of the Decision, the Applicant's affidavit, his memorandum and his language declaration. No documentary evidence, either in reference to Haiti or to his personal situation, was included.

[20] At the hearing, when counsel for the Applicant was questioned regarding specific documentary evidence and the applicable case law, she maintained her general argument without reference to the documentary evidence before the PRRA Officer, or any other available evidence other than the tribunal record, which she insisted should have been consulted. Moreover, when asked to point out the alleged problematic elements in the Certified Tribunal Record, she was unable to lay out her allegations in detail for me or to make a more specific argument based on the evidence.

[21] As instructed in *Vavilov* at paragraph 100, the burden is on the Applicant to show that the decision is unreasonable (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65, [2019] 4 SCR 653). Before reversing the Officer's Decision on this basis, I must be satisfied that there are sufficiently serious shortcomings in the decision such that it cannot be said to exhibit the requisite degree of justification,

intelligibility and transparency. Such is not the case here. I am therefore of the opinion that the PRRA Officer's conclusions are reasonable, having regard to the evidence presented, and having heard all of the Applicant's arguments.

JUDGMENT

THIS COURT'S JUDGMENT is as follows: The applications for judicial review in IMM-15863-23 and IMM-1020-24 are dismissed. The rejection of the application in IMM-15863-23 renders the issue in IMM-1020-24 moot. No questions were proposed for certification, and the Court agrees. There is no order as to costs. "Alan S. Diner" Judge FEDERAL COURT SOLICITORS OF RECORD DOCKET: IMM-15863-23 IMM-1020-24 STYLE OF CAUSE: SAMUEL MICHEL v THE MINISTER OF CITIZENSHIP AND IMMIGRATION OF CANADA SAMUEL MICHEL v THE MINISTER OF PUBLIC SAFETY AND EMERGENCY PREPAREDNESS PLACE OF HEARING: Montréal, Quebec DATE OF HEARING: MARCH 5, 2025 REASONS FOR JUDGMENT AND JUDGMENT BY: DINER J DATED: APRIL 1, 2025 APPEARANCES: Nandiath Ficara Folakè FOR THE APPLICANT Edith Savard FOR THE RESPONDENT SOLICITORS OF RECORD: Nandiath Ficara Folakè Attorney Montréal, Quebec FOR THE APPLICANT Edith Savard Department of Justice Canada Montréal, Quebec FOR THE RESPONDENT

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