Federal Court  Cour fédérale

Date: 20150522

Docket: IMM-5041-13

Citation: 2015 FC 667

Ottawa, Ontario, May 22, 2015

PRESENT: The Honourable Mr. Justice O'Keefe

BETWEEN:

JOSE ENRIQUE MANZANARES GALEAS

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

REASONS FOR JUDGMENT AND JUDGMENT

[1] The applicant's claim for refugee protection was denied by the Refugee Protection Division of the Immigration and Refugee Board of Canada (the Board). He now applies for judicial review of that decision pursuant to subsection 72(1) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [the Act].

[2] The applicant seeks an order setting aside the negative decision and returning the matter to a different member of the Board for redetermination.

I. Background

[3] The applicant is a 49 year old man, born and raised in Honduras. He has a common law spouse and three children in Honduras.

[4] In 2004, the applicant began working as a collections agent, requiring him to travel to all areas of the city on a motorcycle to collect money.

[5] In March 2007, members of the Mara 18 gang made extortion demands on the applicant. He complied with these demands and made payment of approximately $50 US to gang members on three or four occasions. He eventually ceased making payments in early 2007.

[6] The applicant reported the threats related to his non-compliance of extortion demands to the authorities. The authorities recommended that he change residence. He did and moved his family to another neighbourhood in Tegucigalpa.

[7] Despite the change of residence, the applicant continued receiving threats. The gang threatened his children on their way to school and at one point, held him up at gunpoint and robbed him of his motorcycle. Immediately following the robbery, the applicant flagged down a nearby police patrol car and accompanied the police in their patrol car to search for the robbers. The applicant was unable to spot the gang's robbers.

[8] The applicant's company replaced his motorcycle, but it was later stolen from his residence's indoor parking garage. He believes it was gang related because he was potentially spotted by the gang or some of their associates as he rode around in the back of the police vehicle.

[9] The threats against the applicant increased in severity. In March 2008, the applicant left his work as a collections agent, fled Honduras and left behind his family. He travelled through Guatemala and Mexico and illegally entered the United States. He settled there until coming to Canada in June 2012.

[10] The applicant's brother was also living illegally in the United States and was deported to Honduras in 2010. Subsequently, the applicant's brother was extorted by gang members due to his family ties with the applicant. The applicant's brother complained to the police, but no action was taken. The applicant alleges that his brother was assassinated on February 16, 2012 by gang members while riding to work on his motorcycle. He provided a death certificate and a news story about the killing to the Board. After his brother's murder, the applicant was fearful of getting deported to the same fate.

[11] On June 15, 2012, the applicant came to Canada and sought refugee protection, on the basis that if he were to return to Honduras, he would be at the mercy of gang members. The applicant also reported that his family has received repeated threats from gang members during his absence from Honduras.

II. Decision Under Review

[12] The Board released its negative decision on July 16, 2013 ruling that the applicant was not a Convention refugee under section 96 of the Act and not a person in need of protection under section 97 of the Act.

[13] The Board determined the main issues in this case were credibility and generalized risk. It found the applicant was generally a credible witness and provided evidence to substantiate his claims. It further mentioned that although there was one omission in the applicant's Personal Information Form (PIF) narrative, in light of the overall ring of truth of the applicant's testimony, it did not draw a negative inference.

[14] The Board also stated although the applicant did not seek refugee protection during his stay in the United States, it accepted his evidence for not claiming in the United States due to his brother's deportation and his subsequent murder in Honduras.

[15] Insofar as section 96 is concerned, the Board found the applicant is not a Convention refugee because his fear is not by reason of any Convention ground; rather the applicant was pursued for reasons of criminality.

[16] Insofar as section 97 is concerned, the Board found the risk that the applicant faces can be characterized as "a risk of extortion by gang members" due to his perceived wealth working as a collections agent. The Board was not persuaded that this risk would be different from a

general risk faced by other business persons. The Board acknowledged the documentary evidence related to extortion and kidnapping by the Mara and that Honduras is considered to be one of the most violent countries in the world with a murder rate of almost 20 homicides per day. Further, it made the following findings.

[17] First, the Board found on a balance of probabilities, the applicant was a target because of his wealth or perceived wealth; however, being wealthy does not necessarily make him someone in need of protection.

[18] Second, the Board found that just because the applicant had reported to the police regarding the threats and robberies by the Mara, the mere fact of reporting does not make this a particularized risk.

[19] Third, the Board found the evidence does not support on a balance of probabilities that the motorcycle thefts were related or that the applicant was being systematically targeted for extortion. It stated, based on documentary evidence, in a country with widespread gang criminality such as Honduras, "the general population runs a generalized risk of falling victim to this type of activity."

[20] The Board acknowledged the mixed jurisprudence on the subject matter of generalized risk and stated that it was guided by several of this Court's decisions which support the finding of generalized risk as it relates to ongoing victimization of an individual at the hands of a

criminal organization such as *Acosta v Canada (Minister of Citizenship and Immigration)*, 2009 FC 213, [2009] FCJ No 270.

[21] In conclusion, the Board rejected the applicant's claim stating that the applicant is not a Convention refugee or a person in need of protection.

III. Issues

[22] The applicant raises the following issues:

1. Was the Board's generalized risk finding unreasonable as a result of:

a) The Board's making an erroneous finding of fact in a perverse or capricious manner without regard for the material before it?

b) The Board's failure to properly characterize the risk alleged by the applicant?

c) The Board's generalized risk finding being logically inconsistent with its own credibility finding?

[23] The respondent raises one issue: that the applicant has failed to establish a reviewable error.

[24] I would rephrase the issues as follows:

A. What is the standard of review?

B. Was the Board's decision reasonable?

IV. Applicant's Written Submissions

[25] The applicant submits the Board's generalized risk findings are usually questions of mixed law and fact, so the appropriate standard of review for these findings is usually reasonableness. However, the standard will rise to one of correctness when the Board's finding engages a question of the interpretation of paragraph 97(1)(b) as a matter of law (see *Portillo v Canada (Minister of Citizenship and Immigration)*, 2012 FC 678 at paragraph 18, [2012] 1 FCR 295 [*Portillo*]; and *VLN v Canada (Minister of Citizenship and Immigration)*, 2011 FC 768 at paragraph 15 to 16, [2011] FCJ No 968).

[26] In support of his position, the applicant submits three arguments: i) the Board made an erroneous finding of fact in a perverse or capricious manner without regard for the material before it; ii) the Board failed to properly characterize the risk faced by the applicant; and iii) the Board's generalized risk finding was logically inconsistent with the Board's credibility finding.

[27] First, the applicant submits the Board failed to mention or analyze the evidence that he was targeted because he was a police informant. Here, the Board found the risk faced by the applicant can be characterized as a risk of extortion due to his perceived wealth. However, the applicant's written and oral testimony demonstrate that the risk he faced was a risk of death from being personally targeted by the Mara for having reported them to the police. He argues the Board minimized his testimony regarding his risk of being a police informant, which led the Mara to target and mark him for death.

[28] The applicant quotes paragraph 17 of *Cepeda-Gutierrez v Canada (Minister of Citizenship and Immigration)*, [1998] FCJ No 1425, 157 FTR 35 [*Cepeda*] describing this Court's guidance on when it would be permissible to infer that a finding by a decision-maker was made "without regard to the evidence." He argues the Board here failed to satisfy the burden to explain its contradictory finding to what was provided in his testimony. He states the Board focused only on the documentary evidence which supported its finding of extortion being a widespread problem in Honduras, but remained silent on the abundant evidence that indicated the threat against the applicant escalated to one against his life when the gang perceived him as a police informant. Further, the Board ignored the evidence that his brother died because the applicant informed the police on the gang.

[29] Second, the applicant submits the Board failed to properly conduct a generalized risk inquiry. He argues it is a three step process in determining whether the risk faced by a refugee claimant is one generally faced by others in the country: the decision maker must i) make an express determination of what the claimant's risk is; ii) determine whether that risk is a risk to life or a risk of cruel and unusual treatment or punishment; and iii) clearly express the basis for that risk (see *Guerrero v Canada (Minister of Citizenship and Immigration)*, 2011 FC 1210 at paragraph 28, [2013] 3 FCR 20 [*Guerrero*]).

[30] Here, the applicant argues the Board erred in the first step in this inquiry by characterizing the risk the applicant faces as a risk of extortion by gang members due to his perceived wealth. He argues if the risk faced by him was merely a risk of extortion, he would not

need to be excluded from protection under subparagraph 97(1)(b)(ii) of the Act, as his claim would simply not qualify under section 97 to begin with.

[31] The applicant submits the risk faced by a refugee claimant becomes personal to them when that risk is brought about by a special reason particular to the claimant. In *Portillo*, that special reason, as in the case at hand, was the applicant being perceived by a gang as a police informant. By defying a gang or snitching on them, a generalized risk could turn into a personalized one (see *Pineda v Canada (Minister of Citizenship and Immigration)*, 2011 FC 403 at paragraphs 12 to 14, [2011] FCJ No 525). Therefore, the Board failed in its obligation to examine whether, in the particular circumstances of the applicant, the general risk faced by him from criminality had escalated to a personal risk because of his specific circumstances.

[32] Third, the applicant submits it is logically inconsistent for the Board to find his testimony to be credible but find the risk he faces was merely a risk of being extorted. He argues that he testified that he was targeted for killing by the Mara as a result of being perceived as a police informant and for the Board to find him merely in danger of being extorted is illogical.

V. Respondent's Written Submissions

[33] The respondent submits the Board's decision with respect to the section 97 analysis is a question of mixed fact and law and it is reviewable on a standard of reasonableness (see *Dunsmuir v New Brunswick*, 2008 SCC 9 at paragraphs 53 to 56, [2008] SCJ No 9 [*Dunsmuir*]; and *Gabriel v Canada (Minister of Citizenship and Immigration)*, 2009 FC 1170 at paragraph 10, [2009] FCJ No 1545 [*Gabriel*]).

[34] The respondent submits the Board's decision was reasonable. The Board found that the applicant was a victim of crime who feared retaliation from a group of criminals after he refused to continue paying their extortion demands. It argues that the Court has held victims of criminal activity or personal revenge do not constitute a particular social group within the meaning of the Convention (see *Canada (Attorney General) v Ward*, [1993] 2 SCR 689 at 730 to 732 and 738 to 739; and *Ruiz v Canada (Minister of Citizenship and Immigration)*, 2003 FC 1177 at paragraphs 17 to 19, [2003] FCJ No 1507).

[35] The respondent submits the Board's analysis and characterization of the applicant's risk was reasonable. The applicant was afraid because he refused to pay extortion demands and this is a fear of crime. Here, the threat to the applicant's life started before his motorcycle was robbed from him and hence, occurred before he reported the theft. It argues as in the recent cases of *Wilson v Canada (Minister of Citizenship and Immigration)*, 2013 FC 103 at paragraph 5, [2013] FCJ No 78 and *Paz Guifarro v Canada (Citizenship and Immigration)*, 2011 FC 182 at paragraph 28, [2011] FCJ No 222 [*Paz*], an applicant's refusal to pay gang members and their subsequent violence is part of the ongoing criminal act of extortion, since anyone who refuses to pay is subject to reprisals. It argues the present case is analogous to *Paz*, where this Court refused judicial review of a similarly situated applicant. Here, the Board found the mere fact of reporting did not make the applicant's risk personalized and the applicant did not establish both thefts of motorcycles were related. In the present case, the applicant failed to demonstrate that what he was experiencing was beyond what others in the area were experiencing.

[36] In the respondent's further memorandum, it argues persecution is distinct from random and arbitrary violence as a result of criminal activity or a personal vendetta. Victims of crime cannot generally establish a link between their fear of persecution and a Convention ground (see *Prophète v Canada (Minister of Citizenship and Immigration)*, 2008 FC 331, affirmed in 2009 FCA 31).

VI. Analysis and Decision

A. *Issue 1 - What is the standard of review?*

[37] The Board's generalized risk findings under section 97 concern questions of mixed law and fact. Here, both the applicant and the respondent submit the applicable standard of review for the Board's assessment of generalized risk is the standard of reasonableness (*Dunsmuir* at paragraphs 53 to 56; *Gabriel* at paragraph 10).

[38] Where previous jurisprudence has determined the standard of review applicable to a particular issue before the court, the reviewing court may adopt that standard (*Dunsmuir* at paragraph 57). I agree with Mr. Justice Yvon Pinard's review in *Gabriel* of the existing jurisprudence that the standard of reasonableness should be applied where this Court is asked to review a Board's finding under section 97:

> [10] In *Prophète v. Minister of Citizenship and Immigration*, 2008 FC 331, this Court, at paragraph 11, held that interpretation of section 97 of the Act is a pure question of law, reviewable on the standard of correctness. However, the question certified in that decision was declined by the Federal Court of Appeal on the basis that "[t]he examination of a claim under subsection 97(1) of the Act necessitates an individualized inquiry" (*Prophète v. Minister of Citizenship and Immigration*, 2009 FCA 31, at paragraph 7).

> This reason has since been interpreted by my colleague Justice Johanne Gauthier as "clearly" indicative that the inquiry under 97 is not one of pure law (*Acosta v. Minister of Citizenship and Immigration*, 2009 FC 213). Accordingly, the appropriate standard of review is reasonableness because the issue is one of mixed fact and law (*Dunsmuir v. New Brunswick*, [2008] 1 S.C.R. 190, at paragraph 53). Thus, if the decision falls within a range of possible, acceptable outcomes that are defensible in respect of the facts and law it is reasonable (*Dunsmuir*, at paragraph 47).
>
> [Emphasis added]

[39] The standard of reasonableness means that I should not intervene if the Board's decision is transparent, justifiable, intelligible and within the range of acceptable outcomes (*Dunsmuir* at paragraph 47). Here, I will set aside the Board's decision only if I cannot understand why it reached its conclusions or how the facts and applicable law support the outcome (see *Newfoundland and Labrador Nurses' Union v Newfoundland and Labrador (Treasury Board)*, 2011 SCC 62 at paragraph 16, [2011] 3 SCR 708). As the Supreme Court held in *Canada (Citizenship and Immigration) v Khosa*, 2009 SCC 12 at paragraph 59 and 61, [2009] 1 SCR 339, a court reviewing for reasonableness cannot substitute its own view of a preferable outcome, nor can it reweigh the evidence.

B. *Issue 2 - Was the Board's decision reasonable?*

[40] The applicant's arguments largely hinge on the characterization of his risk under section 97. He is at issue with i) the Board's assessment of evidence, ii) the Board's characterization of the risk based on the evidence, and iii) the effect of the Board's credibility finding on the characterization of his risk. He argues the Board ignored contrary evidence and unreasonably determined the risk he faces being a general risk of extortion. He states this characterization is

inconsistent with the Board's positive credibility finding and hence, makes the decision illogical and unreasonable. The respondent takes the position that the Board's characterization of risk was reasonable based on the evidence before it.

[41] First, I find the Board did not ignore evidence in the process of assessing the applicant's risk under section 97. A decision-maker is not obliged to refer to every piece of evidence in its analysis; or else, it would impose too onerous a burden. In determining if a decision-maker is unreasonable to not refer to certain pieces of evidence, Mr. Justice John Evans stated the following in *Cepeda*:

> 15 The Court may infer that the administrative agency under review made the erroneous finding of fact "without regard to the evidence" from the agency's failure to mention in its reasons some evidence before it that was relevant to the finding, and pointed to a different conclusion from that reached by the agency. Just as a court will only defer to an agency's interpretation of its constituent statute if it provides reasons for its conclusion, so a court will be reluctant to defer to an agency's factual determinations in the absence of express findings, and an analysis of the evidence that shows how the agency reached its result.
>
> 16 On the other hand, the reasons given by administrative agencies are not to be read hypercritically by a court (*Medina v. Canada (Minister of Employment and Immigration)* (1990), 12 Imm. L.R. (2d) 33 (F.C.A.)), nor are agencies required to refer to every piece of evidence that they received that is contrary to their finding, and to explain how they dealt with it (see, for example, *Hassan v. Canada (Minister of Employment and Immigration)* (1992), 147 N.R. 317 (F.C.A.). That would be far too onerous a burden to impose upon administrative decision-makers who may be struggling with a heavy case-load and inadequate resources. A statement by the agency in its reasons for decision that, in making its findings, it considered all the evidence before it, will often suffice to assure the parties, and a reviewing court, that the agency directed itself to the totality of the evidence when making its findings of fact.
>
> [Emphasis added]

[42] Here, the Board examined the evidence of personal circumstance presented by the applicant, as well as documentary evidence. Unlike what the applicant submits, the Board did not ignore the evidence of him being possibly perceived as a police informant. In specifics, the Board found that just because the applicant had reported to the police regarding the threats and robberies by the Mara, the mere fact of reporting does not indicate a particularized risk. Therefore, the Board did not ignore evidence in the process of characterizing the applicant's risk.

[43] Second, I find the Board was unreasonable in characterizing the risk faced by the applicant. Mr. Justice Russel Zinn examined the steps a board should undertake in determining generalized risk in *Guerrero* at paragraph 28:

> Paragraph 97(1)(b) of the Act is quite specific: The personal risk a claimant must face is "a risk to their life or to a risk of cruel and unusual treatment or punishment." Before determining whether the risk faced by the claimant is one generally faced by others in the country, the decision-maker must (1) make an express determination of what the claimant's risk is, (2) determine whether that risk is a risk to life or a risk of cruel and unusual treatment or punishment, and (3) clearly express the basis for that risk.
>
> [Emphasis added]

[44] Here, the applicant is at issue with the first step and argues the Board failed to properly characterize his risk. He argues the risk he faces is not merely a risk of extortion, rather the generalized risk faced by him from criminality had escalated to a personalized risk because he was perceived as a police informant. On the other side, the respondent takes the position that the Board's characterization is proper because the applicant's risk is a fear of an ongoing criminal activity due to his refusal to pay extortion demands.

[45] In my view, the main question in determining the reasonableness of the Board's characterization of risk is whether or not by reporting to the police, the applicant became personally targeted.

[46] In *Portillo*, Madam Justice Mary J. L. Gleason reviewed the following two cases in establishing what factual circumstances would likely elevate a generalized risk to a personalized risk:

> 43 Similarly, in *Guerrero*, Justice Zinn found that the RPD had mischaracterized the risk faced by the claimant as a risk of general criminality, even though the gang members, who were trying to recruit the claimant, had violently killed his grandmother before his eyes. Justice Zinn held that the RPD had seriously minimized the nature of the threat faced by the claimant and quashed the Board's decision. In so doing, he noted at para 34 that "where a person is specifically and personally targeted for death by a gang in circumstances where others are generally not, then he or she is entitled to protection under s. 97 of the Act if the other statutory requirements are met".
>
> 44 To somewhat similar effect, in *Gomez* at para 38, Justice O'Reilly set aside a decision of the RPD in circumstances where the claimants were victims of extortion, threatened kidnapping and assault. He noted:
>
> > The applicants were originally subjected to threats that are widespread and prevalent in El Salvador. However, subsequent events showed that the applicants were specifically targeted after they defied the gang. The gang threatened to kidnap [one of the applicant's] wife and daughter, and appear determined to collect the applicants' outstanding "debt" of $40,000. The risk to the applicants has gone beyond general threats and assaults. The gang has targeted them personally. [Emphasis added]
>
> [Emphasis added]

[47] The present case is similar to *Portillo* because in *Portillo*, the Board determined that "the applicant faced a risk of death from the MS but did not elaborate that this was due to his having been a suspected police informant." (*Portillo* at paragraph 48). Here, the Board did not find the applicant faces a risk of death and rather what the applicant faces is extortion. I find the Board committed a reviewable error in not factoring the consequence of the applicant being a perceived police informant in its analysis of the characterization of risk.

[48] In my view, the case at bar is analogous to the above two cases examined by Justice Gleason in *Portillo*, the cases of *Guerrero* and *Gomez v Canada (Minister of Citizenship and Immigration)*, 2011 FC 1093, [2011] FCJ No 1601, O'Reilly J [*Gomez*]. Here, the applicant's risk has escalated from threats to being specifically targeted by the gang, such as threats to his children and the death of his brother. This demonstrates the risk faced by the applicant has escalated from a generalized risk to a personalized risk. Therefore, I find the Board's characterization unreasonable.

[49] As for the applicant's third argument with respect to the effect of a positive credibility finding in the determination of risk under section 97, I disagree with the applicant because the logic suggested by the applicant is conceptually flawed. A positive credibility finding does not necessitate a finding of personalized risk under section 97. It simply indicates the Board accepted the evidence submitted by the applicant. These two determinations are distinct and separate. Here, the applicant essentially disagrees with the assessment by the Board based on the evidence, which I have already dealt with above.

[50] Therefore, I find the Board's analysis under section 97 was unreasonable because of the erroneous characterization of the applicant's risk.

[51] The application for judicial review is therefore allowed and the matter is referred to a different panel of the Board for redetermination.

[52] Neither party wished to submit a proposed question of general importance for my consideration for certification.

JUDGMENT

THIS COURT'S JUDGMENT is that the application for judicial review is allowed and the matter is referred to a different panel of the Board for redetermination.

"John A. O'Keefe"

Judge

ANNEX

Relevant Statutory Provisions

***Immigration and Refugee Protection Act*, SC 2001, c 27**

72. (1) Judicial review by the Federal Court with respect to any matter — a decision, determination or order made, a measure taken or a question raised — under this Act is commenced by making an application for leave to the Court.	72. (1) Le contrôle judiciaire par la Cour fédérale de toute mesure — décision, ordonnance, question ou affaire — prise dans le cadre de la présente loi est subordonné au dépôt d'une demande d'autorisation.
…	…
96. A Convention refugee is a person who, by reason of a well-founded fear of persecution for reasons of race, religion, nationality, membership in a particular social group or political opinion,	96. A qualité de réfugié au sens de la Convention — le réfugié — la personne qui, craignant avec raison d'être persécutée du fait de sa race, de sa religion, de sa nationalité, de son appartenance à un groupe social ou de ses opinions politiques :
(a) is outside each of their countries of nationality and is unable or, by reason of that fear, unwilling to avail themself of the protection of each of those countries; or	a) soit se trouve hors de tout pays dont elle a la nationalité et ne peut ou, du fait de cette crainte, ne veut se réclamer de la protection de chacun de ces pays;
(b) not having a country of nationality, is outside the country of their former habitual residence and is unable or, by reason of that fear, unwilling to return to that country.	b) soit, si elle n'a pas de nationalité et se trouve hors du pays dans lequel elle avait sa résidence habituelle, ne peut ni, du fait de cette crainte, ne veut y retourner.
97. (1) A person in need of protection is a person in Canada whose removal to their	97. (1) A qualité de personne à protéger la personne qui se trouve au Canada et serait

country or countries of nationality or, if they do not have a country of nationality, their country of former habitual residence, would subject them personally

personnellement, par son renvoi vers tout pays dont elle a la nationalité ou, si elle n'a pas de nationalité, dans lequel elle avait sa résidence habituelle, exposée :

(a) to a danger, believed on substantial grounds to exist, of torture within the meaning of Article 1 of the Convention Against Torture; or

a) soit au risque, s'il y a des motifs sérieux de le croire, d'être soumise à la torture au sens de l'article premier de la Convention contre la torture;

(b) to a risk to their life or to a risk of cruel and unusual treatment or punishment if

b) soit à une menace à sa vie ou au risque de traitements ou peines cruels et inusités dans le cas suivant :

(i) the person is unable or, because of that risk, unwilling to avail themself of the protection of that country,

(i) elle ne peut ou, de ce fait, ne veut se réclamer de la protection de ce pays,

(ii) the risk would be faced by the person in every part of that country and is not faced generally by other individuals in or from that country,

(ii) elle y est exposée en tout lieu de ce pays alors que d'autres personnes originaires de ce pays ou qui s'y trouvent ne le sont généralement pas,

(iii) the risk is not inherent or incidental to lawful sanctions, unless imposed in disregard of accepted international standards, and

(iii) la menace ou le risque ne résulte pas de sanctions légitimes — sauf celles infligées au mépris des normes internationales — et inhérents à celles-ci ou occasionnés par elles,

(iv) the risk is not caused by the inability of that country to provide adequate health or medical care.

(iv) la menace ou le risque ne résulte pas de l'incapacité du pays de fournir des soins médicaux ou de santé adéquats.

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	IMM-5041-13
STYLE OF CAUSE:	JOSE ENRIQUE MANZANARES GALEAS v THE MINISTER OF CITIZENSHIP AND IMMIGRATION
PLACE OF HEARING:	TORONTO, ONTARIO
DATE OF HEARING:	NOVEMBER 24, 2014
REASONS FOR JUDGMENT AND JUDGMENT:	O'KEEFE J.
DATED:	MAY 22, 2015

APPEARANCES:

Adela Crossley	FOR THE APPLICANT
Aleksandra Lipska	FOR THE RESPONDENT

SOLICITORS OF RECORD:

Law Office of Adela Crossley Barrister and Solicitor Toronto, Ontario	FOR THE APPLICANT
William F. Pentney Deputy Attorney General of Canada Toronto, Ontario	FOR THE RESPONDENT