Federal Court  Cour fédérale

Date: 20151027

Docket: IMM-4618-14

Citation: 2015 FC 1208

Ottawa, Ontario, October 27, 2015

PRESENT: The Honourable Madam Justice Kane

BETWEEN:

ABDULLAH HAMID AND MOHAMMED HOSSAYNI

Applicants

and

THE MINISTER OF PUBLIC SAFETY AND EMERGENCY PREPAREDNESS

Respondent

JUDGMENT AND REASONS

[1] This is an application for judicial review pursuant to subsection 72(1) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [Act]. The applicants, Abdullah Hamid and Mohammed Hossayni, challenge the decision of the Chief of Operations of the Enforcement and Intelligence Operations Division [the Officer] at the Canada Border Services Agency [CBSA], which declared a total of $40 000 in cash and performance bonds forfeited and estreated (i.e., enforced).

Background

[2] Mohammed Najafi was a refugee claimant being held in detention pending an admissibility hearing for criminality. To permit Mr Najafi's release, Mr Hamid provided a cash bond of $5000 and a performance bond of $15 000 and Mr Hossayni provided a cash bond of $15 000 and a performance bond of $5000. On December 12, 2013, Mr Najafi was released on terms and conditions, including that he live at a particular address. The bonds state that they may be enforced in the case of default or breach of any of the conditions. The applicants also signed a declaration of solvency, indicating that they understood that a breach of the terms or conditions set out in their guarantee would result in their deposits being forfeited or their guarantees being enforced.

[3] On February 10, 2014, Mr Najafi was found inadmissible to Canada for serious criminality and ordered deported. On February 24, 2014, he was advised by the CBSA that his refugee claim was ineligible to be referred to the Immigration and Refugee Board. It appears that this prompted his disappearance.

[4] On March 4, 2014, the applicants were unable to reach Mr Najafi. On March 5, 2014, Mr Hamid advised the Toronto Bail Program and the CBSA Border Watch tip line that he could not locate Mr Najafi.

[5] On March 10, 2014, the CBSA notified the applicants that it was forfeiting and estreating their bonds because Mr Najafi had failed to comply with the terms and conditions of the bonds

and provided them with an opportunity to make submissions as to why their bonds should not be forfeited and estreated.

[6] The applicants provided submissions on April 9, 2014, indicating that: they offered to be bondspersons in good faith; they were diligent in their supervision of Mr Najafi to ensure his compliance with his release plan; there is discretion to decide whether forfeiture should be ordered; each case should be considered on its merits; and, they were deserving of the exercise of discretion. The applicants also submitted affidavits explaining their backgrounds, why they offered to assist Mr Najafi, the circumstances of his release and their prompt action once they could not locate him.

[7] On May 2, 2014, a reviewing officer at the CBSA prepared a recommendation that the bonds be forfeited and estreated. On May 5, 2014, the Officer agreed with the recommendation. The Officer communicated the decision to the applicants in letters dated May 14, 2014.

The Decision Under Review

[8] The decision letters, dated May 14, 2014, and signed by the Officer, state that the applicants' submissions were received and reviewed. The Officer decided to forfeit the cash bonds and estreat the performance bonds because Mr Najafi failed to notify CBSA of his change in address.

[9] The "notes to file" of the reviewing officer include the following:

- Substantial cash and performance bonds were established because of Mr Najafi's foreign criminality and use of fraudulent documents overseas;
- Mr Najafi was originally detained because crime and identity were issues;
- But for the bonds, Mr Najafi would not have been released from detention;
- Residing at an address on Sunshine Ave was a condition of Mr Najafi's release, which was secured by the applicants' bonds;
- Mr Najafi absconded shortly after he learned that his refugee claim would not be heard;
- The applicants lost contact with Mr Najafi on March 4, 2014 and immediately notified the Toronto Bail Program and the CBSA;
- Mr Najafi violated the conditions of the guarantee; and,
- The whereabouts of Mr Najafi are unknown.

[10] The Officer concurred with the recommendation of the reviewing officer and then sent the letter.

The Relevant Legislation

Section 49 of the *Immigration and Refugee Protection Regulations* SOR/2002-227 provides [Regulations]:

49. (1) A person who pays a deposit or posts a guarantee must acknowledge in writing (a) that they have been informed of the conditions imposed; and (b) that they have been informed that non-compliance with any conditions imposed will result in the forfeiture of the deposit or enforcement of the guarantee.	49. (1) La personne qui fournit une garantie d'exécution confirme par écrit : a) qu'elle a été informée des conditions imposées; b) qu'elle a été informée que le non-respect de l'une des conditions imposées entraînera la confiscation de la somme donnée en garantie ou la réalisation de la garantie.

(2) An officer shall issue a receipt for the deposit or a copy of the guarantee, and a copy of the conditions imposed.	(2) L'agent délivre un reçu pour la somme d'argent donnée en garantie ou une copie de la garantie ainsi qu'une copie des conditions imposées.
(3) The Department shall return the deposit paid on being informed by an officer that the person or group of persons in respect of whom the deposit was required has complied with the conditions imposed.	(3) Si l'agent informe le ministère que la personne ou le groupe de personnes visé par la garantie s'est conformé aux conditions imposées, le ministère restitue la somme d'argent donnée en garantie.
(4) A sum of money deposited is forfeited, or a guarantee posted becomes enforceable, on the failure of the person or any member of the group of persons in respect of whom the deposit or guarantee was required to comply with a condition imposed.	(4) En cas de non-respect, par la personne ou tout membre du groupe de personnes visé par la garantie, d'une condition imposée à son égard, la somme d'argent donnée en garantie est confisquée ou la garantie d'exécution devient exécutoire.

The Issues

[11] The applicants raise two issues:

- Did the Officer err by failing to properly exercise her discretion, including by failing to consider forfeiting a lesser amount?
- Did the Officer provide inadequate reasons?

Standard of review

[12] The decision whether a bond should be forfeited is highly discretionary. The law is settled that these decisions are reviewable on the reasonableness standard: *Khalil v Canada*

(*Minister of Public Safety and Emergency Preparedness)*, 2015 FC 641 at para 15, [2015] FCJ No 666 (QL) [*Khalil*]; *Domitlia v Canada (Minister of Public Safety and Emergency Preparedness)*, 2011 FC 419 at paras 22-27, 201 ACWS (3d) 1021 [*Domitlia*]; *Khalife v Canada (Minister of Citizenship and Immigration)*, 2006 FC 221 at para 19, [2006] 4 FCR 437 [*Khalife*].

[13] Therefore, the role of the Court is to determine whether the decision "falls within 'a range of possible, acceptable outcomes which are defensible in respect of the facts and law' (*Dunsmuir*, at para. 47). There might be more than one reasonable outcome. However, as long as the process and the outcome fit comfortably with the principles of justification, transparency and intelligibility, it is not open to a reviewing court to substitute its own view of a preferable outcome" (*Canada (Minister of Citizenship and Immigration) v Khosa*, 2009 SCC 12 at para 59, [2009] 1 SCR 339). Deference is owed to the decision-maker.

[14] In *Newfoundland and Labrador Nurses' Union v Newfoundland and Labrador (Treasury Board)*, 2011 SCC 62, [2011] 3 SCR 708 [*Newfoundland Nurses*], the Supreme Court of Canada elaborated on the requirements of *Dunsmuir v New Brunswick*, 2008 SCC 9, [2008] 1 SCR 190 [*Dunsmuir*], noting that the reasons for a decision are to "be read together with the outcome and serve the purpose of showing whether the result falls within a range of possible outcomes" and that courts "may, if they find it necessary, look to the record for the purpose of assessing the reasonableness of the outcome" (at paras 14-16). The Court summed up its guidance in para 16:

> In other words, if the reasons allow the reviewing court to understand why the tribunal made its decision and permit it to determine whether the conclusion is within the range of acceptable outcomes, the *Dunsmuir* criteria are met.

[15] The applicants argue that there were no reasons and that this amounts to a breach of procedural fairness. Breaches of procedural fairness are reviewed on the correctness standard and no deference is owed to the decision-maker where a breach is found.

Did the Officer err by failing to properly exercise her discretion, including by failing to consider forfeiting a lesser amount?

The Applicants' Position

[16] The applicants argue that the decision letter does not acknowledge that the Officer had discretion and considered whether to exercise it, nor does it acknowledge their submissions regarding whether the Officer she should exercise that discretion.

[17] The applicants note that the jurisprudence under the former *Immigration Act*, RSC 1985, c I-2, held that officers must consider whether they should exercise discretion to declare a bond forfeited or not (*Gayle v Canada (Minister of Citizenship and Immigration)*, 2002 FCT 335 at para 14, 20 Imm LR (3d) 80 (FCTD) [*Gayle*]; *Bcherrawy v Canada (Minister of Citizenship and Immigration)*, 2003 FC 1427, 255 FTR 161 (FCTD) [*Bcherrawy*]).

[18] The applicants argue that although the Act has changed, the principle remains; the Officer had the discretion to not order forfeiture or to order partial forfeiture (*Khalil* at paras 45-46). The guidelines which state that Officers have no such discretion (Operational Manual ENF 8: Deposits and Guarantees [ENF 8]) do not have force of law and the Act does not include such a limiting provision.

[19] The applicants submit that the guidelines are inconsistent. They direct officers to consider each case on its merits, but also suggest that officers should recommend that a guarantee be enforced. The applicants argue that the request for submissions signals that the submissions will be considered and there is discretion. If the submissions are not considered, then it is apparent that the officer has not exercised that discretion.

[20] Further, the applicants submit that the respondent has acted in bad faith by suggesting there is discretion and requesting submissions, then ignoring them.

[21] The applicants note that *Gayle* and *Bcherrawy* were referred to in *Uanseru v Canada (Solicitor General)*, 2005 FC 428 at para 19, 44 Imm LR (3d) 262 [*Uanseru*] with respect to the current Act, which found that an officer relied on extraneous or irrelevant considerations while exercising her discretion to forfeit one bond and excuse another. The applicants view the present case as analogous to *Uanseru* because the Officer did not consider their submissions and the decision letter, which does not amount to reasons, does not permit the Court to know what considerations the Officer relied on.

[22] The applicants note that Justice Shore canvassed the case law in *Etienne v Canada (Minister of Public Safety and Emergency Preparedness)*, 2014 FC 1128, [2014] FCJ No 1169 (QL) [*Etienne*] and noted that the guidelines provide that the CBSA has the discretion to determine whether a breach of conditions is severe enough to warrant the forfeiture of the deposit or guarantee.

[23] The applicants rely on *Etienne* as support for the principle that the lack of fault on the part of the surety is a factor to be considered. The applicants submit that this principle was also acknowledged by Justice Mosley in *Khalil* and applies to the present case; Mr Najafi's wrongdoing cannot be attributed to them.

The Respondent's Position

[24] The respondent submits that guarantees are fundamental to the implementation of conditional release in the immigration context. Whether the applicants are at fault for the breach is not relevant; a fault requirement would undermine the usefulness of providing guarantees.

[25] The respondent notes that section 49 of the Regulations is clear: a deposit is forfeited and a guarantee is enforced upon non-compliance with a condition. The applicants signed the guarantee and acknowledged the conditions and the consequences of non-compliance.

[26] The guidelines (ENF 8) provide that proposed guarantors must be able to exercise control and influence over the actions of the person concerned and clearly state that if the subject breaches any condition, a guarantee will be enforced.

[27] The respondent argues that, despite the comments of Justice Mosley in *Khalil*, the Federal Court has previously found that under the current guidelines, CBSA officers do not have the discretion to require forfeiture of an amount less than the guarantee provided (*Domitlia* at paras 34-36). However, the respondent acknowledges that substantive arguments were not

considered in *Domitlia* regarding whether the guidelines can be relied in the absence of a legislative provision.

[28] The respondent submits that it was open to the Officer to conclude that full forfeiture of the bonds was appropriate because there was non-compliance. Although the Officer has some discretion, once it is established that the conditions have been breached, the discretion is limited. In the present case, there is no dispute that there was a breach and that it was severe.

[29] The respondent adds that even if partial forfeiture could be ordered, the severity of the breach in this case would militate against a reduction in the amount forfeited.

The Officer may have had discretion to order a partial forfeiture, but the decision to forfeit the full amount is reasonable

[30] As the respondent points out, pursuant to subsection 49(1) of the Regulations, a person who pays a deposit or posts a guarantee must acknowledge in writing that they have been informed of the conditions imposed and that non-compliance will result in the forfeiture of the deposit or enforcement of the guarantee. Subsection 49(4) of the Regulations provides that the deposit is forfeited or the guarantee is enforceable upon failure to comply with any condition imposed. This is unlike the former *Immigration Act*, which indicated that a deposit may be forfeited or a guarantee may be enforced.

[31] The guidelines (ENF 8) assist decision-makers in applying the Act and Regulations. Section 7.8 provides:

> 7.8. Deposit or guarantee given by a third party
>
> The rules of procedural fairness require that a CIC or CBSA officer not recommend forfeiture of a deposit or realize a guarantee executed by a third party until that person is given an opportunity to make a written representation concerning the decision to be made.
>
> CIC and CBSA managers and officers have discretionary power to decide whether a breach of conditions is severe enough to warrant the forfeiture of the deposit or the guarantee. However, CIC as well as CBSA managers and officers do not have discretionary power to reduce or otherwise alter the amount of the deposit or guarantee.
>
> When a breach of conditions occurs that will result in forfeiture of a deposit or action to realize on a guarantee, the depositor or guarantor must be informed in writing of the breach and the possible forfeiture or enforcement action, and be granted an opportunity for written representation. If the final decision is to forfeit the deposit or guarantee, the depositor or guarantor will be held accountable for the entire amount of the deposit or guarantee.
>
> When the guarantor refuses or is unable to honour a commitment in a guarantee, CIC or CBSA officers should refer the matter to the regional office of the Justice Department for civil prosecution.
>
> [Emphasis added]

[32] In *Domitlia*, Justice Beaudry noted:

> [35] The respondent refers to the Guide and specifies that before February 1, 2007, there was some discretion for officers, who were able to require forfeiture of an amount less than the guarantee provided.
>
> [36] Given that the condition was breached on May 12, 2010, the new directives must apply. In fact, since February 1, 2007, officers no longer have the discretion to require forfeiture of an amount less that the guarantee provided. Evidently, the officer did not commit an error.

[33] However, Justice Beaudry did not elaborate further on whether the guidelines, which do not have the force of law, can limit the Officer's discretion in this way and, as the respondent acknowledges, it appears that no submissions were made on this issue.

[34] In *Khalil*, Justice Mosley disagreed with this conclusion, although it was not determinative of the issues before him, noting:

> [46] I am not inclined to agree with the respondent that officers no longer have the discretion alleged by the applicants. It seems to me that such a change would require legislative endorsement. It is not clear how discretion may be granted by the manual to estreat all or none but not a portion of the bond when that is not expressly authorized by the legislation. However, in the circumstances of this case, it is not necessary for me to arrive at a conclusion on that question. I would prefer to leave it open for a case in which it squarely arises on the facts.
>
> [47] There is no indication in the record that the officer believed that he lacked the ability to estreat a lesser fraction of the bonds. The Minister has made arguments to that effect but he cannot speak on behalf of the decision-maker. In the absence of any evidence to the contrary, I infer that the CBSA officer decided that estreating the full amount was appropriate in the circumstances. I would prefer to decide the case by focusing on the reasonableness of that decision as opposed to the rule against fettering discretion.

[35] Similarly, in the present case, there is no indication that the Officer considered whether a lesser amount should be forfeited and then concluded that she had no authority to do so. The applicants' submissions did not raise the issue of forfeiture of a lesser amount as a way to mitigate the impact of forfeiture. The reviewing officer's notes to file focus on forfeiture of the whole amount.

[36] As in *Khalil*, the question of whether the CBSA has the discretion to forfeit a lesser amount should await the appropriate case where submissions have been made regarding the appropriateness of exercising such discretion, and based on the Officer's decision whether or not to do so.

The decision to forfeit the bonds is reasonable

[37] The issue in the present case is whether the Officer failed to consider whether discretion should be exercised and whether the decision to forfeit the whole amount of the bonds is reasonable.

[38] There is no dispute that the Officer has some discretion to decide whether to forfeit the bonds.

[39] The applicants rely heavily on *Uanseru* in arguing that the Officer failed to exercise her discretion. In *Uanseru* Justice Mactavish noted:

> [23] In my view, it is unnecessary to decide whether the law that has developed in the criminal field is of any assistance in the present case, given the respondent's concession that, notwithstanding the change to the legislation since the decision in *Gayle* and *Bcherrawy*, an Officer still has some discretion to decide whether forfeiture should be required in a given case, and that in exercising this discretion, the Officer is entitled to consider all of the facts of the case in issue.
>
> [24] This position is reflected in the provisions of the Citizenship and Immigration Canada Enforcement Manual. Specifically, section 7.5 of Chapter 8 of the Manual advises Officers that, in exercising their statutory authority in relation to the forfeiture of bonds, each case is to be considered on its own merits. The Manual further stipulates that where action is being

> taken to forfeit the bond, the bondsperson is to be advised, in writing, of the reason for the forfeiture.

[40] Justice Mactavish found that the Officer reviewed the applicant's submissions and that the decision to enforce only the performance bond, but excuse the cash bond, demonstrated that the Officer was aware she had discretion (at para 29). However, the reasons did not explain why the Officer enforced one bond and excused the other. At para 30, Justice Mactavish stated: "Thus there is no way of determining whether the Officer relied upon considerations that were irrelevant or extraneous to the statutory purpose."

[41] The applicants argue that the Officer unreasonably failed to consider their submissions and, like *Uanseru*, there is no way to determine what considerations the Officer relied on.

[42] The facts in the present case are not analogous to *Uanseru*. The Officer decided to both forfeit the cash bond and enforce the performance bond in full. There is no suggestion that the Officer relied on irrelevant or extraneous considerations to reach the decision.

[43] The applicants' submissions focused on why they were not at fault for the breach and the efforts they made to comply with their obligations. As noted above, they did not suggest that the Officer should consider only a partial forfeiture. Therefore, the Officer cannot be faulted for not considering submissions that were not made.

[44] With respect to whether the Officer considered their lack of fault, the applicants relied on *Etienne*, where Justice Shore noted:

> [32] It follows from *Khalife* that the fact that a guarantor is a third party in relation to the detainee is a relevant factor when CBSA officers exercise their discretion to decide whether or not to enforce a guarantee. Contrary to the situation in *Khalife*, the applicant is a third party to the actions of his son. The evidence shows that the breach of conditions by the applicant's son cannot be attributed to the applicant, and the evidence does not establish that the applicant did anything wrong.

[45] Justice Shore's comments related to whether the decision to deny the applicant an extension of time to make submissions against enforcing the guarantee was procedurally fair and not his determination of whether the enforcement of the bond was reasonable (which he considered at paras 20-23). In my view, *Etienne* does not establish that fault is a consideration in a determination of whether to forfeit a bond.

[46] Justice Mosley commented on the issue of whether the CBSA should consider the culpability of bondspeople in *Khalil*:

> [59] The applicants' second main argument is that the bonds should not be estreated because they were not at fault for Nabil's flight. They extract this principle by analogy to the criminal law. To begin, the propriety of the analogy is questionable. In *Khalife*, above, at paras 27-38, I cited *Uanseru* and expressed a wariness to draw parallels with the criminal law, due to the particular statutory provisions and purposes of the immigration regime. The applicants' argument that reliance on the criminal law is now appropriate, because changes were made to the policy manual in 2007, is not persuasive. The amended manual does not set out a process that is any closer to the criminal process. Moreover, the underlying statutory and regulatory provisions have not been amended. As such, I see no reason to abandon the position I took in *Khalife*. <u>The culpability of the bondspersons should not be a primary consideration for a CBSA officer deciding whether to estreat a bond</u>. [Emphasis added]

[47] The applicants argue that *Khalil* does not foreclose consideration of culpability; it provides only that it is not a primary consideration. The applicants submit that their lack of fault should have been one of the relevant considerations.

[48] I am not inclined to agree that the lack of fault on the part of the guarantor or bondsperson should be a relevant consideration. The reality is that the bondsperson assumes the risk when they sign the agreement and this is highlighted in all the documents signed by the applicants. The Court has noted the purpose of bonds in this context is to ensure compliance with immigration legislation (*Khalil* at para 59; *Etienne* at para 20; *Uanseru* at para 18; and *Khalife* at para 38). This purpose would be undermined by considering whether sureties are at fault for a breach or attaching more weight to this consideration than other relevant considerations.

[49] However, in the present case, the Officer acknowledged that the applicants immediately reported that they could not contact Mr Najafi; in other words, their lack of fault was noted.

[50] In the decision letter, the Officer states that she considered the applicants' submissions. The reviewing officer's notes to file indicate that substantial bonds were established because of Mr Najafi's foreign criminality and use of fraudulent documents and, but for these substantial bonds, Mr Najafi would not have been released. The reviewing officer noted the diligent reaction of the applicants when Mr Najafi disappeared. The reviewing officer also indicated that the breach of conditions was significant and that Mr Najafi has not been found.

[51] There is no indication that the Officer ignored the applicants' submissions or ignored that they did not contribute to Mr Najafi absconding. It was open to the Officer to give weight to the fact that the breach was significant and the applicants' bonds were the reason Mr Najafi was released.

Did the Officer provide inadequate reasons?

The Applicants' Position

[52] The applicants acknowledge that as long as some reasons are provided, the requirements of procedural fairness will be satisfied (*Newfoundland Nurses* at para 62). However, the applicants submit that no reasons were provided at all by the Officer in her decision to not exercise discretion and to forfeit the full amount of the bonds and that even the notes to file do no more than reiterate the facts; there is no analysis of whether discretion was considered and whether the bond should be forfeited in whole or in part.

The Respondent's Position

[53] The respondent submits that there is no statutory duty to provide reasons under subsection 49(4) of the Regulations. However, if there is a duty to provide reasons, the decision did so. The quality of reasons is not a question of procedural fairness (*Newfoundland Nurses* at paras 16, 20-21).

[54] It is clear and not in dispute that the Officer found that Mr Najafi's non-compliance was the reason for forfeiture.

[55] The respondent submits that, when viewed in context and with regard to the evidence, the reasons allow the applicants and the Court to understand why the Officer made her decision. As a whole, the decision was reasonable.

The reasons are adequate

[56] The applicants expressed concerns that the notes to file were not included in the reasons provided to the applicants pursuant to Rule 9 and that the respondent previously indicated that there were no other reasons. However, the applicants acknowledge that the notes to file were included in the Certified Tribunal Record which they received in July 2015.

[57] It is well established that recommendations to a decision-maker may be considered part of the reasons for the final decision, particularly where the decision-maker adopts the recommendations as their own (*Sketchley v Canada (Attorney General)*, 2005 FCA 404 at para 37, [2006] 3 FCR 392).

[58] In this case, the notes to file were adopted by the Officer and are clearly part of the reasons. The notes to file are also part of the record and would be considered in assessing the reasonableness of the decision based on the principles of *Newfoundland Nurses*.

[59] The notes to file should, ideally, have been provided to the applicants pursuant to Rule 9. However, the applicants have not established that they suffered any prejudice in their ability to advance arguments on this application due to their receipt of the notes to file as part of the Certified Tribunal Record in July rather than with the decision letter.

[60] Despite their submissions to the contrary, the applicants' argument regarding the inadequacy of reasons appears to be based on jurisprudence that pre-dates *Newfoundland Nurses*. The inadequacy of reasons is not a stand- alone ground for judicial review.

[61] In accordance with *Newfoundland Nurses*, the Court will "look to the record for the purpose of assessing the reasonableness of the outcome" (at para 15).

[62] The decision to forfeit a bond is highly discretionary (*Khalil* at para 15) and is made upon the establishment of basic facts regarding the conditions of the bond and the breach. In the present case, the record includes the bondspersons' information sheet, the conditions of release of Mr Najafi, the performance bond signed by the applicants, the Field Operations Support System [FOSS] notes, the applicants' submissions to CBSA regarding why the bond should not be forfeited, and the reviewing officer's notes to file.

[63] As noted by Justice Mosley in *Khalil*:

> [49] The officer did not explicitly respond to the applicants' arguments. Yet this does not mean that the Court must necessarily quash his decision. If the ultimate outcome is reasonable in light of the record, *NL Nurses* instructs the Court to supplement the officer's reasons and uphold his decision.

[64] In the present case, the Officer did not cite each aspect of the applicants' submissions, but there is a presumption that the Officer considered all the evidence (*Florea v Canada (Minister of Employment and Immigration)*, [1993] FCJ No 598 (QL) (FCA)). This is not a situation where the Officer ignored contradictory information and would be required to explain why she did not consider such evidence (*Cepeda-Gutierrez v Canada (Minister of Citizenship and Immigration)*

(1998), 157 FTR 35, [1998] FCJ No 1425 (QL)). The applicants' submissions were not contradictory to the Officer's findings and the reviewing officer's findings as set out in the notes to file.

[65] The brief reasons in the Officer's letter along with the notes to file of the reviewing officer and the record are sufficient to permit the Court to find that the decision was reasonable. It is supported by the facts: the guarantors were bound by their guarantee and were responsible for ensuring that Mr Najafi obeyed the conditions of his release; despite their efforts, Mr Najafi absconded and has not been located; and, this breach was noted to be severe.

[66] Although the impact on the applicants is unfortunate, they assumed this risk, and the decision to forfeit and estreat the full amount of the performance and cash bonds was reasonable in view of the facts and the law. Accordingly, the application must be dismissed.

JUDGMENT

THIS COURT'S JUDGMENT is that the application for judicial review be dismissed.

No question of general importance is certified.

"Catherine M. Kane"

Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	IMM-4618-14
STYLE OF CAUSE:	ABDULLAH HAMID AND MOHAMMED HOSSAYNI v THE MINISTER OF PUBLIC SAFETY AND EMERGENCY PREPAREDNESS
PLACE OF HEARING:	TORONTO, ONTARIO
DATE OF HEARING:	OCTOBER 5, 2015
JUDGMENT AND REASONS:	KANE J.
DATED:	OCTOBER 27, 2015

APPEARANCES:

Subodh Singh Bharati	FOR THE APPLICANTS
Kareena Wilding	FOR THE RESPONDENT

SOLICITORS OF RECORD:

Subodh Singh Bharati Barrister and Solicitor Toronto, Ontario	FOR THE APPLICANTS
William F. Pentney Deputy Attorney General of Canada Toronto, Ontario	FOR THE RESPONDENT