

Federal Court



Cour fédérale

Date: 20190829

Docket: IMM-6101-18

Citation: 2019 FC 1113

[UNREVISED CERTIFIED ENGLISH TRANSLATION]

Ottawa, Ontario, August 29, 2019

PRESENT: The Honourable Mr. Justice Shore

BETWEEN:

HAMMAN ALMOUSLI

Applicant

and

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

Respondent

JUDGMENT AND REASONS

I. Nature of the matter

[1] This is an application for judicial review of a decision of the Immigration Division [ID] of the Immigration and Refugee Board of Canada dated November 23, 2018, regarding a deportation order under paragraph 36(1)(b) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [IRPA], for inadmissibility on grounds of serious criminality.

II. Facts

[2] The applicant claimed refugee protection. An inadmissibility hearing was held before the ID on July 31, 2018, after it was found that the applicant would be inadmissible under paragraph 36(1)(b) of the IRPA.

[3] The ID states that the panel determined that the applicant was inadmissible on grounds of serious criminality as a result of a conviction under 18 U.S. Code § 472, “Uttering counterfeit obligations or securities” (applicant’s record). This offence was found to be equivalent to “Possession, etc., of counterfeit money” under section 450 of the *Criminal Code*, an offence punishable by imprisonment for a term of not more than 14 years.

[4] Under paragraph 36(1)(b) of the IRPA, a person having been convicted of an offence outside Canada that, if committed in Canada, would be punishable by a maximum term of imprisonment of at least 10 years.

[5] In addition, the applicant was found guilty of possession of two firearms, a .38 Smith & Wesson revolver and a .60 Marlin rifle.

[6] On June 9, 2004, the applicant was arrested and placed in state custody in Massachusetts. A grand jury upheld the charges and, on June 13, 2006, the United States District Court for the District of Massachusetts found the applicant guilty on both of the specified charges.

[7] This Court agrees with the respondent that this issue is of no consequence. Section 450 of the *Criminal Code*, including the text setting out the maximum sentence of 14 years, has not been significantly amended since the *Revised Statutes of Canada, 1985 Act*, RSC 1985, c 40 (3rd Supp). In this case, it is immaterial whether the 2004 or 2018 text is considered, since nothing has changed.

[8] “The only question to determine is whether the Officer’s equivalency findings and her resulting inadmissibility conclusions are reasonable.” To that end, a specific method of careful analysis is very clearly described by Justice Denis Gascon in *Nshogoza v Canada (Citizenship and Immigration)*, 2015 FC 1211 at paras 27 and 28.

[9] This Court is in complete agreement with the preamble of the respondent’s supplementary memorandum with respect to equivalencies between 18 U.S. Code § 472 and section 450 of Canada’s *Criminal Code*. That is to say, the text is essentially unchanged between the time of the crime in 2004, the time of the conviction in 2006 and the hearing before the ID in 2018.

[10] In 2004, 2006 and 2018 (and even in 1985), the crimes set out in section 450 of the *Criminal Code* were punishable by imprisonment for a term of not more than 14 years; that is, the applicant would be inadmissible based on 10 years as set out in paragraph 36(1)(b) of the IRPA. The interpretation is very clear (see *Mobil Oil Canada Ltd v Canada-Newfoundland Offshore Petroleum Board*, [1994] 1 SCR 202).

[11] The applicant did not provide a reply justifying his actions. He stated that he no longer remembered the events of his being charged or convicted.

[12] Nevertheless, it should be noted that intent to defraud was required by the United States District Court for the District of Massachusetts; therefore, the conclusion is self-evident in this regard.

III. Conclusion

[13] For these reasons, the ID's decision is reasonable.

JUDGMENT in IMM-6101-18

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

There is no question of general importance to certify.

“Michel M. J. Shore”

Judge

Certified true translation
This 4th day of September, 2019.
Michael Palles, Reviser

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-6101-18

STYLE OF CAUSE: HAMMAN ALMOUSLI v THE MINISTER OF
PUBLIC SAFETY AND EMERGENCY
PREPAREDNESS

PLACE OF HEARING: Montréal, Quebec

DATE OF HEARING: August 21, 2019

JUDGMENT AND REASONS: SHORE J.

DATED: August 29, 2019

APPEARANCES:

Vincent Desbiens FOR THE APPLICANT

Daniel Latulippe FOR THE RESPONDENT

SOLICITORS OF RECORD:

Aide juridique de Montréal FOR THE APPLICANT
Montréal, Quebec

Attorney General of Canada FOR THE RESPONDENT
Montréal, Quebec