

Federal Court



Cour fédérale

Date: 20220421

Docket: IMM-2733-22

Citation: 2022 FC 581

Ottawa, Ontario, April 21, 2022

PRESENT: The Honourable Mr. Justice Bell

BETWEEN:

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

Appellant

and

CHRIS OSHO OKO-OBOH

Respondent

JUDGMENT AND REASONS

(Delivered from the bench on April 20, 2022 and edited for syntax and grammar with added references to the relevant case law)

I. Introduction

[1] This is an application for judicial review brought pursuant to section 72 of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [“IRPA”] of a decision of a Member of

the Immigration Division (“ID”) dated March 23, 2022 in which the Member granted the Respondent’s release from detention.

[2] The Applicant, the Minister of Public Safety and Emergency Preparedness (“Minister”), contends the decision fails to respect the requirements of procedural fairness and does not meet the requirements of reasonableness as set out in the seminal decision of *Canada (Minister of Citizenship and Immigration) v. Vavilov*, 2019 CSC 65, 441 DLR (4th) 1 [“*Vavilov*”].

[3] The Minister asserts that it was denied procedural fairness in that the Member prevented the full cross-examination of the Respondent and of the proposed bondsperson with respect to their respective familiarity with each other.

[4] With respect to the issue of reasonableness, the Minister contends that the Member failed to consider whether or not the proposed bondsperson could ensure that the Respondent will comply with the terms and conditions of release, as required by paragraph 47(2)(b) of the *Immigration and Refugee Protection Regulations*, SOR/2002-227 [“*IRPR*”]. The Minister says that the Member failed to address how the bondsperson, a young man who lives with an older lady and who has been working at Dollorama since 2015, would be able to ensure that the Respondent comply with all conditions imposed. I also add that it is not inconsequential that the Minister notes that the proposed bondsperson was only able to take a 30-minute lunch break to attend the detention review hearing and was in somewhat of a rush to return to his place of work. The Minister also expresses concern that the Member failed to properly assess the flight risk posed by the Respondent and to properly take into account the issue of identity.

[5] The Respondent essentially contends that pursuant to subsection 58(1) of the *IRPA*, he is entitled to be released absent the Minister establishing the prescribed grounds for detention set out in paragraphs (a) to (e). In this case, the Minister relied upon flight risk and identity, the two grounds set out in paragraphs 58(1)(b) and (d). The Respondent contends the requirement of a bondsperson and the amount of the bond are satisfactory to overcome the grounds for detention relied upon by the Minister.

[6] For the following reasons, I grant the application for judicial review, remove the decision of the ID into this Court, and quash the decision.

II. Analysis

[7] The Respondent is identified in the pleadings as Chhris Osho Oko-Oboh alias Andrew Ighiehon. I have referred and will continue to refer to this person solely as “the Respondent”. This, in order to send a very clear signal that I have no idea whatsoever whether the Respondent carries the name “Chhris Osho Oko-Oboh”, “Andrew Ighiehon”, or some other name that may or may not appear in the record before me.

[8] The Respondent has filed five different refugee claims in Canada using five different names. The ID suggested the Respondent has used up to 17 aliases. The Respondent takes issue with that assertion, which he claims is speculative. I do not disagree. There is no evidence of 17 different aliases, only 12. I set them out to demonstrate the seriousness with which the

Respondent has attempted to defraud and undermine the Canadian immigration system. Those aliases are as follows:

- Christopher COLUMBUS, born 16 August 1958;
- James AIGBE, born 23 September 1960;
- Friday ADUN, born 25 September 1968;
- Andrew Agbe IGIEHON, born 22 June 1957;
- Andrew Egbe IGIEHON, born 19 August 1958;
- Okojie LUGARD, born 16 August 1958;
- Chris Osho OKOH-OBOH, born 16 August 1958;
- Christopher Osho OKOH-OBOH, born 16 August 1958;
- Lugard OKOJIE, born 16 August 1958;
- Chris Osho OKOOBAOK, born 16 August 1958;
- Marek ORSZULA, born 16 August 1958;
- Lionel Sinclair SMITH, born 16 August 1958

[9] I am satisfied the ID could have no idea of the identity of the person appearing before it. I am also satisfied that based upon the material that the Minister has taken every reasonable step possible to determine the true identity of the Respondent. It bears no fault for the lack of identification of the Respondent. This factor appears to have been lost on the ID. I say that because the ID member devoted very little ink to the issue of identity and the hurdles faced in establishing identity. The ID addressed in a more substantive way the issue of flight risk. It determined that that risk can be counterbalanced by the bondsperson, who is the purported son of the Respondent.

[10] I now turn to the flight risk. The Member correctly concluded the Respondent posed a significant flight risk. The Member acknowledged the five refugee claims that were made under

five different identities in Canada. The Member acknowledged that the Respondent's protected person status in Canada was revoked in 2007 based upon misrepresentation. The Member also acknowledged that the Respondent had been removed from Canada in 2012, following an approximate two year period in detention. It is however somewhat surprising to me that the Member seemed concerned about the time it took for the CBSA to remove the Respondent following the first deportation order issued in 1997. Given the various identities of the Respondent that I have already mentioned and what follows, I fail to see how the Minister can be responsible for any of the 15 years necessary to process the removal. On this point, it is useful to review some of the case history of the Respondent, as outlined by Inland Enforcement Officer Patrick Auger:

1991-03-12: Subject claims he entered Canada illegally on this date.

1991-07-02: Subject is convicted of fraud over 1000\$ in Toronto (Under the name IGIEHON, Andrew)

1992-02-25: The subject presents a refugee claim inland Toronto under the identity of IGIEHON, Andrew

1992-03-16: The subject IGIEHON, Andrew is recognized refugee in Canada

1993-04-27: The subject is convicted of fraud (Over 1000\$)

1995-12-25: The subject is reported for false declaration

1995-02-11: S.27 report for serious criminality

1996-01-12: Released on 6000\$ performance bond

1997-04-08: Deportation issued

2000-04-13: Attempted fraud

2004-01-29: Personation, uttering forged documents, false pretences

2006-05-23: Assault

2007-06-12: Mischief

2007-09-29: Refugee protection nullified

2007-09-20: Judicial review initiated

2007-12-13: Judicial review denied

2009-01-14: Attempt fraud, possession of credit card, counterfeit mark, attempt obstruct peace officer

2010-06-24: Fraud over 5000\$, obstruction, affixing a mark, failure to comply

2010-08-09: PRRA initiated

2010-09-14: PRRA refused

2012-02-13: Removed from Canada escorted

2022-02-09: The subject returned to Canada without authorization

2022-02-09: **The subject is arrested and detained for identity**

2022-02-10: Refugee claim is found to be ineligible. Deportation order issued

2022-02-11: 48 hours detention review took place. **Detention for identity is maintained**

2022-02-15: Telephone interview conducted

2022-02-16: PRRA program was explained to subject and offered to client

2022-02-18: 7 days detention review was held. **Detention for identity is maintained**

2022-03-18: 30 days detention review is scheduled to take place

[Emphasis and underline mine]

[11] That is a brief summary, not at all inclusive, of the Respondent's interactions with Canadian immigration and law enforcement personnel. I would add that, where Mr. Auger has referred to criminal offenses, there were convictions in each of those circumstances. In addition,

I would note that at the time of the detention review, and known to the ID member, there were two outstanding warrants for the Respondent's arrest for uttering threats issued by police force(s) in the Greater Toronto Area.

[12] These offences and other issues were not lost on the member. He states:

So, there is lot of information that contradicts your alleged identity, where you are known in Canada for 20 years, and I believe it is around 1992 through 2012, under the name Andrew IGIEHON. And, for example, there was also five (5) claims under five (5) different identities, and the document used to come to Canada was counterfeit. Now, sir, I acknowledge your explanation alleging that it was employees of the Canadian Embassy that counterfeited. But in all circumstances, I do not need to determine exactly what happened. I do see that there is a lot of contradictory information in the Minister's hands, and I do see that they took some reasonable steps to try to identify you. They made various interviews, searches, and an expertise on documents was made. So, I do retain the ground of identity. The most important ground is the ground of flight risk, because right now, you are not eligible to the refugee protection, but you now apply for the Pre-Removal Risk Assessment.

Now, by the nature of that process, it does tell that you have a fear to go back to your country. But usually, this can be counterbalanced, as it is the case of most asylum claimant, but what I do see is that you made five (5) refugee claims under five (5) different identities in Canada, and the interviews show that you answered that it was to obtain money for welfare. This shows a willingness and a capacity to present false information to immigration authorities, and ultimately, your protected person status was revoked in 2007 because of your misrepresentations. Now, the various criminal convictions for fraud and impersonation also shows that lack of respect. The fact that your identity is not established, it puts weight on the flight risk. Now, I do acknowledge that there is uncontradicted evidence that you respected conditions of release from 1996, but I also see that you were detained for two (2) years before being removed, but unfortunately, I do not have information as to why. So, I do conclude that you represent a high flight risk when I look at all these elements. I must then consider the factors of section 248.

[13] In addition to the observations regarding the Respondent's criminality, the above excerpt relates what I consider to be two very important factors. First, the Respondent self-identifies as someone who defrauded Canadian social welfare agencies by receiving five cheques when he may have been entitled to one. This constitutes a tremendous burden to Canadians and is an attack upon the social fabric of Canadian society. Second, the Respondent, who most recently entered Canada with a counterfeit travel document, was prepared to allege that Canadian officials working at the Canadian embassy in Ghana committed the fraud. Asserting such fraud on the part of Canadian officials without any evidence, speaks volumes to the trustworthiness of the Respondent and his willingness to abide by any orders of the ID Member, or anyone else for that matter.

[14] I acknowledge the ID "rolled" the issue of identity into the issue of flight risk. It is not my intention to debate whether that was a proper procedure to follow. That said, it is abundantly clear that given the issues of identity, fraud relating to both the immigration system and criminal law in general, and, given the fact there are two outstanding warrants for the Respondent's arrest, that this decision represents a total failure to apply the principles of *Vavilov*. I will explain.

[15] *Vavilov* requires that a decision is to be based on an internally coherent and rational chain of analysis and justified in relation to the facts and law that constrain the decision-maker (at para 85). As a reviewing court, I must consider the decision as a whole, and I must refrain from conducting a line-by-line search for error (*Vavilov* at paras 85 and 102). When I consider this decision on reasonableness alone, I see no serious attention given to five fraudulent refugee claims. I see no serious attention given to extensive criminality while in Canada. I see no serious

attention given to fraud on the social welfare system of Canada. I see no serious attention given to the use of multiple aliases in Canada. I see no serious attention given to the fact that there are two outstanding arrest warrants for the Respondent. I see no serious attention given to the question of the bondsperson's ability to ensure that the Respondent will comply with the terms of his release, as required by paragraph 47(2)(b) of the Regulations, which, in itself, warrants intervention (*Canada (Public Safety and Emergency Preparedness) v. Al Achkar*, 2010 FC 744 at paras 3-4 and 43 to 51; *Canada (Public Safety and Emergency Preparedness) v. Torres Vargas*, 2009 FC 1005 at paras 56 to 59). I see no serious attention given to the question of whether the proposed bondsperson is who he is purported to be; namely, the son of the Respondent.

[16] The decision is totally devoid of any analysis of the facts and issues which should have been addressed in the circumstances.

III. Conclusion

[17] For all of the above reasons, the application for judicial review is allowed. The ID's decision to release the Respondent from detention is quashed.

[18] I am willing to hear the parties on costs. The Applicant must notify the Court of its position on costs within five (5) business days of this decision.

JUDGMENT IN IMM-2733-22

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is allowed;
2. The Immigration Division's decision dated March 23, 2022 is quashed,
3. The Applicant must notify the Court of its position on costs within five (5) business days of this decision.

"B. Richard Bell"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-2733-22

STYLE OF CAUSE: THE MINISTER OF PUBLIC SAFETY AND
EMERGENCY PREPAREDNESS v CHRIS OSHO
OKO-OBOH

PLACE OF HEARING: OTTAWA, ONTARIO

DATE OF HEARING: APRIL 19 AND 20, 2022

JUDGMENT AND REASONS: BELL J.

DATED: APRIL 21, 2022

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