Federal Court  Cour fédérale

Date: 20171102

Docket: IMM-1243-17

Citation: 2017 FC 983

[ENGLISH TRANSLATION]

Ottawa, Ontario, November 2, 2017

PRESENT: The Honourable Mr. Justice Bell

BETWEEN:

NOWEL MWOROSHA

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

I. Nature of the matter

[1] This is an application for judicial review of a decision rendered on February 28, 2017 [the Decision], by a Delegate of the Minister of Citizenship and Immigration [the Delegate], concluding that the applicant, Nowel Mworosha [Mr. Mworosha], a permanent resident, constitutes a danger to the public in Canada under subsection 115(2) of the *Immigration and*

Refugee Protection Act, S.C. 2001, c. 27 [IRPA] [the Decision]. The Decision indicated that Mr. Mworosha could be removed from Canada. For the following reasons, I am dismissing the application for judicial review.

II. Overview

[2] Mr. Mworosha is a citizen of the Democratic Republic of the Congo [DRC]. In September 1996, he had to flee to a refugee camp in Uganda when his parents and brothers were massacred in his home village by the armed forces of the Congolese government. In January 1997, Mr. Mworosha tried to move back to his home village. The militiamen who were responsible for the death of his family had control of the village at the time and had confiscated all his family's property. Therefore, he had to live in hiding until December 2001, when he again had to flee to Uganda. The militiamen recognized him and pursued him to try to kill him. He was unable to move there permanently due to the restrictive legislation that was in force in that country.

[3] On June 5, 2012, Mr. Mworosha entered Canada with his spouse, Esther Emeline [Ms. Emeline], and his three children who had been born by then (a fourth child was born after his arrival in Canada).

[4] Between June and October 2013, Mr. Mworosha was involved in seven incidents that led to criminal convictions, including four counts of criminal harassment and three counts of sexual assault. The incidents, which involved seven different victims, are detailed as follows:

i. On June 13, 2013, Mr. Mworosha asked the victim how to get to a specific room at the Sainte-Foy CEGEP in Quebec City, where he was taking francization courses. The victim accompanied him to the room to help him. Upon reaching the room, Mr. Mworosha pinned the victim, who had an intellectual disability, against the wall and told her that she was beautiful and that he wanted to kiss her. She pushed him away five or six times and he left.

ii. On July 4, 2013, the victim was on the same bus as Mr. Mworosha. The victim left the bus and did some shopping at a convenience store near her home. Upon returning home, she left the door ajar and eventually saw that Mr. Mworosha had broken into her kitchen. He told the victim that he loved her, wanted to see her again and would like her telephone number. He tried to kiss her and touched her buttocks, breasts, and genitals with his hands, refusing to leave the premises. She succeeded in making him leave the premises and contacted 911.

iii. In July 2013, the victim was leaning over to drink from a fountain. Mr. Mworosha grabbed the victim's hips from behind. She was afraid and ran away.

iv. In July 2013, the victim found herself alone in an elevator with Mr. Mworosha. He told the victim that he loved her and wanted to have sexual relations with her. He put his hands on either side of her to trap her against the inner wall of the elevator. She told Mr. Mworosha that she was not interested in him. He then followed her and waited for her after class.

v. In July 2013, the victim was followed by Mr. Mworosha, who waited for her after classes and during breaks. Mr. Mworosha told the victim that he loved her and that they could go somewhere else so that they could sleep together. The victim clearly indicated that she was not interested and even took refuge for a long time in the bathroom, but Mr. Mworosha was still waiting for her when she came out.

vi. In July 2013, the victim was approached by Mr. Mworosha, who wanted her telephone number so that he could see her outside the CEGEP. The victim refused, telling him that she was married. Mr. Mworosha followed the victim and waited for her after class. The victim took refuge in the bathroom, but Mr. Mworosha was still waiting for her when she came out.

vii. On October 15, 2013, Mr. Mworosha followed the victim through the locker room at Louis-Joliette school. He then raped (sexual assault) the victim, telling her that he wanted to have children with her. The victim, who suffered from an intellectual disability, stated that she did not defend herself, since she was not able to speak to him. There was vaginal penetration.

[5] Having pleaded guilty to the acts described in the above paragraphs, Mr. Mworosha was found guilty on June 27, 2014, and sentenced to a total of eighteen months in prison, less his time in pre-trial detention (twelve months), with three years of probation without supervision.

[6] On June 30, 2014, Mr. Mworosha was the subject of a report on inadmissibility under section 44 of the IRPA. He was judged to be inadmissible on grounds of serious criminality as defined in paragraph 36(1)(*a*) of the IRPA.

[7] On May 21, 2015, a deportation order was issued for Mr. Mworosha.

[8] On February 28, 2017, the Delegate rendered the Decision, concluding that Mr. Mworosha constituted a danger to the public in Canada under subsection 115(2) of the IRPA and could be deported from the country. That Decision is the subject of this application for judicial review.

III. Statutory provisions

[9] The relevant provisions of the IRPA are subsections 36(1), 115(1), and 115(2), and they are reproduced in Appendix A of this document.

[10] The relevant provisions of the *Criminal Code*, R.S.C. 1985, c. C-46 [the CC], are subsections 264(1) to 264(3), and section 271, all of which are reproduced in Appendix B of this document.

IV. Impugned decision

[11] At the beginning of his Reasons, the Delegate acknowledged the importance of the Decision, specifying that it would establish whether Mr. Mworosha could or could not be removed from Canada, as long as the removal complied with section 7 of the *Canadian Charter of Rights and Freedoms* [the Charter], as stated by the Supreme Court of Canada [SCC] in *Suresh v. Canada (Minister of Citizenship and Immigration)*, 2002 SCC 1, [2002] 1 S.C.R. 3. For that purpose, the Delegate explained that it was necessary to consider the danger to the Canadian public, the risk of persecution presented by the removal, and humanitarian and compassionate considerations.

[12] The Delegate then listed and carefully considered the relevant provisions of the IRPA, especially subsections 36(1), 115(1) and 115(2). He stressed that paragraph 115(2)(*a*) concurs with section 33(2) of the Convention.

[13] The Delegate correctly concluded that Mr. Mworosha is inadmissible in Canada on grounds of serious criminality under paragraph 36(1)(*a*) of the IRPA due to convictions for criminal harassment and sexual assault, two criminal offences that are subject to a maximum term of imprisonment of 10 years and for which Mr. Mworosha received a total sentence of 18 months in prison. The Delegate summarized the submissions of Mr. Mworosha and his counsel, and listed the documents that were presented in support of these submissions. The Delegate referred to the expression “danger to the public,” as stated in *Williams v Canada*

(Minister of Citizenship and Immigration), [1997] 2 F.C. 646 at paragraph 29, [1997] F.C.J. no. 393 [*Williams*].

[14] The Delegate then proceeded with an analysis of the documentation to learn about Mr. Mworosha's risk of recidivism. He noted the laudable efforts that Mr. Mworosha has made to date to reduce his risk of recidivism, and the fact that Mr. Mworosha benefited from good support. The Delegate took into account the assessment reports, which indicated that Mr. Mworosha had a moderate-to-low risk of recidivism and a moderate need for intervention and treatment. He also noted that this ranking placed him in the 66th percentile, suggesting that about 57.1% of ranked individuals had scored lower, and that the documentation indicated that Mr. Mworosha showed a lack of insight or feelings of guilt, even after leaving prison. He also considered the severity, nature, and frequency of the offences. Based on that information, the Delegate concluded that, on the balance of probabilities, Mr. Mworosha constituted a present and future danger to the public in Canada.

[15] After concluding that Mr. Mworosha constituted a danger to the public in Canada, the Delegate considered the submissions of Mr. Mworosha and his counsel regarding the conditions in the DRC and the interests of the children.

[16] Regarding the conditions in the DRC, the Delegate considered, among other things, an excerpt from the *World Factbook of the Central Intelligence Agency*; the 2015 report *Country Reports on Human Rights Practices – Democratic Republic of the Congo*; and an excerpt from the Home Office report *Country Information and Guidance – Democratic Republic of Congo:*

treatment on return. Based on those documents, the Delegate said that he was aware that the political situation in the DRC remains unsettled and that human rights are not always respected. He noted that the living conditions are not comparable to those in Canada. However, he concluded that the documentation confirmed that the return of a refugee claimant would not create any significant risk, unless the refugee claimant was already wanted in that country. In addition, he concluded that being a convicted criminal in Canada would not present a significant risk either. The Delegate concluded that it was political opponents who were persecuted upon returning to the DRC and that Mr. Mworosha did not submit sufficient evidence to allow him to conclude that he had any particular political involvement. He also concluded that Mr. Mworosha did not submit sufficient evidence to allow him to conclude that the militiamen who had killed his family and pursued him in the DRC would still be interested in him. Given that information, the Delegate concluded that the evidence on record did not show that Mr. Mworosha would be at risk of persecution if he returned to the DRC.

[17] The Delegate then turned to Mr. Mworosha's family situation, particularly his financial and moral role in the family, along with his job as a room attendant with *Unick entretien ménager*, a position he has held since April 25, 2015. The Delegate noted that Ms. Emeline is attending the Centre Louis-Jolliet to complete her high school studies and that two of their four children are attending school, while the youngest two children are enrolled in an early learning centre. He considered a letter written by Ms. Emeline that explained the difficulty that the family would face if Mr. Mworosha were removed from Canada. However, the Delegate noted that Mr. Mworosha had been absent during the period of his incarceration, and that the family seemed to have been able to survive despite his absence. He acknowledged that a removal

would, without a doubt, lead to a significant and difficult adjustment period for the whole family and that such a separation would cause stress. However, he concluded that Mr. Mworosha had not concretely demonstrated how such a separation would be irreparable for his family. For that reason, the Delegate considered that the separation of Mr. Mworosha from his children was not a sufficient factor to prohibit his removal, given the seriousness of his offences. The same goes for the other humanitarian and compassionate considerations, particularly his level of social and economic establishment in Canada.

[18] Lastly, the Delegate considered the objectives set out in subsections 3(1) and 3(3) of the IRPA. He concluded that, after having attentively reviewed all the facts in this case, the need to protect Canadian society was greater than the risks that Mr. Mworosha would possibly face if he were removed to the DRC. As a result, he concluded that Mr. Mworosha could be deported under paragraph 115(2)(*a*) of the IRPA. The removal would not shock the conscience of Canadians.

V. Issues

[19] Mr. Mworosha raises four issues, namely: did the Delegate commit a reviewable error:

1. in his assessment of the present and future danger that Mr. Mworosha presents to the public in Canada?
2. in his assessment of the risk that Mr. Mworosha would face if he were removed to the DRC?
3. in his assessment of applicable humanitarian and compassionate considerations?
4. in his assessment of relevant factors, particularly the danger to the public, the risk of persecution, and humanitarian and compassionate considerations? In his arguments before this Court, Mr. Mworosha emphasized the best interests of the children.

VI. Analysis

A. *Standard of review*

[20] As agreed by the parties, the standard of review for a decision by a Minister's Delegate in this case is the standard of reasonableness (*Omar v Canada (Minister of Citizenship and Immigration)*, 2013 FC 231 at paragraph 33, [2013] F.C.J. no. 227; *Reynosa v Canada (Minister of Citizenship and Immigration)*, 2016 FC 1058 at paragraph 11, [2016] F.C.J. no. 1015 [*Reynosa*]). As a result, the Delegate's findings are entitled to a high degree of deference (*Reynosa* at paragraph 11; *Dunsmuir v. New Brunswick*, 2008 SCC 9 at paragraphs 51, 53, 164, [2008] S.C.J. no. 9 [*Dunsmuir*]). Pursuant to the reasonableness criteria, the Court must determine whether the decision falls "within the range of acceptable and rational solutions" (*Dunsmuir* at paragraph 47), cited in *Canada (Citizenship and Immigration) v. Khosa*, 2009 SCC 12 at paragraph 67, [2009] 1 S.C.R. 339.

B. *Did the Delegate make a reviewable error in his assessment of the present and future danger that Mr. Mworosha presents to the public in Canada?*

[21] Mr. Mworosha claims that the Delegate unreasonably neglected or poorly considered the evidence showing that he allegedly did not present such a high risk of recidivism to be described as a danger to the public. For example, he claims that the Delegate intentionally ignored a letter from Ms. Jennifer Cantin, a program facilitator at Maison Painchaud, a community residential facility in Quebec City, the purpose of which is to promote reintegration into the community. Mr. Mworosha also claims that the Delegate did not consider the fact that the applicant pleaded guilty or the fact that assessment reports found that Mr. Mworosha presented a moderate-to-low

risk of recidivism, and that his intervention and treatment needs were moderate in scale. In addition, Mr. Mworosha alleges that the Delegate overstepped his jurisdiction by analyzing the consequences of the applicant's criminal acts on the victims.

[22] Contrary to Mr. Mworosha's claims, the letter from Ms. Cantin was clearly considered in the Delegate's Reasons. While that document did indeed show the applicant's psychological needs, his efforts, and his cooperation, it also revealed Mr. Mworosha's continued lack of awareness. The Delegate also considered the assessment reports that indicated that Mr. Mworosha presented a moderate-to-low risk of recidivism, and that his intervention and treatment needs were moderate in scale. In addition, the reports pointed out Mr. Mworosha's lack of awareness or feelings of guilt. They do not necessarily prove that Mr. Mworosha presents an acceptable risk of recidivism. The same goes for Mr. Mworosha's other assertions that the Delegate unreasonably neglected or poorly considered the evidence.

[23] As for the claim that the Delegate overstepped his jurisdiction by analyzing the consequences of the applicant's criminal acts on the victims, I accept the respondent's position. In order to determine whether the risk is unacceptable, it is necessary to consider the seriousness of the offence, which is linked to the short- and long-term consequences for the victims. The meaning of the expression "danger to the public" is established in the jurisprudence as relating "to the possibility that a person who has committed a serious crime in the past may seriously be thought to be a potential re-offender," thus representing the "present or future danger" that a person presents and which "creates an unacceptable risk to the public" (*Williams* at paragraph 29; *Thompson v Canada (Minister of Citizenship and Immigration)*, [1996] F.C.J.

no. 1097 at paragraph 20, 118 F.T.R. 269). The consequences of a past offence can be used to assess the potential consequences of a repeat offence. [Emphasis added.]

[24] Moreover, Mr. Mworosha asks the Court to reconsider the Delegate's approach to the guilty pleas, the Delegate's interpretation of a probation period without supervision, and Mr. Mworosha's level of remorse. Nothing suggests that the Delegate committed a reviewable error in his assessment of the evidence regarding these issues. It is not the role of the Court to reconsider the evidence and substitute its own version of the facts for the Delegate's; it must show great deference to the Delegate's conclusions, so long as they fall "within a range of possible, acceptable outcomes which are defensible in respect of the facts and law" (*Reynosa* at paragraph 11; *Dunsmuir* at paragraphs 47, 51, 53, 164). Based on all the facts, the decision that Mr. Mworosha constitutes a danger to the public in Canada under subsection 115(2) of the IRPA is among the reasonable decisions.

C. *Did the Delegate make a reviewable error in his assessment of the risk that Mr. Mworosha would face if he were removed to the DRC?*

[25] A refugee status claimant has the burden of proving the existence of a well-founded fear of persecution (*Chan v Canada (Minister of Employment and Immigration)*, [1995] 3 S.C.R. 593, 128 D.L.R. (4th) 213; see also paragraphs 100(1.1) and 100(4) of the IRPA). Although he already has permanent residency status, there is a parallel between the burden imposed on refugee status claimants and this case, in which a permanent resident is trying to invoke his right to stay in Canada under subsection 115(1) of the IRPA by stating his fear of persecution. The

burden of proving that Mr. Mworosha would be exposed to a risk of persecution or torture if he were removed to the DRC therefore falls to him.

[26] In addition, I reject the applicant's claim that past recognition of Mr. Mworosha's refugee status demonstrates that the Delegate's decision is unreasonable. If that were the case, an exception under subsection 115(2) would be unnecessary. Any protected person or refugee would, in theory, have already had to prove a well-founded fear of persecution. To give effect to subsection 115(2), it is necessary to show that a well-founded fear of persecution still exists. The burden of proof thus falls to the applicant.

[27] The Delegate concluded that the evidence on record did not show that Mr. Mworosha would be at risk of persecution if he returned to the DRC. That conclusion was reasonable with respect to the evidence. Once again, the Court must show a high degree of deference to the Delegate's conclusions, so long as they fall "within a range of possible, acceptable outcomes which are defensible in respect of the facts and law" (*Reynosa* at paragraph 11; *Dunsmuir* at paragraphs 47, 51, 53, 164).

D. *Did the Delegate make a reviewable error in his assessment of applicable humanitarian and compassionate considerations?*

[28] In his case, Mr. Mworosha claims that he is the only financial support for his spouse, Ms. Emeline, and their four children. He also asserts that he plays an important role in the lives of his children and that his removal would be extremely difficult, an irreparable misfortune even, for

his family. Lastly, he mentions his ties to the community, namely his church, his social worker, his job, and the Quebec City multi-ethnic community centre.

[29] The Delegate considered those facts in his Decision. He admitted that a removal would without a doubt lead to a significant and difficult adjustment period for the entire family and that such a separation would cause distress, but that this was not sufficient. Family separation and financial hardship are ordinary consequences of removal from Canada and are not extraordinary circumstances that may justify a removal being deferred (*Tran v Canada (Solicitor General)*, 2006 FC 1240 at paragraph 25, [2006] F.C.J. no. 1565; *Ovcak v Canada (Minister of Citizenship and Immigration)*, 2012 FC 1178 at paragraph 13, [2012] F.C.J. no. 1261). It was reasonable for the Delegate to conclude that there were no humanitarian or compassionate considerations that may prohibit the removal.

E. *Did the Delegate make a reviewable error in his assessment of relevant factors?*

[30] Having reasonably considered all of the relevant facts and submissions, and having decided that Mr. Mworosha: (1) constitutes a danger to the public in Canada; (2) is not exposed to a risk of persecution or torture if he is removed to the DRC; and (3) has not demonstrated that there are sufficient humanitarian and compassionate considerations, it was reasonable [for the Delegate] to conclude that the need to protect Canadian society from Mr. Mworosha would prevail over the other factors and that Mr. Mworosha's removal would not shock the conscience of Canadians. Based on my analysis of the above-mentioned relevant factors, there is nothing to suggest that the Delegate made a reviewable error with this conclusion. I share the opinion expressed by the respondent's counsel, according to which, given the circumstances of the

offences, particularly the rape (sexual assault) of an intellectually disabled woman and Mr. Mworosha's efforts to excuse himself by invoking Congolese culture, the conscience of Canadians would be shocked if he were not removed. In addition, Mr. Mworosha claimed that his criminal actions in Canada are accepted in Congolese culture. I must add that attributing his criminal acts to Congolese culture is not only offensive to that culture, but also to the Congolese people.

VII. Conclusion

[31] For all these reasons, the Decision by the Minister's Delegate that Mr. Mworosha constitutes a danger to the public in Canada under subsection 115(2) of the IRPA and may be deported from the country is reasonable. The application for judicial review must be dismissed.

[32] Mr. Mworosha applied for the following question to be certified for appeal before the Federal Court of Appeal [FCA] pursuant to section 82.3 of the IRPA:

> "In terms of the best interests of the child, should the panel proceed with an in-depth analysis to identify and define the interest of the children affected by the decision and then assess their best interest, **even though** it only has limited discretionary authority in that regard and is similar to the discretionary authority of a removal officer?"

[33] In light of *Lewis v Canada (Minister of Public Safety and Emergency Preparedness)*, 2017 FCA 130, [2017] F.C.J. no. 629 [*Lewis*], *Rrotaj v Canada (Minister of Citizenship and Immigration)*, 2016 FCA 292, [2016] F.C.J. no. 1296 [*Rrotaj*], and *Crawford v Canada (Minister of Public Safety and Emergency Preparedness)*, 2017 FC 743, [2017] F.C.J. no. 774, I am dismissing the application. This question has already been answered in *Lewis*; an in-depth

analysis of the interest of the child is only mandatory for applications for humanitarian and compassionate considerations under paragraph 25(1) of the IRPA. Thus, the question is not serious and is of general importance (*Rrotaj* at paragraph 6).

JUDGMENT in IMM-1243-17

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is dismissed; and

2. No question is certified.

"B. Richard Bell"
Judge

Certified true translation
This 8th day of January 2020

Lionbridge

APPENDIX A

Serious criminality

36 (1) A permanent resident or a foreign national is inadmissible on grounds of serious criminality for

(a) having been convicted in Canada of an offence under an Act of Parliament punishable by a maximum term of imprisonment of at least 10 years, or of an offence under an Act of Parliament for which a term of imprisonment of more than six months has been imposed;

(b) having been convicted of an offence outside Canada that, if committed in Canada, would constitute an offence under an Act of Parliament punishable by a maximum term of imprisonment of at least 10 years; or

(c) committing an act outside Canada that is an offence in the place where it was committed and that, if committed in Canada, would constitute an offence under an Act of Parliament punishable by a maximum term of imprisonment of at least 10 years.

Grande criminalité

36 (1) Emportent interdiction de territoire pour grande criminalité les faits suivants :

a) être déclaré coupable au Canada d'une infraction à une loi fédérale punissable d'un emprisonnement maximal d'au moins dix ans ou d'une infraction à une loi fédérale pour laquelle un emprisonnement de plus de six mois est infligé;

b) être déclaré coupable, à l'extérieur du Canada, d'une infraction qui, commise au Canada, constituerait une infraction à une loi fédérale punissable d'un emprisonnement maximal d'au moins dix ans;

c) commettre, à l'extérieur du Canada, une infraction qui, commise au Canada, constituerait une infraction à une loi fédérale punissable d'un emprisonnement maximal d'au moins dix ans.

Principle of Non-refoulement

Protection

115 (1) A protected person or a person who is recognized as a Convention refugee by another country to which the person may

Principe du non-refoulement

Principe

115 (1) Ne peut être renvoyée dans un pays où elle risque la persécution du fait de sa race, de sa religion, de sa nationalité, de

be returned shall not be removed from Canada to a country where they would be at risk of persecution for reasons of race, religion, nationality, membership in a particular social group or political opinion or at risk of torture or cruel and unusual treatment or punishment.

Exceptions

(2) Subsection (1) does not apply in the case of a person

(a) who is inadmissible on grounds of serious criminality and who constitutes, in the opinion of the Minister, a danger to the public in Canada; or

(b) who is inadmissible on grounds of security, violating human or international rights or organized criminality if, in the opinion of the Minister, the person should not be allowed to remain in Canada on the basis of the nature and severity of acts committed or of danger to the security of Canada.

son appartenance à un groupe social ou de ses opinions politiques, la torture ou des traitements ou peines cruels et inusités, la personne protégée ou la personne dont il est statué que la qualité de réfugié lui a été reconnue par un autre pays vers lequel elle peut être renvoyée.

Exclusion

(2) Le paragraphe (1) ne s'applique pas à l'interdit de territoire :

a) pour grande criminalité qui, selon le ministre, constitue un danger pour le public au Canada;

b) pour raison de sécurité ou pour atteinte aux droits humains ou internationaux ou criminalité organisée si, selon le ministre, il ne devrait pas être présent au Canada en raison soit de la nature et de la gravité de ses actes passés, soit du danger qu'il constitue pour la sécurité du Canada.

APPENDIX B

Criminal harassment

264 (1) No person shall, without lawful authority and knowing that another person is harassed or recklessly as to whether the other person is harassed, engage in conduct referred to in subsection (2) that causes that other person reasonably, in all the circumstances, to fear for their safety or the safety of anyone known to them.

Prohibited conduct

(2) The conduct mentioned in subsection (1) consists of

(a) repeatedly following from place to place the other person or anyone known to them;

(b) repeatedly communicating with, either directly or indirectly, the other person or anyone known to them;

(c) besetting or watching the dwelling-house, or place where the other person, or anyone known to them, resides, works, carries on business or happens to be; or

(d) engaging in threatening conduct directed at the other person or any member of their family.

Punishment

(3) Every person who contravenes this section is guilty of

Harcèlement criminel

264 (1) Il est interdit, sauf autorisation légitime, d'agir à l'égard d'une personne sachant qu'elle se sent harcelée ou sans se soucier de ce qu'elle se sente harcelée si l'acte en question a pour effet de lui faire raisonnablement craindre — compte tenu du contexte — pour sa sécurité ou celle d'une de ses connaissances.

Actes interdits

(2) Constitue un acte interdit aux termes du paragraphe (1), le fait, selon le cas, de :

a) suivre cette personne ou une de ses connaissances de façon répétée;

b) communiquer de façon répétée, même indirectement, avec cette personne ou une de ses connaissances;

c) cerner ou surveiller sa maison d'habitation ou le lieu où cette personne ou une de ses connaissances réside, travaille, exerce son activité professionnelle ou se trouve;

d) se comporter d'une manière menaçante à l'égard de cette personne ou d'un membre de sa famille.

Peine

(3) Quiconque commet une infraction au présent article est coupable :

(a) an indictable offence and is liable to imprisonment for a term not exceeding ten years; or

(b) an offence punishable on summary conviction.

a) soit d’un acte criminel passible d’un emprisonnement maximal de dix ans;

b) soit d’une infraction punissable sur déclaration de culpabilité par procédure sommaire.

Sexual assault

271 Everyone who commits a sexual assault is guilty of

(a) an indictable offence and is liable to imprisonment for a term of not more than 10 years or, if the complainant is under the age of 16 years, to imprisonment for a term of not more than 14 years and to a minimum punishment of imprisonment for a term of one year; or

(b) an offence punishable on summary conviction and is liable to imprisonment for a term of not more than 18 months or, if the complainant is under the age of 16 years, to imprisonment for a term of not more than two years less a day and to a minimum punishment of imprisonment for a term of six months.

Agression sexuelle

271 Quiconque commet une agression sexuelle est coupable :

a) soit d’un acte criminel passible d’un emprisonnement maximal de dix ans ou, si le plaignant est âgé de moins de seize ans, d’un emprisonnement maximal de quatorze ans, la peine minimale étant de un an;

b) soit d’une infraction punissable sur déclaration de culpabilité par procédure sommaire et passible d’un emprisonnement maximal de dix-huit mois ou, si le plaignant est âgé de moins de seize ans, d’un emprisonnement maximal de deux ans moins un jour, la peine minimale étant de six mois.

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	IMM-1243-17
STYLE OF CAUSE:	NOWEL MWOROSHA v MINISTER OF CITIZENSHIP AND IMMIGRATION
PLACE OF HEARING:	QUEBEC CITY, QUEBEC
DATE OF HEARING:	SEPTEMBER 14, 2017
REASONS FOR JUDGMENT AND JUDGMENT:	BELL J.
DATED:	OCTOBER 30, 2017

APPEARANCES:

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