Federal Court  Cour fédérale

Date: 20191113

Docket: IMM-6477-18

Citation: 2019 FC 1418

Ottawa, Ontario, November 13, 2019

PRESENT: Mr. Justice McHaffie

BETWEEN:

RICHARD HEADLEY NEWLAND

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

I. Overview

[1] Richard Newland applied for a Pre-Removal Risk Assessment (PRRA), alleging that he would be in danger if removed to his native Jamaica since he had acted as a police informer and would be a target of violence by gang members. The Jamaica Constabulary wrote a submission letter on behalf of Mr. Newland, confirming that he had faced attacks and threats in Jamaica. The letter also said that the task of protecting Mr. Newland from the gang "became difficult" as the

men were of no known address, and that it considered his “petition for asylum in Canada as a genuine case as the threats against his life continues to be severe.”

[2] The PRRA officer dismissed Mr. Newland’s application, concluding that despite the letter, the evidence indicated that police in Jamaica would be able to provide adequate protection should Mr. Newland need it.

[3] Mr. Newland asserts that the PRRA officer applied the wrong approach to assessing state protection by focusing on the efforts made by Jamaican authorities and not assessing the adequacy of protection at an operational level. He also argues that the PRRA officer’s assessment of the evidence was unreasonable, both because the letter from the Jamaica Constabulary confirmed that there was no operationally adequate state protection, and because the PRRA officer failed to refer to other material evidence on the issue of adequate protection.

[4] I conclude that the PRRA officer reasonably considered the adequacy of state protection at an operational level, and reasonably assessed the evidence, including the submission letter. Although the Jamaica Constabulary identified risks to Mr. Newland and difficulties in protecting him, they did not concede that they were unable to protect him, as Mr. Newland contends. The conclusion that there is adequate state protection in Jamaica was reasonably open to the PRRA officer based on consideration of the Jamaica Constabulary letter and other country condition documents. The application for judicial review is therefore dismissed.

II. Mr. Newland's Pre-Removal Risk Assessment Application

[5] Mr. Newland's fear of violence in Jamaica based on his status as a police informer stems from an incident in 1992. Mr. Newland was coerced by members of a Jamaican gang known as "The Shower Posse" to take a package with him on a visit to Canada. The package contained drugs, and Mr. Newland was arrested, charged and ultimately convicted for importing the drugs. After his arrest, Mr. Newland cooperated with Canadian authorities.

[6] Mr. Newland's conviction led to his deportation in 1993. Upon his return to Jamaica, he faced death threats from The Shower Posse because of his cooperation with police. He returned to Canada in 1994, entering unlawfully and remaining until he was deported again in January 2000. Back in Jamaica, Mr. Newland was again identified as an informer, and was attacked and his life threatened. He returned to Canada in April 2000, again unlawfully, and has been here since that time. He was arrested in 2017 on an outstanding warrant arising from charges dating from 2003 that have since been stayed, although he still faces immigration offence charges.

[7] Mr. Newland applied for a PRRA after his arrest in 2017, as he was ineligible to claim refugee status owing to the deportation orders. As Justice Diner has recently described it, a PRRA is "the last formal risk assessment given to qualifying individuals before they are removed from Canada. The PRRA process seeks to ensure that those individuals are not sent to a country where their lives would be in danger … consistent with Canada's obligations under international law": *Valencia Martinez v Canada (Citizenship and Immigration)*, 2019 FC 1 at para 1.

[8] To support his application, Mr. Newland obtained a letter from the Jamaica Constabulary. That letter says that it is based on "intensive investigation and intelligence," although no information is provided about the nature of that investigation other than it clearly having involved a review of police records regarding reports made by Mr. Newland. The letter states that the police were aware of Mr. Newland's situation, as he had visited the station on numerous occasions to report threats and attacks. The reports are described as being "between the years 1994 and 2000," although during that period Mr. Newland was only in Jamaica for about eight months in 1994 and perhaps a month in 2000. The letter confirms the nature of The Shower Posse gang, and the concern that Mr. Newland was identified as a police informer and reported threats on his life.

[9] The two final substantive paragraphs of the Jamaica Constabulary letter were the subject of significant submissions by the parties. They read as follows:

> The situation continued for well over a decade, in spite the police intervention. We did all we could to protect him, whilst trying to locate the men as they were of no known addresses, hence our task became difficult. Mr. Newland expressed himself to the Police that he was tired of running and hiding and also he felt like a wanted man. He further indicated that he would leave the island to ensure that he stays alive for his children.
>
> Mr. Newland idea was endorsed by the Police, he was encouraged to seek asylum overseas, to this end, the police considered Mr. Newland's petition for asylum in Canada as a genuine case as the threats against his life continues to be severe.
>
> [Emphasis added.]

[10] Mr. Newland also filed a number of other documents, including a Wikipedia entry regarding The Shower Posse, an article from the Jamaican newspaper *The Gleaner* regarding

risks to informers; excerpts from a 2017 report by the Home Office of the United Kingdom regarding “Fear of organised criminal gangs” in Jamaica; a country report on Jamaica published by Freedom House; a 2017 “Crime & Safety Report” from the US Department of State’s Overseas Security Advisory Council [OSAC Report]; and affidavits from Mr. Newland and his wife, a Canadian citizen.

III. Rejection of Mr. Newland’s Application

[11] The PRRA officer concluded that the determinative issue was the availability of state protection. The PRRA officer referenced the Jamaica Constabulary letter and portions of the UK Home Office report, including sections in addition to those filed by Mr. Newland, and concluded that Jamaica could offer adequate police protection. They noted that the police had made efforts to protect him when the earlier threats were reported, and that while Jamaica “continues to face serious issues pertaining to crime and corruption,” some progress has been made and efforts continue to improve even further.

[12] The PRRA officer concluded that should Mr. Newland require protection, he would have avenues of police recourse available to him. They were therefore not convinced that the state would be unable or unwilling to provide Mr. Newland with protection should he require it, and that as a result, he did not fall within section 96 or 97 of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [*IRPA*].

IV. Issues

[13] Mr. Newland's arguments raise three issues:

A. What standard of review applies to the PRRA officer's decision, including as to the legal test for state protection and the application of that test to the evidence?

B. Did the PRRA officer apply the wrong legal test for state protection, by failing to assess the adequacy of state protection at an operational level?

C. Was the PRRA officer's assessment of the evidence of state protection unreasonable, as it did not properly consider the Jamaica Constabulary letter and ignored other supportive information?

V. Analysis

A. *Standard of Review*

[14] The parties each submitted that the PRRA officer's decision is reviewable on the reasonableness standard, citing *Jeyakumar v Canada (Citizenship and Immigration)*, 2019 FC 87 at para 19 and *Johnson v Canada (Citizenship and Immigration)*, 2017 FC 68 at para 5. As the parties agreed, a decision will be considered reasonable where it is justified, transparent and intelligible, and where the decision falls within a range of possible, acceptable outcomes defensible in respect of the facts and law: *Dunsmuir v New Brunswick*, 2008 SCC 9 at para 47.

[15] I agree with the parties that the PRRA officer's assessment of the facts and evidence, and the application of the legal test for state protection to those facts is subject to the deferential reasonableness standard. However, with respect to whether the PRRA officer applied the right legal test, some brief additional discussion is required, in light of the jurisprudence of this Court and the Supreme Court of Canada, and given the need to apply the right standard of review regardless of the parties' agreement.

[16] This Court has, in what seems to be the preponderance of cases, held that the correctness standard applies to whether the proper legal test for adequate state protection was used: see, *e.g.*, *AB v Canada (Citizenship and Immigration)*, 2019 FC 1339 at para 9; *Guthrie v Canada (Citizenship and Immigration)*, 2016 FC 1087 at para 6; *Camargo v Canada (Citizenship and Immigration)*, 2015 FC 1044 at paras 24-25; *Ruszo v Canada (Citizenship and Immigration)*, 2013 FC 1004 at para 22.

[17] In other cases, however, the issue has been treated as a matter of reasonableness: see, *e.g.*, *Csiklya v Canada (Citizenship and Immigration)*, 2019 FC 1276 at paras 16, 26-29, 35; *Lakatos v Canada (Citizenship and Immigration)*, 2018 FC 291 at paras 12, 16; see also *Kemenczei v Canada (Citizenship and Immigration)*, 2012 FC 1349 at paras 21, 54-60, where stating the correct test, but not applying that test was considered unreasonable.

[18] Justice Diner of this Court noted a similar tension in cases pertaining to the correct legal test on humanitarian and compassionate [H&C] applications under section 25 of the *IRPA*:

Zlotosz v Canada (Immigration, Refugees and Citizenship), 2017 FC 724 at paras 14-15; see also *Dayal v Canada (Citizenship and Immigration)*, 2019 FC 1188 at paras 16-18.

[19] Several cases from the Supreme Court of Canada indicate that applying the "correct" legal test is to be treated as an element of reasonableness review. For example, in *Németh v Canada (Justice)*, 2010 SCC 56 at paragraph 10, Justice Cromwell for the Court stated in respect of a Minister's decision to surrender for extradition that "in order for a decision to be reasonable … he must apply the correct legal tests to the issues before him" [Emphasis added]; see also *Lake v Canada (Minister of Justice)*, 2008 SCC 23 at para 41; *Saskatchewan (Human Rights Commission) v Whatcott*, 2013 SCC 11 at para 194; *Halifax (Regional Municipality) v Canada (Public Works and Government Services)*, 2012 SCC 29 at para 43. This appears to recognize that there is a legal issue (the legal test) that must be judged on a correctness standard, within the broader reasonableness analysis applicable to the decision.

[20] Justice Norris recently considered *Németh* and *Lake* in the H&C context and aptly noted that "[t]he deferential reasonableness standard of review presupposes that the decision-maker has applied the correct legal test": *Mursalim v Canada (Citizenship and Immigration)*, 2018 FC 596 at para 30. He concluded that where the applicable test is established in the jurisprudence, the correctness standard applies: *Mursalim* at paras 31-33.

[21] Whether a decision-maker using the wrong legal test is viewed as "incorrect" on a correctness standard, or "unreasonable" on a reasonableness standard, is of little practical import. It is certainly not a distinction that matters to Mr. Newland. What matters is that if there is an

established legal test, and the officer does not use that test, the decision cannot stand and must be quashed.

[22] In the present case, there is an established legal test for assessing the adequacy of state protection, so the PRRA officer's decision must be quashed if it was not used. To follow the terminology of the Supreme Court of Canada in *Németh*, *Lake* and other cases, I will adopt the approach that the reasonableness standard applies to the PRRA officer's decision, but that the decision will be considered unreasonable if the legal test applied by the PRRA officer was not correct.

B. *The Legal Test for Assessing Adequate State Protection*

[23] The established legal test for assessing the adequacy of state protection requires an assessment of the state's willingness and ability to adequately protect at an *operational* level, and not simply an assessment of the state's *efforts* to protect or to improve its protection: *Guthrie* at paras 9-10; *Ruszo* at para 26; *AB* at paras 22-24.

[24] The PRRA officer did not expressly state the test, so the Court must assess whether the correct "operational level" assessment was applied based on the substance of the PRRA officer's analysis. Mr. Newland contends that it was not, and that the PRRA officer only cited efforts to achieve state protection, rather than the adequacy of the protection at an operational level.

[25] While the PRRA officer's reasons could be clearer, I am satisfied that the PRRA officer's assessment was not limited to Jamaica's efforts to protect, but also considered its ability to protect at the operational level. This can be seen from the PRRA officer's consideration of:

- the operational difficulties faced by the Jamaica Constabulary as expressed in their letter;
- the concern that "effective protection" can be difficult where assailants are unknown, even for the most effective and well-resourced police forces;
- the Jamaica Constabulary's active, though unsuccessful, investigations in response to Mr. Newland's reports;
- country condition evidence that included information not only on crime-fighting initiatives, but also on the operational impact of those initiatives, including arrests resulting from anti-gang operations and the impact on crime rates;
- the standard of operational effectiveness a country will be held to, as discussed in *Canada (Minister of Employment and Immigration) v Villafranca*, 1992 CanLII 8569, 18 Imm LR (2d) 130 (FCA) at paragraph 7, a case referenced by the PRRA officer.

Thus while the PRRA officer did refer to efforts by the police to protect Mr. Newland and efforts by the Jamaican government to improve law enforcement, they also considered and assessed the operational effectiveness of the policing.

[26] I do not accept Mr. Newland's contention that the PRRA officer's failure to accept the Jamaica Constabulary letter as determinative confirmation that Jamaica had not achieved

adequate operational state protection shows that the wrong test was applied. As discussed further below, that letter does not contain an express concession of an operational inability to protect, and the meaning and value to be given to it is a matter for the assessment of the PRRA officer as finder of fact, to be assessed on the reasonableness standard.

[27] I therefore conclude that the PRRA officer did not use the wrong legal test in the state protection analysis. The next question is whether that test was reasonably applied to the facts and evidence.

C. *The PRRA Officer's Assessment of the Evidence and Conclusion of Adequate State Protection*

[28] Mr. Newland raises two primary issues with respect to the PRRA officer's assessment of the evidence: (1) the PRRA officer's treatment of the Jamaica Constabulary letter; and (2) the PRRA officer's failure to refer to other supporting evidence, particularly the OSAC report and the article from *The Gleaner*.

(1) The Jamaica Constabulary Letter

[29] Mr. Newland asserts that the Jamaica Constabulary letter amounts to a concession that Jamaica was unable to provide adequate state protection. He refers to *Canada (Attorney General) v Ward*, [1993] 2 SCR 689 at pp 724-725, in which the Supreme Court of Canada recognized that an admission from state authorities of the state's inability to protect made it "unnecessary" to prove that inability:

> The issue that arises, then, is how, in a practical sense, a claimant makes proof of a state's inability to protect its nationals as well as the reasonable nature of the claimant's refusal actually to seek out this protection. On the facts of this case, proof on this point was unnecessary, as representatives of the state authorities conceded their inability to protect Ward. Where such an admission is not available, however, clear and convincing confirmation of a state's inability to protect must be provided. For example, a claimant might advance testimony of similarly situated individuals let down by the state protection arrangement or the claimant's testimony of past personal incidents in which state protection did not materialize. Absent some evidence, the claim should fail, as nations should be presumed capable of protecting their citizens. Security of nationals is, after all, the essence of sovereignty. Absent a situation of complete breakdown of state apparatus…it should be assumed that the state is capable of protecting a claimant.
>
> [Emphasis added.]

[30] The PRRA officer referenced this passage in *Ward*, noting that "one is to presume, in the absence of clear and convincing proof of the state's inability to protect, that the state is able to provide protection." Mr. Newland submits that the PRRA officer's approach to *Ward* was in error, since the admission from the police in Jamaica obviates the need for—or effectively amounts to—clear and convincing confirmation of the state's inability to protect.

[31] Mr. Newland relies in particular on the two paragraphs from the Jamaica Constabulary letter that are reproduced above. He points to the statements that the situation continued for well over a decade, in spite of police intervention; that the police did all they could to protect Mr. Newland but that the task became difficult because the attackers were of no known address; that Mr. Newland was encouraged to seek asylum overseas; and that the threats against Mr. Newland's life continue to be severe. He argues that in the context of the letter these

statements amount to the Jamaica Constabulary admitting that they are unable to provide adequate protection.

[32] The PRRA officer did not agree. They recognized the difficulties expressed by the Jamaica Constabulary arising from unknown assailants, but noted that such difficulties would be faced by even the most effective and well-resourced police force. The PRRA officer read the letter as confirming that, despite the difficulty, the police consistently acted on the complaints. Reviewing the letter together with other evidence, the PRRA officer was ultimately not convinced that Jamaica would be unable or unwilling to provide Mr. Newland with protection.

[33] The Court's role is to review the PRRA officer's assessment of the evidence for reasonableness, rather than to impose its own assessment of that evidence. I cannot conclude that the PRRA officer was unreasonable in not finding the Jamaica Constabulary letter to be either an admission that they could not protect Mr. Newland or clear and convincing proof that they could not. There is some distance between a statement that policing "became difficult" and one that admits that the police cannot provide effective protection.

[34] In this regard, the situation is different from that in *Henry v Canada (Citizenship and Immigration)*, 2007 FC 512, in which a letter from the police in Grenada stated that they believed that Canada was the safest place for the applicants "to be where there is adequate protection." Justice O'Keefe found that "[t]his statement implies that there is inadequate protection in Grenada," and held that a decision that mentioned the letter but contained no analysis of it and did not explain why it failed to show that there was inadequate state protection was

unreasonable: *Henry* at paras 29, 32-34. This is not to say that a statement from a foreign state must use the particular words "adequate protection" to be considered an admission. However, any such statement must be assessed on a case-by-case basis based on what it does say.

[35] The PRRA officer gave no weight to the statement in the letter that "police considered Mr. Newland's petition for asylum in Canada as a genuine case as the threats against his life continues to be severe." The PRRA officer reasoned that the author of the letter had no authority or expertise to determine whether Mr. Newland was deserving of international protection. Mr. Newland argues that this was unreasonable, since the author was not trying to make a determination on whether Mr. Newland was deserving of protection, but simply confirming that the Jamaica Constabulary was unable to protect him, and that as a factual matter, the threats against his life continue to be severe.

[36] While it was reasonable for the PRRA officer not to accept the author's opinion on whether Mr. Newland had a genuine claim, I agree that they should not have used this reasoning to also give no weight to the factual element of the statement, namely that "the threats against his life continues to be severe."

[37] However, leaving aside that the basis for the factual statement is unclear as Mr. Newland has not been in Jamaica since 2000, the statement only amounts to an assertion that Mr. Newland continues to be at risk. It is not a statement regarding the police's ability to protect Mr. Newland from that risk. The fact that Mr. Newland was facing threats to his life was not at issue, as the PRRA officer's decision did not reject Mr. Newland's assertion that he faced such threats from

The Shower Posse. Rather, the determinative issue was adequate state protection. The PRRA officer's error in discounting the factual elements of the statement on the basis that the author also gave an opinion therefore had no impact on the decision.

[38] Mr. Newland also submitted that the PRRA officer was unreasonable in concluding that the Jamaican police should not be held to a higher standard of effective protection in the face of unidentified assailants than police in Canada. He submits that the PRRA officer's reference to *Smirnov v Canada (Secretary of State)*, [1995] 1 FC 780, 1994 CanLII 3545, was misplaced in light of this Court's more recent decision in *Sebucocero v Canada (Citizenship and Immigration)*, 2012 FC 1408.

[39] In *Sebucocero*, the applicant was a police officer who had given evidence before a Rwandan Gacaca Court against individuals accused of genocide. He received death threats, his house was attacked, and his car set on fire. Although he complained to police, no arrests were made. Evidence was filed that indicated that 2010 was the first year in which there had been no murders of witnesses, judges or other participants in Gacaca Court proceedings, and that there was a shortage of effective measures to properly protect Gacaca Court witnesses. Justice Simon Noël of this Court concluded that the focus of the Refugee Protection Division (RPD) on ameliorative measures and failure to consider conflicting evidence rendered the decision unreasonable, noting at paragraphs 26-27:

> …The fact that three incidents occurred in which the applicant's property was damaged or his physical safety was threatened and that it was impossible to prevent theses incidents suggests that the situation is likely to recur. In fact, state protection following these three incidents did not materialize for the applicant.

> Lastly, considering the fact that the police were unable to help the applicant following his attacks or play a preventative role and the fact that some witnesses were murdered, one can only conclude that the RPD's decision is unreasonable. The evidence reveals that, where state protection fails, the risks that the applicant might face could be serious. The RPD was silent in this regard.

[40] Justice Noël did not suggest that *Smirnov* was no longer good law. To the contrary, he cited it and accepted its statement that one cannot expect police authorities to meet a standard which even the best-equipped police forces can only aspire to. However, Justice Noël concluded that the RPD could not rely on the principles in *Smirnov* when it had failed to consider the evidence that countered its finding that effective state protection was available in Rwanda: *Sebucocero* at paras 29-30.

[41] There is no doubt that some aspects of the evidence in Mr. Newland's case, including the threats to his physical safety and the police's inability to find the culprits or play a preventive role, are similar to those in *Sebucocero*. However, the assessment of adequate state protection depends on the facts, evidence, and context of the particular case. One cannot therefore simply point to these similarities without recognizing the different contexts of the countries and the individual applicant, or without assessing the different evidence regarding the extent of police or state failure. Nor can one take *Sebucocero* to stand for a broad proposition that any time attackers are not identified and police are unable to help, state protection is inadequate, as Mr. Newland suggests.

[42] The same can be said of the parties' reliance on *Burton v Canada (Citizenship and Immigration)*, 2013 FC 549, *Johnson v Canada (Citizenship and Immigration)*, 2017 FC 68 and

Hoo v Canada (Citizenship and Immigration), 2016 FC 283, each of which involve assessments of adequate state protection in Jamaica in the context of gang violence. None of these cases compels a particular outcome on the adequacy of state protection from gangs in Jamaica.

[43] Both *Johnson* and *Burton* involved gang membership, which is not Mr. Newland's case. In *Johnson*, Justice Gleeson concluded there was insufficient evidence that the applicant faced particularized risk as a perceived gang member: *Johnson* at paras 12-14. In *Burton*, the applicant had not only cooperated with police, but was a convicted criminal and gang member, and there were concerns about the willingness of Jamaican police to protect gang members from inter- or intra-gang violence in addition to their ability to protect informers: *Burton* at paras 21-28.

[44] In *Hoo*, the applicant refused membership in a gang and was believed by a gang member to be a police informer. Justice Strickland found that the PRRA officer's assessment of risk was unreasonable because it only considered generalized risk and did not recognize Mr. Hoo's status as a targeted police informer. However, she nonetheless upheld the denial of the PRRA application on the basis that the PRRA officer's conclusion that there was adequate state protection notwithstanding widespread gang violence and mixed evidence on police effectiveness was reasonable: *Hoo* at paras 18-23, 26-30.

[45] As Justice Mactavish noted in *Burton* at paragraph 20: "[t]he availability of state protection in a particular country cannot be assessed in a vacuum. Regard must be had to the individual's own personal situation or circumstances, and an analysis must then be carried out as to the willingness and ability of the state to respond to those specific circumstance." While

Mr. Newland shares with Mr. Burton and Mr. Hoo a concern about being targeted as a police informer, the real issue in each case was the extent to which the officer in question had addressed the relevant evidence before them. In *Burton*, the Court found that the PRRA officer had not adequately addressed the evidence; in *Hoo*, the Court found that they had.

[46] The question thus remains whether the PRRA officer's assessment that Jamaica could offer Mr. Newland an adequate level of state protection was reasonable in his specific context and in the light of the particular evidence presented, including the Jamaica Constabulary letter. The PRRA officer was clearly alive to Mr. Newland's particular circumstance as a perceived informer who had been the subject of threats and attacks. On review of the decision, I am satisfied that the PRRA officer's consideration of the Jamaica Constabulary letter was reasonable.

(2) Other Evidence

[47] Mr. Newland argues that the PRRA officer unreasonably failed to discuss two other pieces of evidence that supported a finding of inadequate state protection, relying on *Cepeda-Gutierrez v Canada (Minister of Citizenship and Immigration)*, 1998 CanLII 8667 (FC), 157 FTR 35. The first was the OSAC Report, in which Mr. Newland points to a statement that the Jamaica Constabulary Force is considered to be underpaid, poorly trained and understaffed. The second is a 2010 article from *The Gleaner* entitled "'Informerphobia' (Part 1)," which refers to the murders of a number of police informers. Each was filed by Mr. Newland as part of his application, which the PRRA officer indicated was considered in the category of "several

internet news articles and reports regarding the general country conditions and the prevalence of criminal gangs in Jamaica."

[48] *Cepeda-Gutierrez* is clear in its statement that there is no obligation to refer to every piece of evidence received that is contrary to a finding: *Cepeda-Gutierrez* at para 16. The issue is whether the evidence is sufficiently important that the Court can infer that the decision was made without regard to the evidence if it is not specifically mentioned. In my view, the lack of specific discussion of the OSAC Report and the news article do not rebut the presumption that the PRRA officer considered all of the evidence.

[49] The statement in the OSAC Report that the Jamaican police is considered to be "underpaid, poorly trained and understaffed," while relevant, does not speak directly to whether the police could nonetheless provide adequate protection to Mr. Newland. The PRRA officer recognized challenges to policing in Jamaica, and addressed the most direct evidence on the issue—the Jamaica Constabulary letter—together with the UK Home Office Report, at some length. While the PRRA officer did not refer to police resource or training levels in particular, I do not find that failing to reference this passage from the OSAC Report renders the decision unreasonable.

[50] With respect to the article in *The Gleaner*, Mr. Newland's submissions to the PRRA officer referenced this article only briefly, in a section dedicated to The Shower Posse gang generally. Mr. Newland's submissions on the lack of state protection did not refer to the article at all nor indicate how he considered it relevant to that issue. While sections in submissions are not

airtight compartments, the PRRA officer cannot be faulted for not undertaking a specific discussion of this article in assessing the adequacy of state protection in these circumstances.

[51] At the hearing of this application, counsel also noted that the PRRA officer did not discuss the affidavit sworn by Mr. Newland's wife. However, that affidavit, which was specifically listed by the PRRA officer as having been reviewed, speaks to the couples' fears and does not address the adequacy of state protection except arguably through recounting the facts of an attack in April 2000 which was reported to the police. Again, this evidence was not relied on as demonstrating inadequate state protection in Mr. Newland's submission to the PRRA officer, and the PRRA officer did not reject the evidence of the attacks. I do not consider the PRRA officer's decision on state protection to be unreasonable for having failed to discuss this evidence.

[52] I note that Mr. Newland also criticizes the PRRA officer for having included reference to evidence dealing with Jamaica's anti-corruption measures, since the issue in Mr. Newland's case was not police corruption. This criticism is misplaced given that Mr. Newland's submission to the PRRA officer regarding state protection expressly alleged that the Jamaican judicial system is corrupt and pointed to evidence suggesting that "[c]orruption remains a serious problem in Jamaica."

VI. Conclusion

[53] I find that the PRRA officer applied the correct legal test and reached a reasonable conclusion on the adequacy of state protection available to Mr. Newland in Jamaica. The application for judicial review is therefore dismissed.

[54] Neither party suggested that a question be certified. I agree that no certifiable question arises in the matter.

[55] Lastly, in the interests of consistency and in accordance with section 4(1) of the *IRPA* and section 5(2) of the *Federal Courts Citizenship, Immigration and Refugee Protection Rules*, SOR/93-22, the style of cause is amended to name the respondent as the Minister of Citizenship and Immigration.

JUDGMENT IN IMM-6477-18

THIS COURT'S JUDGMENT is that

1. The style of cause is amended to name the respondent as the Minister of Citizenship and Immigration.
2. The application for judicial review is dismissed.

"Nicholas McHaffie"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

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