

Federal Court



Cour fédérale

Date: 20210420

Docket: IMM-7218-19

Citation: 2021 FC 343

[ENGLISH TRANSLATION REVISED BY THE AUTHOR]

Ottawa, Ontario, April 20, 2021

PRESENT: Mr. Justice Grammond

BETWEEN:

SAVERIO GRILLO

Applicant

and

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

Respondent

JUDGMENT AND REASONS

(Delivered from the Bench at Ottawa, Ontario, on April 19, 2021)

[1] Mr. Grillo is a citizen of Italy. On October 1, 2019, he entered Canada as a visitor. Proceedings were commenced against him to have him declared inadmissible on grounds of serious criminality, because he pleaded guilty to a drug-related offence in the United States and was sentenced to 10 years in prison. For this reason, the Immigration Division [ID] of the

Immigration and Refugee Board declared him inadmissible on November 7, 2019, under paragraph 36(1)(b) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [IRPA].

Mr. Grillo is now seeking judicial review of this decision.

[2] The role of the Court on judicial review is to ensure that the decision under review is reasonable. Specifically, this means that the decision must be assessed on the basis of the evidence and arguments that were before the decision maker. Judicial review is not an opportunity to raise new arguments. However, this is precisely what Mr. Grillo is attempting to do. The arguments that he is now raising were not put before the ID. They are therefore inadmissible. They cannot be used as a basis for a finding that the ID's decision is unreasonable. I will nevertheless address them briefly to demonstrate that they are entirely devoid of merit.

[3] Mr. Grillo's first argument concerns the equivalence between the American offence and the Canadian offence. Mr. Grillo submits that the ID should have performed a detailed comparison of the essential elements of each offence and its potential defences. However, if the ID addressed this point only briefly, it is because at his hearing before the ID, Mr. Grillo did not challenge the equivalence between the two offences. In addition, even before this Court, Mr. Grillo does not explain how the American and Canadian offences differ. It is hardly surprising that conspiring to traffic in cocaine constitutes a criminal offence in both countries. I note that the ID was not required to retry the American case or speculate on the chance of success of certain defences, given that Mr. Grillo in fact pleaded guilty. Mr. Grillo has therefore failed to establish that the ID's decision is unreasonable.

[4] Mr. Grillo's second argument concerns the report prepared under section 44 of the IRPA, which commenced the proceedings before the ID. In his view, the description of the Canadian offence in the report is inadequate because it does not refer to the relevant paragraph of subsection 465(1) of the *Criminal Code* and because it does not specify that the substance was cocaine. To accept such arguments would be excessively formalistic. Mr. Grillo cannot seriously claim to have suffered any prejudice on account of the failure to mention these details. There is no room for doubt regarding the conviction on which his inadmissibility was based or the nature of the substance at issue.

[5] For these reasons, the application for judicial review will be dismissed.

JUDGMENT in IMM-7218-19

THIS COURT'S JUDGMENT is as follows:

1. The application for judicial review is dismissed.
2. No question is certified.

“Sébastien Grammond”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-7218-19

STYLE OF CAUSE: SAVERIO GRILLO v THE MINISTER OF PUBLIC SAFETY AND EMERGENCY PREPAREDNESS

PLACE OF HEARING: VIA VIDEOCONFERENCE BETWEEN MONTRÉAL, QUEBEC, AND OTTAWA, ONTARIO

DATE OF HEARING: APRIL 19, 2021

JUDGMENT AND REASONS: GRAMMOND J.

DATED: APRIL 20, 2021

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