CROWN COURT OF CANADA

(ON APPEAL FROM THE FEDERAL COURT OF CANADA)

BETWEEN:

DAVID ROGER REVELL

APPELLANT

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

RESPONDENT

RESPONDENT’S MEMORANDUM OF ARGUMENT

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Counsel for the Respondent

OVERVIEW

1. As the Supreme Court of Canada has held, the most fundamental principle of Canadian immigration law is that non-citizens do not have an unqualified right to enter or remain in Canada. A non-citizen's stay in Canada is a privilege rather than an inalienable right. It is for this reason that a non-citizen who commits a criminal offence may be found inadmissible to Canada. An inadmissibility finding accords with the *Immigration and Refugee Protection Act* (the "***IRPA***"), which denies access to criminals and those who pose security risks.

2. There is no ambiguity in the case law that the *Canadian Charter of Rights and Freedoms* (the "***Charter***") is not engaged in an admissibility hearing before the Immigration Division ("**ID**"). Whether or not an individual's deportation engages the *Charter* is determined by the circumstances as they exist at the time of deportation. At the ID stage, any potential infringement of section 7 is speculative and premature, given the uncertainty of the deportation outcome.

3. The Appellant was charged with drug trafficking, committing that offence in association with a criminal organization. He was sentenced to five years in prison. The Appellant also pleaded guilty to assault with a weapon causing bodily harm against an intimate partner. The Appellant's criminal background constitutes grounds for inadmissibility. While the Appellant claims that inadmissibility infringes his liberty and security interests protected by the *Charter*, the realities of his case do not lend themselves to draw this conclusion. The Appellant's circumstances do not rise to a level beyond the inconveniences of deportation and do not violate Section 7 of the *Charter.*

4. To mitigate possible *Charter* deprivations, the *IRPA* has safety valves that protect those who may face risks associated with deportation. The Appellant has not made use of these measures. The scheme as a whole is nevertheless constitutionally sound. The Appellant's circumstances are

consistent with the typical consequences emanating from the deportation proceedings. Therefore, the consequences are neither grossly disproportionate nor violate the Appellant's section 7 rights.

PART I: FACTS

1) The Appellant's personal background and immigration history

5. The Appellant, Mr. David Roger Revell, is a British citizen. In 1974, at age ten, the Appellant immigrated to Canada. In the years since his arrival, the Appellant has chosen to remain a permanent resident, never applying for Canadian citizenship.[1]

2) The Appellant's convictions and inadmissibility proceedings

6. In March 2008, the Appellant was charged with possessing cocaine for the purposes of trafficking, and trafficking cocaine. He committed those offences at the direction of, or in association with, a criminal group (East End Hells Angels chapter of Kelowna, B.C). These charges led to a sentence of five years in prison. The Appellant was released on parole once eligible.[2]

7. In 2013, the Appellant pleaded guilty and was convicted of assault with a weapon and assault causing bodily harm against his intimate partner. Both offences carry a maximum sentence of ten years in prison. The Appellant received a suspended sentence, and two years of probation.[3]

8. In June 2008, a Canadian Border Services Agency ("**CBSA**") officer reported the Appellant under subsection 44(1) of the *IRPA* for serious criminality.[4]

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[1] *Revell v Canada (Citizenship and Immigration)*, 2019 FCA 262 at para 14 [*Revell FCA*].
[2] *Ibid* at para 15.
[3] *Ibid* at para 17.
[4] *Ibid* at para 16.

9. After reviewing the Appellant's submissions, the Minister's Delegate ("**MD**") used their discretion to not refer the report to the ID for an admissibility hearing.[5]

10. In October and November 2014, a CBSA officer notified the Appellant that CBSA was considering subsequent subsection 44(1) reports against him for inadmissibility under grounds of serious criminality and organized crime. The MD effectively issued a subsection 44(2) report to the ID for an admissibility hearing.[6]

11. The Appellant's request for reconsideration of the MD's decision was denied. The Appellant's request for judicial review of the referral decision and decision to refuse reconsideration were also unsuccessful.[7]

12. In February 2016, a third subsection 44(1) report was filed against the Appellant in relation to the 2008 drug trafficking convictions. The Appellant made new submissions as to why a removal order should not be issued against him. The MD considered the submissions and referred the matter to the ID for an admissibility hearing.

3) History of the proceedings

a. The ID's decision

13. The Appellant conceded he was inadmissible on the basis of organized criminality and serious criminality, but he claimed abuse of process. The Appellant also argued that the deportation process unjustifiably infringed his right under section 7 of the *Charter* with respect to life, liberty, and security of person. The ID rejected the Appellant's claim of abuse of process. The ID found

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[5] *Revell FCA,* supra note 1 at para 16.
[6] *Revell FCA*, *supra* note 1 at para 18.
[7] *Revell FCA*, *supra* note 1 at para 20.

that while the Appellant's section 7 *Charter* rights were engaged, the deprivation was in accordance with the principles of fundamental justice.[8]

b. The Federal Court decision

14. On judicial review, Kane, J. of the Federal Court said that the ID erred in finding that the Appellant's section 7 *Charter* rights were engaged at the admissibility stage.[9] The Court held that rights protected in section 7 of the *Charter* may be engaged at the removal stage, but not at the admissibility hearing stage.

15. Furthermore, the Court found that the Appellant failed to establish any risk of persecution, torture, or detention if deported, and that his circumstances do not indicate any serious psychological harm if he were to return to England. Kane, J. upheld the ID's decision and found that the principles of fundamental justice were upheld in the Appellant's case.[10]

c. The Federal Court of Appeal decision

16. Based on the jurisprudence,[11] the Federal Court of Appeal upheld the Federal Court's decision, agreeing that the Appellant's section 7 *Charter* rights were not engaged at the admissibility hearing stage.

17. Even if the Appellant's section 7 *Charter* rights were engaged, de Montigny, J. determined that his circumstances would not infringe the principles of fundamental justice.[12] The Court held

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[8] *Revell FCA*, *supra* note 1 at paras 23–26.
[9] *Revell v Canada (Citizenship and Immigration)*, 2017 FC 905 at para 7 [*Revell FC*].
[10] *Ibid* at para 28.
[11] *Medovarski v Canada (Minister of Citizenship and Immigration); Esteban v Canada (Minister of Citizenship and Immigration),* 2005 SCC 51; *Charkaoui v Canada (Citizenship and Immigration)*, 2007 SCC 9; *Febles v Canada (Citizenship and Immigration)*, 2014 SCC 68.
[12] *Revell FCA*, *supra* note 1 at para 139.

that there are a number of safety valves in the *IRPA* that ensure that the deportation process is in accordance with these very principles.[13]

PART II: POINTS IN ISSUE

18. Section 7 of the *Charter* is not engaged at the admissibility hearing stage.

19. Ordering the deportation of the Appellant does not deprive the life, liberty, or security of the person and is in accordance with the principles of fundamental justice.

20. In the alternative, even if any infringements are found, they would be justified under section 1 of the *Charter*.

PART III: ARGUMENT

A. STATUTORY FRAMEWORK

21. A permanent resident or foreign national may be found inadmissible on various grounds. The relevant provisions of the *IRPA* are found at paragraph 36(1)(a) and paragraph 37(1)(a), which state:

Serious criminality	**Grande criminalité**
36 (1) A permanent resident or a foreign national is inadmissible on grounds of serious criminality for	**36 (1)** Emportent interdiction de territoire pour grande criminalité les faits suivants :
(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;	**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;

[13] *Revell FCA*, *supra* note 1 at para 52.

Organized criminality

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

(a) being a member of an organization that is believed on reasonable grounds to be or to have been engaged in activity that is part of a pattern of criminal activity planned and organized by a number of persons acting in concert in furtherance of the commission of an offence punishable under an Act of Parliament by way of indictment, or in furtherance of the commission of an offence outside Canada that, if committed in Canada, would constitute such an offence, or engaging in activity that is part of such a pattern; or

Activités de criminalité organisée

37 (1) Emportent interdiction de territoire pour criminalité organisée les faits suivants :

a) être membre d'une organisation dont il y a des motifs raisonnables de croire qu'elle se livre ou s'est livrée à des activités faisant partie d'un plan d'activités criminelles organisées par plusieurs personnes agissant de concert en vue de la perpétration d'une infraction à une loi fédérale punissable par mise en accusation ou de la perpétration, hors du Canada, d'une infraction qui, commise au Canada, constituerait une telle infraction, ou se livrer à des activités faisant partie d'un tel plan;

22. Inadmissibility, according to either paragraphs 36(1)(a) or 37(1)(a), can lead to loss of status and removal from Canada.

23. If a CBSA officer is of the view that a permanent resident is inadmissible, subsection 44(1) of the *IRPA* provides that the CBSA officer may prepare a report and submit it to the MD. Subsection 44(2) of the *IRPA* allows the MD to refer the report to the ID for an admissibility hearing. Pursuant to subsection 44(2), the MD has discretion to refer it to the ID. Even if the MD considers the report to be well founded, the MD maintains discretion to not refer the report to the ID.[14] The ID will determine whether the permanent resident will be able to remain in Canada or make a removal order against them.[15]

[14] *Revell FCA, supra* note 1 at paras 6–7.

[15] *Immigration and Refugee Protection Act,* SC 2001, c 27, ss 45(a), (c), and (d).

24. Inadmissibility decisions by the ID under some circumstances can be appealed to the Immigration Appeal Division (the "**IAD**"). There is no right to appeal by a foreign national or permanent resident found inadmissible on grounds of serious criminality or organized crime.[16] Where there is no right to appeal, a removal order is effective on the day of its issuance.[17] The permanent resident then loses their status and reverts to being a foreign national.[18]

25. A foreign national wishing to remain in Canada who does not have a right of appeal to IAD and is found to be inadmissible on grounds of serious criminality or organized crime may remain in Canada under five options: 1) a temporary resident permit ("**TRP**"), 2) a humanitarian and compassionate discretionary exemption ("**H&C**"), 3) a pre-removal risk assessment ("**PRRA**"), 4) a ministerial declaration, or 5) a deferral of removal.[19]

26. Section 24 of the *IRPA* provides the availability of applying for TRPs. These permits are a temporary relief for inadmissibility, which allows the foreign national to remain in Canada under exceptional circumstances.[20] The intention of the TRPs is to soften the occasional harsh consequences of the application of the *IRPA* where there may be "compelling reasons" to allow an individual found inadmissible to remain in Canada.[21] An officer's decision on a TRP application

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[16] *Immigration and Refugee Protection Act,* SC 2001, c 27, s 64(1).
[17] *Immigration and Refugee Protection Act,* SC 2001, c 27, s 49(1)(a).
[18] *Revell FCA, supra* note 1 at para 7; *Immigration and Refugee Protection Act,* SC 2001, c 27, s 46(1)(c).
[19] *Revell FCA, supra* note 1 at para 8.
[20] *Immigration and Refugee Protection Act*, SC 2001, c 27, s 24.
[21] *Bhamra v Canada (Citizenship and Immigration),* 2020 FC 482 at para 22; citing *Farhat v Canada (Citizenship and Immigration),* 2006 FC 1275 at para 22.

is highly discretionary, and the applicant bears the burden of proof to establish that there is a compelling need for the applicant to remain in Canada.[22]

27. When considering criminal inadmissibility under subsection 24(1) of the *IRPA*, the officer should consider several factors. The time elapsed since the sentence was served, the applicant's chances of re-offending, whether they are deemed rehabilitated, whether there is a pattern of criminal behaviour, and whether the sentence has been completed, all play a role in this analysis.[23]

28. Section 25 of the *IRPA* allows certain foreign nationals found inadmissible to apply to the Minister of Citizenship and Immigration for an exemption from inadmissibility based on H&C grounds. A successful H&C application allows a foreign national to remain in Canada permanently. An H&C exemption is available to foreign nationals deemed to be inadmissible under serious criminality, irrespective of their sentence. However, an H&C exemption is not available to foreign nationals deemed to be inadmissible under organized criminality.[24]

29. A foreign national may also apply for a PRRA.[25] The purpose of PRRA is to consider possible risks associated with deportation that may justify a foreign national to stay in Canada. Factors such as risk of torture, danger to life, or cruel and unusual treatment may be considered by the PRRA officer when making their decision. Conversely, PRRA does not consider risks

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[22] *Peng v. Canada (Citizenship and Immigration)*, 2024 FC 20 at para 27; citing *Stewart v Canada (Citizenship and Immigration)*, 2022 FC 858 at para 33.
[23] *Stewart v Canada (Citizenship and Immigration)*, 2022 FC 858 at paras 33-34; citing *Cojuhari v Canada (Citizenship and Immigration)*, 2018 FC 1009 at para 21.
[24] *Revell FCA*, *supra* note 1 at para 9.
[25] *Immigration and Refugee Protection Act,* SC 2001, c 27, ss 112, 113.

associated with uprooting or psychological stress.[26] Limited protection will be given to those inadmissible on the grounds of organized criminality, or serious criminality.[27]

30. Section 42.1 of the *IRPA* provides discretion to the MD to grant leave to a foreign national deemed inadmissible to apply for an H&C (i.e. H&C discretion cannot be applied to section 37 organized crime cases). The MD's declaration may be solely based on satisfaction of "national security and public safety considerations."[28] In the case of a permanent resident, the MD's declaration would simply mean their permanent resident status is sustained.

31. While subsection 48(2) of the *IRPA* directs that if removal order is enforceable, the foreign national must leave Canada immediately, the CBSA has limited discretion to defer a removal through an administrative deferral of removal ("**ADR**").[29] This may be granted when an individual has an outstanding application and they seek to remain in Canada until that outcome has been determined, or if there is a true impediment to removal.[30] ADR is discretionary and will be justified if there is a threat to personal safety, or risk of death or inhumane treatment in the case of a pending H&C, for example.[31] Yet, this discretion has expanded to now consider situations of illness or other impediments of removal, short term interests of children, or the existence of pending applications.[32] Loss of employment or separation of family members are consequences that do not constitute grounds for deferring removal.[33]

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[26] *Revell FCA*, *supra* note 1 at paras 11, 36.
[27] *Immigration and Refugee Protection Act*, SC 2001, c 27, s 112(3).
[28] *Immigration and Refugee Protection Act,* SC 2001, c.27, s 42.1(3).
[29] *Baron v Canada (Minister of Public Safety and Emergency Preparedness),* 2009 FCA 81 at para 14.
[30] *Ibid* at para 55.
[31] *Wang v Canada (Minister of Citizenship and Immigration)*, 2001 FCT 148 at para 48.
[32] *Gill v Canada (Public Safety and Emergency Preparedness)*, 2020 FC 1075 at para 16.
[33] *Selliah v Canada (Minister of Citizenship and Immigration)*, 2004 FCA 261 at para 14.

B. SECTION 7 OF THE *CHARTER* AND THE JURISPRUDENCE OF THE COURT

32. The *Charter* sets out rights and freedoms and guarantees them subject to reasonable limits prescribed by law as demonstrably justified in a free and democratic society. Section 7 of the *Charter* guarantees that everyone has the right to life, liberty, or security of the person.[34]

33. Section 6(1) of the *Charter* provides that only citizens have the right "to enter, remain in, and leave Canada."[35] Immigration consequences depend on an individual's status as a citizen, permanent resident, or foreign national. A permanent resident may lose their status and be found inadmissible for serious criminality or organized criminality. While a foreign national holds the most precarious immigration status, as an inadmissibility finding on the basis of criminality could result in potential deportation.[36]

34. In *Moretto*, the Federal Court of Appeal states that the "deportation of a non-citizen cannot implicate the liberty and security interests protected by section 7 of the *Charter*, since such a protection would negate Canada's right to decide who it will allow to remain in its territory."[37] Deportation alone does not engage an individual's section 7 rights.[38] The jurisprudence clarifies that section 7 engagement is different in criminal law compared to immigration law and penal law.[39] When examining whether section 7 applies, the interests at risk must be assessed given that

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[34] *Canadian Charter of Rights and Freedoms*, s 7, Part I of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982* (UK), 1982, c 11.
[35] *Canadian Charter of Rights and Freedoms,* s 6.
[36] Canadian Council for Refugees, "Permanent residents and criminal inadmissibility: Resource for front-line workers" (October 2018) online (pdf): <//ccrweb.ca/sites/ccrweb.ca/files/criminality-practical-resource.pdf>
[37] *Moretto v Canada (Citizenship and Immigration)*, 2019 FCA 261 at para 52 [*Moretto*].
[38] *Medovarski v Canada (Minister of Citizenship and Immigration); Esteban v Canada (Minister of Citizenship and Immigration),* 2005 SCC 51 at para 46 [*Medovarski*].
[39] Hamish Stewart, *Section 7 of the Canadian Charter of Rights and Freedoms*, 2nd ed (Toronto: Irwin Law Inc, 2019) at 81.

"... principles of fundamental justice apply in criminal proceedings, not because they are criminal proceedings, but because the liberty interest is engaged in criminal proceedings."[40] The rights and privileges offered under the immigration system are highly dependent on an individual's status in Canada, which is a differentiating factor between criminal law and immigration law.

35. The Supreme Court of Canada ("**SCC**") has adjudicated the issue of section 7 engagement in the context of immigration law, particularly in inadmissibility cases dealing with serious criminality and organized crime.

36. The SCC first engaged with this question in *Chiarelli*. This case involved the inadmissibility of a permanent resident who was convicted of a serious criminal offence. In response to *Chiarelli*'s constitutional challenge of the immigration scheme, Sopinka, J. considered the objectives underlying immigration law. The obligation that non-citizens refrain from being convicted of a serious criminal offence was a "legitimate, non-arbitrary choice by Parliament of a situation in which it is not in the public interest to allow a non-citizen to remain in the country."[41] *Chiarelli* upholds the premise that it is not fundamentally unjust for Parliament to devise criteria which govern the entry and residency of non-citizens in Canada.[42]

37. In *Medovarski*, the SCC built on the foundation set out in *Chiarelli* to establish that the deportation of non-citizens does not in and of itself infringe the liberty and security of the person.[43]

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[40] Hamish Stewart, "Is Indefinite Detention of Terrorist Suspects Really Constitutional?" (2005) 54 *UNBLJ* 235 at 242.

[41] *Canada (Minister of Employment and Immigration) v Chiarelli*, 1992 CanLII 87 (SCC) at para 734 [*Chiarelli*].

[42] Asha Kaushal, "The Webbing of Public Law: Looking Through Deportation Doctrine" (2022) 59:2 Osgoode Hall Law Journal 291 at 322.

[43] *Medovarski*, *supra* note 38 at para 46.

The deportation proceedings were found to be in accordance with the principles of fundamental justice.

38. Finally, clarifications were made in *Charkaoui,* where the SCC held that while deportation itself could not engage section 7, "some features associated with deportation" may do so.[44]

39. When read together, the SCC makes it clear in these seminal cases that the deportation scheme in *IPRA* is functioning in accordance with section 7 of the *Charter*. The *IRPA,* therefore*,* is constitutionally sound and upholds Parliament's immigration objectives.

C. SECTION 7 OF THE *CHARTER* NOT ENGAGED AT THE ADMISSIBILITY HEARING STAGE

1) Doctrine of prematurity

40. The Federal Court of Appeal was correct in asserting that section 7 of the *Charter* cannot be engaged at the admissibility stage in the deportation proceedings.[45] This is because deportation is not a stand-alone order, but one step in a complex, multitiered inadmissibility determination process under the *IRPA*.[46] An individual found inadmissible will have options that may result in relief from deportation. Therefore, a finding of inadmissibility is not synonymous with the deportation act, given the gap between this determination and actual removal.[47]

41. It is for this reason that considering section 7 interests at this specific stage is premature. The argument is premature in a procedural sense, but also in a substantive capacity, as it remains

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[44] *Charkaoui v Canada (Citizenship and Immigration)*, 2007 SCC 9 at para 17 [*Charkaoui*].
[45] *Revell FCA*, *supra* note 1 at para 38.
[46] *Revell FCA*, *supra* note 1 at para 45.
[47] *Obazughanmwen v Canada (Public Safety and Emergency Preparedness)*, 2023 FCA 151 at para 54.

unclear what exact section 7 interests would be engaged at this preliminary point in the *IRPA* scheme.

42. Prematurity prevents the requisite level of causation at the admissibility stage to engage *Charter*-protected rights. As such, there is an insufficient "causal connection" between the state action and the prejudice incurred by the Appellant as a result.[48] At the admissibility stage, the "real and non-speculative link" that needs to be made "between the prejudice and the legislative provision" has yet to crystallize.[49]

43. The indeterminate nature of the deportation outcome is what distinguishes the ID stage from other procedures in the *IRPA* that have been found to engage section 7 of the *Charter*. In *CCR SCC,* it was determined that in the context of refugee claimants arriving from the US to Canada, their ineligibility engaged the *Charter*.[50] In this context, the claimants' liberty and security interests were engaged at the eligibility point because the dangers associated with deportation were sufficiently foreseeable. In other words, the eligibility proceeding of the STCA incorporated in section 101(1)(e) of the *IRPA* varies from that of the ID, as there are no intervening steps between ineligibility and removal.[51] Determinate factors such as the conditions of the US upon the refugees' return, and deportation time were well known in this context.[52] The temporality and specific conditions of the *CCR SCC* ineligibility scenario therefore, does not align with the present one.

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[48] *Canada (Attorney General) v Bedford*, 2013 SCC 72 at para 76 [*Bedford*].
[49] *Ibid*.
[50] *Canadian Council for Refugees v Canada (Minister of Citizenship and Immigration)*, 2023 SCC 17 [*CCR SCC*].
[51] *Ibid* at para 21.
[52] *Ibid* at para 40.

44. While it is true that the ID possesses the jurisdictional competence to hear constitutional issues pursuant to subsection 24(1) of the *Charter*, decision-makers have an obligation to reserve adjudicating broad *Charter* issues, until all necessary factual elements are in place.[53] It cannot be asked of the ID to make a decision based on a mere speculative eventuality. As the Federal Court stated in *Cardenas,* an analysis of risk should be carried out closer in time to the applicant's removal from Canada, as the hardship faced by the applicant, if removed, is "inherently speculative and likely pointless" in light of the applicant's TRP.[54] While this assertion is made in reference to an H&C application, the logic is nonetheless applicable to the present case given the Appellant's indeterminate removal from Canada, as well as his ability to pursue the same subsection 24(1) relief sought in *Cardenas*.

45. It is important to clarify that a finding of inadmissibility merely indicates that the Appellant will become a foreign national as opposed to a permanent resident. This distinction negates the Appellant's security engagement argument, given that what is determined here is a change in status, rather than an immediate removal. The eventuality that the Appellant will be returned to England is speculative at the ID inadmissibility stage. Not only is the removal too remote, but so is the accompanying psychological stress, given the availability of further proceedings.

2) Possibility of risk may engage section 7 at the deportation stage

46. In *B010* and *Febles*, the SCC confirmed that it is at the PRRA stage, where the deportation has actually materialized, and that section 7 may be engaged. PRRA gives the individual an opportunity to bring forth possible risks of torture or gross mistreatment upon their return to their

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[53] *Torres Victoria v Canada (Public Safety and Emergency Preparedness)*, 2011 FC 1392 at para 44 [*Torres*].

[54] *Cardenas v Canada (Citizenship and Immigration)*, 2018 FC 263 at paras 7–9.

country of citizenship, making their removal potentially unconstitutional.[55] Yet even at this administrative stage, McLachlin, J. noted in *B010* that *Charter* compliance is present given the availability of a stay of removal under a PRRA application.[56] As such, the last step of the deportation process is not in violation of the *Charter*.[57] This is because the act of deportation does not compromise a person's rights, as non-citizens do not have an entitlement to remain in Canada.[58] Rather, it is the possible risks associated with deportation that may trigger *Charter* claims, which the PRRA process contemplates.[59]

47. Section 7 interests may be engaged at the time of deportation if, for example, there is a prospect of deportation to torture.[60] More broadly, in order to trigger the substantive aspects of section 7 interests, the consequences of harm of deportation must "go beyond the typical impacts of removal."[61]

48. In the event that an individual is unsuccessful in their PRRA, they may bring an application for leave to commence a judicial review application of the PRRA officer's decision.[62] Additionally, an individual may request to defer removal or seek a stay of removal in the Federal Court.[63] These are options that the Appellant has access to at a later point in the removal process.

49. The Federal Court of Appeal in *Peter* clarifies that if an applicant for deferral is found to face a risk of harm that would not be assessed by an enforcement officer, a judge should next

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[55] *Immigration and Refugee Protection Act*, SC 2001, c 27, s 113.
[56] *B010 v Canada (Citizenship and Immigration),* 2015 SCC 58 at para 75.
[57] *Febles v Canada (Citizenship and Immigration),* 2014 SCC 68 at para 67.
[58] *Chiarelli*, *supra* note 41 at 733.
[59] *Immigration and Refugee Protection Act*, *supra* note 55.
[60] *Charkaoui, supra* note 44 at para 17.
[61] *Revell FCA, supra* note 1 at para 66.
[62] *Kreishan v Canada (Citizenship and Immigration),* 2019 FCA 223 at para 21 [*Kreishan*].
[63] *Ibid* at para 122.

consider whether section 7 of the *Charter* is engaged in the specific circumstances.[64] This consideration speaks of the way the scheme, in its entirety, accounts for possible *Charter* non-compliance while maintaining the constitutionality of the *IRPA*.

3) Deportation scheme consistent with the *Charter*

50. The deportation scheme is engineered so that all administrative avenues should be utilized before raising the possibility of a *Charter* infringement.[65] It would be impractical to gauge section 7 engagement at every step of this multifaceted process.[66] Adopting this approach would open the floodgates and make it so that, irrespective of the actual merits of the case, individuals will be compelled to bring forth *Charter* claims at any allowable juncture. This would be problematic for a multitude of reasons. It would clog the efficient running of the scheme, while creating a frustrating jurisdictional overlap between the courts and administrative decision-makers. Most importantly, it would subvert the objectives of the *IRPA* to set boundaries and restrictions pertaining to those individuals found inadmissible to remain in Canada.

51. The Appellant must let the process run its course. The deportation scheme is a considered framework that includes administrative safeguards. These safeguards mitigate the danger of a state action causing a prejudicial effect on the individual. It is imperative that the deportation process be read holistically. Isolating one aspect of the process prevents the intended course of the scheme from being actualized.

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[64] *Peter v Canada (Public Safety and Emergency Preparedness)*, 2016 FCA 51 at paras 25–26.
[65] *Moretto*, *supra* note 37 at para 65.
[66] *Revell FCA, supra* note 1 at para 45.

4) Administrative safeguards mitigate section 7 infringements

52. The *IRPA*'s safety valves provide the Appellant with the possibility of an outcome that may avoid deportation. These curative measures are sufficiently narrow so as to account for individuals who merit protection, while sustaining the *IRPA's* objectives of protecting national security, and capacity to deny access to certain foreign nationals.[67]

53. The purpose of the safety valves within the scheme is to mitigate any serious risks that the Appellant may be exposed to, not to placate the inconveniences associated with deportation. However, this will only be evaluated once the Appellant has actually exhausted all available avenues of recourse.

54. The Appellant has five avenues that could prevent his removal. As such, these avenues are not aloof, performative, or amorphous, but rather concrete alternatives that may result in a different outcome for the Appellant. Not only do these safeguards show the clear distance between inadmissibility and the enforcement of a removal order, but they account for any possible risk that would come as a result of the state's action, so as not to offend section 7 of the *Charter*.

55. The Appellant argues that the only opportunity to assess his particular circumstances is at the ID stage. Yet, the discretionary statutory mechanisms, in addition to the limited PRRA, have yet to be actualized. If these safety valves do not attain the Appellant's desired outcome, the scheme is nevertheless constitutionally sound.

56. Nothing in the present case suggests that the Court erred in the administration of the procedural mechanisms. The Appellant, therefore, does not have a constitutional right to seek an individualized, discretionary outcome falling outside of the scope of the existing safety valves.

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[67] *Immigration and Refugee Protection Act*, SC 2001, c 27, s 3.

Should the outcome be one which is undesirable to the Appellant, it is one he will have to accept, given the clear violation of his conditional status. The system is not designed to protect those who engage in unlawful conduct, such as drug trafficking and domestic violence.

57. The Appellant must let the administrative process achieve its purpose. The ID stage cannot be looked at in isolation, but rather one step in a scheme that must be interpreted holistically. The scheme and its respective safety valves actively mitigate possible *Charter* infringements and provide alternatives to those who deserve to be protected.

D. ORDERING THE DEPORTATION OF THE APPELLANT DOES NOT DEPRIVE LIFE, LIBERTY, OR SECURITY

58. The first stage of a section 7 *Charter* analysis is determining whether the impugned law or state action deprives a person of their right to life, liberty, or security. To show a deprivation of section 7, a claimant must first prove that there has been or could be a deprivation of the right to life, liberty, or security, and second, that the deprivation was not or would not be in accordance with the principles of fundamental justice.[68] In the present case, the Appellant's deportation, specifically the process leading to his admissibility, does not deprive his life, liberty, or security.

1) Right to liberty

59. The liberty interest protected under section 7 of the *Charter* has two aspects. The first aspect is aimed at the physical protection of persons and will be engaged when there is physical restraint.[69] The second aspect protects a sphere of personal autonomy involving "inherently private choices" that go to the "core of what it means to enjoy individual dignity and independence."[70]

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[68] *Charkaoui, supra* note 44 at para 12.
[69] *Kindler v Canada (Minister of Justice)*, 1991 CanLII 78 (SCC) at 831.
[70] *Godbout v Longueil (City)*, 1997 CanLII 335 (SCC) at para 66 [*Godbout*].

60. Deportation on its own does not engage the right to liberty.[71] However, it will be engaged where deportation poses a substantial risk of persecution and torture.[72] The Appellant will be deported to England, where he will face no risks. The Appellant has not adduced any evidence that demonstrates that he would be subject to a risk of torture or prosecution should he return to England.

61. The SCC has been clear that the right to liberty protected by section 7 of the *Charter* is limited and does not refer to *every* personal decision an individual may wish to make [emphasis added].[73] Individuals cannot, in an organized society, be guaranteed unconstrained freedom to do as they please.[74]

62. The Appellant presumes that his fundamental life choice on choosing where to reside amounts to an engagement of his liberty interest.[75] Yet, he has not established that his personal circumstances would create a harm that goes beyond the typical impacts of removal.[76]

63. Additionally, the Appellant uses the potential unavailability of medical treatment and quality healthcare to substantiate his claim that removal will harm his liberty interest. Yet, he has provided no evidence to support this claim. The Appellant will return to England, which, similar to Canada, provides its residents with free public health care, including hospital, physician, and mental health services.[77] The courts have consistently rejected arguments regarding section 7 of

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[71] *Charkaoui, supra* note 44 at para 17; *Medovarski*, *supra* note 38 at para 46.
[72] *Suresh v Canada (Minister of Citizenship and Immigration*), 2002 SCC 1 at para 44.
[73] *Godbout*, *supra* note 70 at para 66.
[74] *Godbout*, *supra* note 70 at para 66.
[75] *Revell FCA*, *supra* note 1 at paras 65–66.
[76] *Revell FCA*, *supra* note 1 at para 66.
[77] Ruth Thorlby, "International Health Care System Profiles England" *The Commonwealth Fund* (5 June 2020) online: <commonwealthfund.org/international-health-policy-center/countries/england>

the *Charter* and access to medical treatment, as notably, the *Charter* does not confer a freestanding constitutional right to healthcare.[78]

64. The Appellant has not demonstrated that the consequences of his deportation with respect to his liberty interests deviate from a typical deportation process.

2) Right to security

65. A right to security protects the psychological integrity of an individual.[79] A deprivation of security can only occur if the impugned state action has a serious and profound effect on a claimant's psychological integrity [emphasis added].[80] Lamer, C.J. in *G(J)* states that the right to security of a person does not include "ordinary stresses and anxieties" in which "a person of reasonable sensibility would suffer as a result of government action." Lamer, C.J. clarifies that in the event that these rights are interpreted broadly, it would result in an influx of cases and countless infringements on the right of security, which would inherently 'trivialize' a right to be constitutionally protected.[81]

66. The Appellant claims that he will experience exceptional effects of deportation. He argues that separating from family, returning to, and finding a new job places an exceptional burden on him. There is no merit to these arguments.

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[78] *Covarrubias v Canada (MCI),* 2006 FCA 365 at para 36; *Chaoulli v Quebec* (Attorney General), 2005 SCC 35 at para 104.

[79] *Blencoe v British Columbia (Human Rights Commission)*, 2000 SCC 44 (CanLII) at para 58 [*Blencoe*].

[80] *New Brunswick (Minister of Health and Community Services) v G(J)*, 1999 CanLII 653 (SCC) at para 60 [*G(J)*].

[81] *Ibid* at paras 59–60.

67. In a companion case to *Revell* called, *Moretto*, the appellant remained a permanent resident despite living in Canada for 50 years.[82] The appellant was not fluent in Italian. He struggled with addiction and mental health issues with potential self-destructive behaviour and showed a heavy reliance on his family in Canada for emotional, financial, and psychological support.[83] The evidence in *Moretto* was supported by two psychologists who indicated that his deportation would have "significant negative emotional consequences."[84] Despite this, the Court found that the appellant's security interests did not rise beyond typical ones associated with deportation, and his psychological integrity did not amount to a deprivation of security interests.[85]

68. Both *Moretto* and *Revell* do not face any risks of torture upon returning to their country of nationality. Unlike the situation in *Moretto,* where the appellant's lack of Italian language skills did not amount to a deprivation of security interest, the Appellant in *Revell* holds citizenship to a safe, democratic, English-speaking country.

69. Unlike *Moretto,* the Appellant's evidence in this case does not demonstrate psychological harm. The Appellant's psychological records do not indicate any evidence of serious mental illness. The MD noted in the Federal Court decision that the Appellant's medical report was based on one brief interview of two to three hours and was based only on the Appellant's self-reported symptoms. The doctor's opinion is described as being "worlds away from describing any mental illness."[86] This fails to meet evidence amounting to serious psychological harm.

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[82] *Moretto, supra* note 37 at para 12.
[83] *Moretto, supra* note 37 at para 49.
[84] *Moretto, supra* note 37 at paras 49–50.
[85] *Moretto, supra* note 37 at paras 52, 66.
[86] *Revell FC, supra* note 9 at para 200.

70. Furthermore, unlike *Moretto*, *Revell* has no dependents and lives independently from his adult children. The Appellant's adult children live in Kelowna, British Columbia, while he resides in Provost, Alberta.[87] This distance amounts to approximately an 11-hour drive. Some degree of separation between the Appellant and his family already exists, given the distance between their respective residences. Developments in modern technology would allow the Appellant's family to maintain and continue their relationship.[88]

71. The Appellant is not a senior, nor does he have any known physical disabilities that would make the effects of the deportation adjustment particularly difficult.[89] The Appellant's arguments about the psychological harm he would suffer as a result of deportation must fail. The evidentiary burden for this argument to be successful is incredibly high.[90]

72. Additionally, the Appellant's work as an oil well technician,[91] suggests that he has the training and work qualifications transferable to a similar line of work in England, which helps reduce the Appellant's psychological concerns with starting life 'over again.'[92] It is not the case that any sort of heightened psychological discomfort arising from deportation will merit the protection of section 7 of the *Charter*.

73. The Appellant's assertions regarding separation from family, psychological harms, and finding new employment are neither peculiar nor anomalous to the ordinary impacts of a deportation process. While there is some psychological stress inherent in a deportation process,

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[87] *Revell FCA*, *supra* note 1 at para 14; *Revell FC*, *supra* note 9 at para 30.
[88] *Vujicic v Canada (Citizenship and Immigration)*, 2022 FC 1590 at para 17.
[89] *Revell FCA, supra* note 1 at para 14.
[90] *Carter v Canada (AG)*, 2015 SCC 5 at para 44 [*Carter*].
[91] *Revell FCA*, *supra* note 1 at para 14.
[92] *Revell FCA*, *supra* note 1 at para 76.

Bastarache, J. in *Blencoe* makes clear that "only serious psychological incursions resulting from state interference with an individual interest of fundamental importance" will amount to a violation of the security of a person.[93] The Appellant cannot equate any inconveniences he will experience from deportation as deviating from a regular deportation process. The nature of the consequences the Appellant will face are predictable and typical of the realities of deportation. Thus, the Appellant's rights to liberty and security of the person will not be impacted upon his return to England.

E. ORDERING THE DEPORTATION OF THE APPELLANT IS IN ACCORDANCE WITH THE PRINCIPLES OF FUNDAMENTAL JUSTICE

74. The Appellant's section 7 *Charter* rights are not deprived; however, if they are, ordering the deportation of the Appellant comports with the principles of fundamental justice. These principles "set out the minimum requirements that a law which negatively impacts on a person's life, liberty, or security of the person must meet."[94] Ordering the deportation of the Appellant is not arbitrary, overbroad, or grossly disproportionate.

1) Arbitrary

75. Arbitrariness considers the rational connection between the law's purpose and the impugned effect on an individual or where the impugned effect undermines the objectives of the law. Parliament's intent with the deportation scheme is not arbitrary and is directly related to public safety. Deporting the Appellant, who is involved with the Hell's Angels, convicted of drug trafficking, charged with domestic violence, and served a five-year imprisonment sentence,[95] is

[93] *Blencoe, supra* note 79 at para 82.
[94] *Bedford*, *supra* note 48 at para 94.
[95] *Revell FCA*, *supra* note 1 at para 15.

consistent with the *IRPA*'s objective of upholding public safety. The Appellant's five-year imprisonment sentence is directly in the middle point of the six-month to ten-year range pursuant to section 36(1)(a) of the *IRPA*. The Appellant, having served his five-year sentence, is not immunized from the deportation process.

76. *Chiarelli* indicates that a condition adopted by Parliament imposed on permanent resident's rights to remain in Canada represents a legitimate and non-arbitrary choice that it is not in the public interest to allow a non-citizen to remain in the country.[96] It remains meritless to suggest that the sentences in the offences vary in gravity, as there was a deliberate violation of an essential condition under which non-citizens are permitted to remain in Canada.

2) Overbroad

77. A law is overbroad when it is so broad in scope that it includes conduct that has no relation to its purpose.[97] Parliament's clear intent is to deny access to Canadian territory to those who pose safety risks.

78. The *IRPA* contains safety valves that alleviate any allegations of an overbroad scheme by narrowing its scope.[98] The safety valves are already sufficiently narrow to protect those who fit within the remedial avenues provided by the *IRPA*. It cannot be perceived that the safety valves are all-encompassing indiscriminate provisions. Rather, they are quite the opposite. Each safety valve allows individuals to make submissions and attain an outcome that may not be deportation *per se*. The intentions are to mitigate any possibility of risk on the part of the individual, which aligns with and achieves their intended purpose. The safety valves are reasonable in that they

[96] *Chiarelli, supra* note 41 at 715.
[97] *Bedford, supra* note 48 at para 112.
[98] *Moretto, supra* note 37 at para 61.

"exempt all individuals inappropriately caught by this general rule" and such "curative mechanisms are practically available when appropriate"[99] and save section 36(1)(a) "from any charge of overbreadth by effectively narrowing their scope."[100]

79. Safety valves respond to exceptional circumstances where, despite an individual's inadmissibility, something in their particular case would merit protection. Should the safety valves not respond to the Appellant's circumstance, it is not due to their scope being too broad and unspecific. Rather, it is indicative of the Appellant's circumstances, which lack heightened protections.

80. The effects on the Appellant are not overbroad. If the Appellant's deportation order comes into effect, it would not indicate a failure on the part of overbreadth. Rather, it implies breaching an integral condition to remain in Canada.

3) Grossly disproportionate

81. A law is grossly disproportionate if its effects on section 7 cannot be rationally supported.[101] This threshold is met in "extreme cases where the seriousness of the deprivation is totally out of sync with its objective" and is "entirely outside the norms in our free and democratic society."[102] While the Appellant's deportation will personally impact him, the impacts are not grossly disproportionate to the objectives of the *IRPA*.

82. The risk of deporting someone with a demonstrated affiliate with the Hell's Angels and with a history of domestic abuse is not grossly disproportionate. Parliament has put this provision

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[99] *CCR SCC, supra* note 50 at paras 169–170.
[100] *Revell FCA*, *supra* note 1 at para 115.
[101] *Bedford*, *supra* note 48 at para 120.
[102] *Bedford*, *supra* note 48 at para 120.

in place so that Canada does not become a haven for criminals.[103] In *Chiarelli*, the Supreme Court found that the removal of permanent residents who are inadmissible for serious criminality is proportionate to achieve its objectives and is harmonious with the underlying principle that "non-citizens do not have an unqualified right to enter and remain in Canada."[104] Therefore, any alleged deprivations claimed by the Appellant would be proportionate to the legislative purpose.

83. The *IRPA* regime promotes its objectives as set out in section 3(1). In so doing, it denies access to non-citizens who do not align with these objectives. There is nothing "draconian" or "out of sync"[105] about fulfilling the Appellant's obligation to behave lawfully in Canada. If found inadmissible, the Appellant may return to his country of nationality, where he faces no substantial risks. Should there be a risk of death, torture, or persecution, then there would be mechanisms to consider an individual's circumstances.

84. As established in recent jurisprudence, the deportation process as a whole is in accordance with the principles of fundamental justice.[106] Deportation is the only way to give practical effect to the termination of the Appellant's stay in Canada.[107] There is no breach of the principles of fundamental justice in giving sensible effect to the deportation of a non-citizen convicted of a serious criminal offence.

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[103] *Revell FCA*, *supra* note 1 at para 93.
[104] *Chiarelli, supra* note 41 at 733.
[105] *Bedford*, *supra* note 48 at para 120.
[106] *Stable v Canada (Citizenship and Immigration),* 2011 FC 1319 at paras 56–59; *Torres, supra* note 53 at para 76; *Brar v Canada (Citizenship and Immigration)*, 2016 FC 542 at paras 26–32.
[107] *Chiarelli*, *supra* note 41 at para 27.

F. EVEN IF INFRINGEMENTS ARE FOUND, THEY ARE JUSTIFIED UNDER SECTION 1 OF THE *CHARTER*

85. Section 1 of the *Charter* guarantees rights and freedoms "subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society."[108] The *Oakes* test requires a pressing and substantial objective and proportional means,[109] and must be applied flexibly, considering the context of each case. Violations of section 7 rights will rarely be justified under section 1.[110] Should this Court find that the Appellant's section 7 rights are breached, any infringements found would be justified under section 1 of the *Charter.*

1) The legislative goal is pressing and substantial

86. The legislative goal is pressing and substantial as it is imperative to protect citizens' safety and facilitate the removal of non-citizens who are a risk to society because of their criminal conduct. It is pressing and substantial for Canada to enforce conditions to protect citizens from threats to safety. The *IRPA* achieves this goal.

87. The Appellant has committed not one, but three crimes, and must be deported and prohibited from remaining in the country and posing safety risks.

2) There is proportionality between the objective and the means used to achieve it

a. Rational connection

88. There is a rational connection between the Parliament's policy and the means to achieve the goal. Section 36(1) of the *IRPA* is necessary to protect Canada's national safety and ensure that the country does not become a haven for criminals. It permits the removal of non-citizens living

[108] *RJR-MacDonald Inc v Canada (Attorney General)*, 1995 CanLII 64 (SCC) at para 60 [*RJR-MacDonald*].
[109] *R v Oakes*, 1986 CanLII 46 (SCC) at para 69.
[110] *Carter, supra* note 90 at para 95.

in Canada on various grounds.[111] Parliament has the right to prescribe conditions for non-citizens who stay in Canada, and deporting the Appellant is a means to achieve this objective.

89. The Appellant engaged in a serious criminal offence of drug trafficking at the age of 41 (in 2008) and his second offence at the age of 48 (in 2013). A deportation order for the Appellant as a consequence of his criminal history and the severity of his crimes are rationally connected to the *IRPA*'s purpose in ensuring that Canada upholds the protection of safety.

b. Minimal impairment

90. Parliament is owed "a measure of deference" in the ways it achieves legislative goals.[112] The law must be "carefully tailored so that rights are impaired no more than necessary."[113] The *IRPA* meets the objectives while limiting the rights of claimants as minimally as possible. It is a multitiered scheme that provides for personalized assessment and mechanisms to assess whether a criminal non-citizen who breached the conditions of their stay in Canada is inadmissible to remain in Canada. Their function is to provide the Appellant with several avenues to stay in Canada based on an individualized assessment of his circumstances.[114] These avenues serve as functions to minimally impair the rights of the Appellant.

91. While Parliament is not required to use the least restrictive alternative to meet its objective,[115] there is no other mechanism to enforce the deportation of a non-citizen who has a history of violence and has been convicted of drug trafficking, having served five years imprisonment.

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[111] *Charkaoui*, *supra* note 44 at para 4.
[112] *Alberta v Hutterian Brethren of Wilson Colony*, 2009 SCC 37 at para 53.
[113] *RJR*-MacDonald, *supra* note 108 at para 160.
[114] *Revell FCA*, *supra* note 1 at para 121.
[115] *R v Chaulk*, 1990 CanLII 34 (SCC) at 1388.

c. Final balancing

92. The absence of this measure would adversely affect Canada's immigration system as it would run contrary to the *IRPA*'s objectives in upholding national safety. Without such provisions, Canada would be a country where criminals do not face any repercussions and accountability for their criminal actions. While enforcing conditions under which non-citizens stay in Canada may result in their separation from family and a departure from their social security, immigration law in Canada is very clear in its objectives for the safety and protection of its citizens.

93. There are typical impacts of deportation. The Appellant has not demonstrated that his deportation would give rise to a risk of death, torture, or persecution. The Appellant chose to remain a non-citizen during his tenure in Canada. As a non-citizen, there are apparent conditions to uphold to stay in Canada. One of such conditions consists of not committing crimes. The Appellant has served five years imprisonment for drug trafficking and was convicted of a violent crime, specifically domestic abuse. It would put the immigration system in disrepute to not enforce his deportation.

94. In light of the policy goals of the legislative scheme, any impairments of the Appellant's section 7 *Charter* rights are outweighed by the fundamental importance of preserving Canadian safety. The legislative goal is pressing and substantial, and there is proportionality, which weighs in favour of upholding the legislative scheme. Any infringement of section 7 is demonstrably justified.

PART IV: ORDERS SOUGHT

95. The Minister respectfully requests an order to dismiss the appeal and uphold the decision of the Federal Court of Appeal on the basis that:

a. Section 7 of the *Charter* is not engaged at the admissibility hearing stage.

b. Ordering the deportation of the Appellant does not deprive the life, liberty, or security of the person and is in accordance with the principles of fundamental justice.

c. Even if any infringements are found, they would be justified under section 1 of the *Charter*.

All of which is respectfully submitted this 9th day of February 2024.

APPENDIX: LIST OF AUTHORITIES

LEGISLATION

Canadian Charter of Rights and Freedoms, ss 6–7, Part I of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982* (UK), 1982, c 11.

Immigration and Refugee Protection Act, SC 2001, c 27.

JURISPRUDENCE

Alberta v Hutterian Brethren of Wilson Colony, 2009 SCC 37.
B010 v Canada (Citizenship and Immigration), 2015 SCC 58.
Baron v Canada (Minister of Public Safety and Emergency Preparedness), 2009 FCA 81.
Bhamra v Canada (Citizenship and Immigration), 2020 FC 482.
Blencoe v British Columbia (Human Rights Commission), 2000 SCC 44.
Brar v Canada (Citizenship and Immigration), 2016 FC 542.
Canada (Attorney General) v Bedford, 2012 SCC 72.
Canada (Minister of Employment and Immigration) v Chiarelli, 1992 CanLII 87 (SCC).
Canadian Council for Refugees v Canada (Citizenship and Immigration), 2023 SCC 17.
Carter v Canada (AG), 2015 SCC 5.
Chaoulli v Quebec (Attorney General), 2005 SCC 35.
Cojuhari v Canada (Citizenship and Immigration), 2018 FC 1009.
Covarrubias v Canada (MCI), 2006 FCA 365.
Farhat v Canada (Citizenship and Immigration), 2006 FC 1275.
Febles v Canada (Citizenship and Immigration), 2014 SCC 68.
Gill v Canada (Public Safety and Emergency Preparedness), 2020 FC 1075.
Godbout v Longueil (City), 1997 CanLII 335 (SCC).
Kindler v Canada (Minister of Justice), 1991 CanLII 78 (SCC).
Kreishan v Canada (Citizenship and Immigration), 2019 FCA 223.
Medovarski v Canada (Minister of Citizenship and Immigration); Esteban v Canada (Minister of Citizenship and Immigration), 2005 SCC 51.
Moretto v Canada (Citizenship and Immigration), 2019 FCA 261.
Obazughanmwen v Canada (Public Safety and Emergency Preparedness), 2023 FCA 151.
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R v Oakes, 1986 CanLII 46 (SCC).
Revell v Canada (Citizenship and Immigration), 2019 FCA 262.
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Stewart v Canada (Citizenship and Immigration), 2022 FC 858.
Suresh v Canada (Minister of Citizenship and Immigration), 2002 SCC 1.
Torres Victoria v Canada (Public Safety and Emergency Preparedness), 2011 FC 1392.
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Hamish Stewart, “Is Indefinite Detention of Terrorist Suspects Really Constitutional?” (2005) 54 *UNBLJ* 235.

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