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**Public Hearing – Audience publique**

**Reasons and Decision – Motifs et décision**

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| <b>Between</b>                                 | The Minister of Public Safety and Emergency Preparedness<br>Le ministre de la Sécurité publique et de la Protection civile | <b>Entre</b>  |
| <b>And</b>                                     |  | <b>et</b>   |
| <b>Person(s) Concerned</b>                     | Anyika Kash Gamal JOSEPH   | <b>Intéressé(e)(s)</b>  |
| <b>Date(s) of Hearing</b>                      | May 6, 7, 16, 21, 2019<br>June 10, 20, 26, 2019<br>July 24, 2019   | <b>Date(s) de<br/>l'audience</b>                                    |
| <b>Place of Hearing</b>                        | Toronto  | <b>Lieu de<br/>l'audience</b>                                       |
| <b>Date of Decision</b>                        | October 7, 2019  | <b>Date de la<br/>décision</b>                                      |
| <b>Panel</b>                                   | K. Greenwood   | <b>Tribunal</b>   |
| <b>Counsel for the<br/>Minister</b>            | A. McLellan  | <b>Conseil du<br/>ministre</b>                                      |
| <b>Counsel for the<br/>Person(s) Concerned</b> | A. Pyper   | <b>Conseil(s) pour<br/>l'intéressé(e) / les<br/>intéressé(e)(s)</b> |

IN THE MATTER OF the *Immigration and Refugee Protection Act (IRPA)* and an Admissibility Hearing concerning Anyika Kash Gamal JOSEPH.

## REASONS FOR DECISION

[1] These are the reasons for a decision rendered under paragraph 45(d) of the IRPA concerning Mr. Anyika Kash Gamal Joseph, following an admissibility hearing that was conducted on the authority of subsection 44(2) of the IRPA.

[2] Mr. Joseph was reported on October 10, 2018 as inadmissible to Canada pursuant to paragraph 37(1)(a)<sup>1</sup> of the IRPA.<sup>2</sup> The report was reviewed by the Minister's Delegate, and a referral for an Admissibility Hearing was signed on January 29, 2019.<sup>3</sup>

## BACKGROUND

[3] Mr. Anyika Kash Gamal Joseph is not a Canadian citizen. He is a citizen of Grenada. He was granted permanent resident status in Canada on August 24, 2000. On March 17, 2011, Mr. Joseph was reported under section 36(1)(a) of the IRPA, stemming from a January 10, 2011 conviction for robbery. Further to that report, Mr. Joseph was ordered deported at an admissibility hearing on July 5, 2011. Mr. Joseph filed an appeal of his removal order to the Immigration Appeal Divisions (IAD) and was granted a stay of removal on September 25, 2013. On March 9, 2018, Mr. Joseph's appeal was deemed to have been abandoned after he failed to appear before the IAD as required. On June 1, 2018, he filed an application to re-open his appeal which was allowed on September 6, 2018.

[4] The Minister of Public Safety alleges that Mr. Joseph is a permanent resident who is inadmissible on grounds of organized criminality, pursuant to paragraph 37(1)(a) of the IRPA, for being a member of an organization that engages or has engaged in organized crime activities, namely, the street gang "Heart of a King", or "HOK".

[5] There were ten scheduled sittings of the admissibility hearing, not all of which proceeded. Oral submissions were heard on July 24, 2019. The matter was then adjourned for decision.

## **THE BURDEN AND STANDARD OF PROOF**

[6] The burden of establishing that there are reasonable grounds to believe that Mr. Joseph is inadmissible as alleged rests on the Minister.

## **THE EVIDENCE**

[7] I received documentary evidence from the parties, marked as Exhibits AH-01 – AH-10 and heard the sworn oral testimony of Mr. Joseph, the subject of the proceedings.

[8] The Minister's Disclosure consisted of court documents, police reports and news releases, a report authored by the Toronto Police Services (TPS) Gun and Gang Task Force, social media printouts and videos, media reports, research papers on street gangs, the Statement of Qualifications of Detective Constable Denis Katafigiotis and detention review transcripts. The Minister's disclosures were marked as Exhibits AH-01 to AH-06, AH-09 and AH-10.

[9] I find these documents to be credible and trustworthy and I assign considerable weight to the Minister's evidence. In particular, the police reports and news release that were prepared by the TPS, one of the police forces conducting the investigation into HOK which ultimately resulted in multiple criminal charges and convictions of HOK members. The social media printouts and videos were captured from Mr. Joseph's own social media accounts. The media reports and news articles are from trusted media sources such as the Globe and Mail, the CBC, Global News and the Toronto Star. The research papers were authored by the Department of Justice of Canada and the Los Angeles County Sheriff's Department, both credible and reliable sources of information. I address the reliability of the Gun and Gang Task Force report later in these reasons. While Mr. Joseph does dispute the conclusions in the Gun and Gang Task Force

report with respect to his membership in HOK, he has not disputed the veracity or reliability of the Minister's other evidence.

[10] Additionally, the Minister sought a summons for Detective Constable Denis Katafigiotis with the TPS which was granted. Detective Constable Katafigiotis was qualified as an expert witness in relation to his knowledge of Toronto street gangs and in particular, his knowledge of HOK.

[11] Mr. Joseph noted that Detective Constable Katafigiotis was not qualified to be an expert witness by Justice Nordheimer in the Superior Court of Justice in *Regina v. F.O.*, and that the matters where he had been found qualified as an expert were show cause hearings presided over by Justices of the Peace.

[12] Detective Constable Katafigiotis was proposed as an expert in two trials where he was not qualified. In 2016, in a trial before Justice Nordeimer, Justice Nordeimer declined to qualify him as an expert in that matter and in 2017, Justice Backhouse declined to make a finding regarding the Crown's application to adduce his expert opinion.

[13] Detective Constable Katafigiotis was found qualified as an expert in two hearings before the Ontario Court of Justice, in *R. v. McCalla* in December 2017 and in *R. v. Moreno* in June 2017.

[14] In *R. v. McCalla*, a show cause hearing before Justice of the Peace Konstantinidis, Detective Constable Katafigiotis was qualified to provide expert evidence on Toronto street gangs, specifically street gang activity, turf or territory and culture and identifiers. In *R. v. McCalla*, a show cause hearing before Justice of the Peace Daniel, Detective Constable Katafigiotis was found qualified to provide expert evidence on Toronto street gangs, specifically street gang activity and cultures and identifiers.

[15] Detective Constable Katafigiotis is assigned to the Gun and Gang Task force with the TPS. He has been employed by the TPS since April 2002.

[16] Detective Constable Katafigiotis, in addition to his work with the TPS Gun and Gang Task force and his provision of expert testimony in two matters before the Courts has also given multiple presentations and lectures on gangs, including but not limited to gang characteristics, gang culture and social media, street and covert and coded language, hand signs and gang conflicts through social media. He has also participated in professional development and educational activities in relation to gangs and gang investigations.<sup>4</sup>

[17] Accordingly, I find Detective Constable Katafigiotis' specialized knowledge and experience to be a sufficient basis to find him an expert on the subject of Toronto street gangs, and specifically, Heart of a King or HOK.

[18] Mr. Joseph submitted the report of Jooyoung Kim Lee and the Ontario Superior Court of Justice decision in *R. v. F.O.*<sup>5</sup> These documents were marked as Exhibits AH-07 and AH-08 respectively. I will address the reliability of Professor Lee's report later in these reasons.

## **ANALYSIS AND DECISION**

[19] The main issue to be determined is whether or not Mr. Joseph is inadmissible under paragraph 37(1)(a) of the IRPA.

[20] In this case, it is the Minister's position that Mr. Joseph is described for his membership in a criminal organization.<sup>6</sup> The allegation requires that the following three elements be established on a reasonable grounds standard: first, that Mr. Joseph is a permanent resident or a foreign national; second, that there exists an organized crime group; and third, that he is a member of that organized crime group.

[21] Having considered the evidence and the applicable law, I find that the Minister has discharged its burden of establishing that there are reasonable grounds to believe that Mr. Joseph, a foreign national, is inadmissible pursuant to paragraph 37(1)(a) for organized criminality based on his membership in HOK.

### **Is Mr. Joseph a Permanent Resident or Foreign National?**

[22] Mr. Joseph is not a Canadian citizen. At the opening of this admissibility hearing, Mr. Joseph was still a permanent resident of Canada as his IAD stay had been re-opened. However, during the course of this hearing, Mr. Joseph's IAD stay was cancelled by operation of law as he had received a further criminal conviction. With the cancellation of the IAD stay, his appeal was considered finalized, the 2011 removal order came into force and he lost his permanent resident status.<sup>7</sup> Accordingly, I am satisfied that Mr. Joseph is a foreign national.

### **Is HOK a Criminal Organization?**

[23] The term "organization" is not defined in the IRPA. However, the Federal Court of Appeal (FCA) provided the following guidance in *Sittampalam*<sup>8</sup>:

[36] In my view, the same "unrestricted and broad" interpretation should be given to the word "organization" as it is used in paragraph 37(1)(a). The IRPA signifies an intention, above all, to prioritize the security of Canadians. This was confirmed by the Supreme Court of Canada in the decision of *Medovarski v. Canada (Minister of Citizenship and Immigration)*; *Esteban v. Canada (Minister of Citizenship and Immigration)*, 2005 SCC 51 (CanLII), [2005] 2 S.C.R. 539, at paragraph 10.

....

[38] ... In *Thanaratnam v. Canada (Minister of Citizenship and Immigration)*, 2004 FC 349 (CanLII), [2004] 3 F.C.R. 301 (F.C.), reversed on other grounds, [2006] 1 F.C.R. 474 (F.C.A.), O'Reilly J. took into account various factors when he concluded that two Tamil gangs (one of which was the A.K. Kannan gang at issue here) were "organizations" within the meaning of paragraph 37(1)(a) of the IRPA. In his opinion, the two Tamil groups had "some characteristics of an organization", namely "identity, leadership, a loose hierarchy and a basic organizational structure"

(at paragraph 31). The factors listed in *Thanaratnam*, as well as other factors, such as an occupied territory or regular meeting locations, both factors considered by the Board, are helpful when making a determination under paragraph 37(1)(a), but no one of them is essential.

[24] The Federal Court (FC) in *Saif*,<sup>9</sup> in interpreting the Supreme Court of Canada's (SCC) decision in *B010*,<sup>10</sup> provided that "... The Court's views about the meaning and range of "organized criminality" apply equally to paragraphs 37(1)(a) and 37(1)(b), including its interpretive importation of the Criminal Code definition of "criminal organization" requiring a group of three or more persons." The Court went on to note that the Criminal Code's numerical requirement for a criminal organization of at least three persons is more consistent with the language of paragraph 37(1)(a) which requires "a number of persons".

[25] Section 467.1(1) of the Criminal Code of Canada (CCC) defines "criminal organization" as a group, however organized, that (a) is composed of three or more persons in or outside of Canada; and (b) has as one of its main purposes or main activities the facilitation or commission of one or more serious offences that, if committed, would likely result in the direct or indirect receipt of a material benefit including a financial benefit by the group or by any of the persons who constitute the group. It does not include a group of persons that forms randomly for the immediate commission of a single offence.

[26] There may be varying degrees of organizational structure, leadership, and hierarchy in organizations, depending on the kind of formation under consideration. In *Toor*,<sup>11</sup> the FC noted that for some criminal organizations, there may be less definitive features. In *R. v. Venneri*,<sup>12</sup> the Supreme Court of Canada considered the notion that a criminal organization under the CCC must be a group, "however organized", and emphasized that care must be taken not to transform the attributes of one criminal organization into a checklist that needs to be satisfied in every case.

[27] Having reviewed the available evidence, I find on reasonable grounds that HOK is a "criminal organization", as contemplated in the jurisprudence and as defined in the CCC.

## HOK's History

[28] HOK began operating in 2010, evolving from a Nova Scotian gang called North Preston's Finest<sup>13</sup> (NPF) which had been active for two decades.<sup>14</sup> North Preston's Finest actively recruited girls and women from the Maritimes, forcing them into prostitution in cities across Canada.<sup>15</sup> The leader of NPF was Morris "Moy" Glasgow who was convicted in 1993 in Toronto for orchestrating a prostitution network known for its brutality, starting in North Preston, Nova Scotia.<sup>16</sup>

[29] Police allege that members of NPF moved to Toronto and adopted the name HOK.<sup>17</sup> HOK includes members which have familial ties to NPF. HOK gang leader Jahmal "Bambino" Richardson and his half-brother Kyle Sparks MacKinnon are the nephews of Morris "Moy" Glasgow, the leader of NPF.<sup>18</sup>

[30] NPF focused its efforts on prostitution and human trafficking, HOK expanded its activities to include the trafficking of firearms and drugs.<sup>19</sup> HOK was most active in the downtown core of Toronto with most of its criminal activity centered around adult entertainment establishments and local bars.<sup>20</sup>

[31] Street Gangs are usually comprised of adolescents and young adults who commit various forms of criminal acts. The level of organization tends to vary between gangs, and may have links to adult criminal organizations. They tend to be highly territorial, operating for economic reasons and are primarily involved in drug trafficking.<sup>21</sup>

[32] Heart of a King group does not operate as a traditional street gang. The gang does not have a primary location which can be considered as their turf ... It appears Heart of a King is more fluid and holds its own identity. Although most of the group's activities take place in strip clubs, they strive to gain control of the well-known strip clubs ... in relation to prostitution.<sup>22</sup>



HOK's reach extends outside of Toronto to include Mississauga, Brampton, Montreal, Ottawa and Nova Scotia.<sup>23</sup>

[33] HOK members have been convicted of serious criminal offences including second-degree murder,<sup>24</sup> being the leader of a criminal organization that was involved in human and firearm trafficking and other criminal activity, weapons offences, fraud over \$5000,<sup>25</sup> as well as trafficking in narcotics.<sup>26</sup>

### **HOK's Leadership**

[34] Jahmal Richardson (aka "Bam" or "Bambino") is identified as the leader of HOK.<sup>27</sup> On February 8, 2019, Mr. Richardson pled guilty to four offences, including being the leader of a criminal organization that was involved in human and firearm trafficking and other criminal activity; possessing a loaded firearm and fraud over \$5000. According to media reports, in the agreed statement of facts read out at his trial, it is noted that the organization's main source of income came from recruiting women and exercising control, direction and influence over the movements of women engaged in the adult entertainment industry for the purpose of exploiting them... Members of the group, some with blood ties, lived in Toronto and Oakville and armed themselves with firearms for protection and to "intimidate, extort and harm others."<sup>28</sup>

### **Project Sizzle and the Investigation and Arrest of HOK Members**

[35] Project Sizzle, the investigation into HOK, was launched after a downtown Toronto shooting that killed two people and injured three bystanders outside a Chinatown restaurant.<sup>29</sup> Project Sizzle was conducted by police from TPS, Peel Region Police, the Ontario Provincial Police, the Royal Canadian Mounted Police, Durham Region Police, York Region Police, as well as police from Barrie, Waterloo, Halton and Guelph.

[36] On June 3, 2016, TPS published a press release entitled "Sizzle Singes Violent Gang" indicating that 600 officers took part in 43 search warrants in the culmination of Project Sizzle

that targeted members and associates of the Heart of a King gang. The investigation resulted in 32 arrests in Toronto, Peel, Halton, Durham and Montreal. Police seized drugs (marijuana, cocaine, ketamine), firearms, bulletproof vests, \$45,000 in cash, and \$300,000 in other property indicating that the property was obtained through violence, fraud and prostitution.<sup>30</sup>

[37] In her judgment upholding the warrant issued as part of Project Sizzle’s investigation into HOK, Justice Greene of the Ontario Court of Justice noted,

“In my view, when I look at the information in the ITO (Information To Obtain) and the corresponding Appendices, I am satisfied that there was sufficient information in the ITO to support the issuing Justice’s opinion that there were reasonable and probable grounds to believe that a criminal organization named HOK existed, that criminal acts were being carried out by this criminal organization that resulted in a material benefit for the organization. Moreover, as there was information that HOK had been in existence for some time and were engaged in ongoing criminal conduct, there was a sufficient basis to conclude that the criminal conduct would continue. I am mindful that much of the information dates back to 2013, however, there was sufficient more recent information that supports the inference that the criminal activities of HOK were ongoing at the time the warrant was obtained.”<sup>31</sup>

[38] Detective Constable Katafigiotis was asked, in his opinion, whether or not the term HOK or Heart of a King could mean something innocuous or something not related to a criminal organization. He explained,

“Yes, as I mentioned it is a form of communication, non-verbal. If somebody sees somebody wearing that shirt or sweater or baseball hat and within that culture they understand the meaning of it and know who it is. As I said several of these gangs interact with each other, they understand who is who by their name and if they see somebody wearing a sweater or a baseball hat, a t-shirt in relation to that gang, in their minds they believe --- again, they do not know if you are a member or an associate. However, the respect level of that name carries.”<sup>32</sup>

Detective Constable Katafigiotis clarified that he had not done any research into Heart of a King as a general term because from speaking to officers and gang members that he had debriefed, it was understood by all that HOK was a gang.<sup>33</sup>

[39] Based on the foregoing, I find that HOK, while not a traditional street gang, had a loosely organized structure, with “Bambino” Jahmal Richardson as its leader. Gang members identified

themselves by wearing HOK regalia and sporting HOK tattoos. While the gang did not have a specific area of Toronto that they identified as their “turf,” they were known to base their operations out of various adult entertainment establishments where they conducted the business of pimping, prostitution, trafficking in firearms and in narcotics.

[40] I have also considered the definition of “criminal organization” contained section 467.1(1) of the CCC. I find that HOK is a group of more than three individuals in Canada that has as one of its main purposes or activities the commission of numerous serious criminal offences including weapons trafficking<sup>34</sup> and trafficking in narcotics.<sup>35</sup> These are indictable offences, punishable by maximum terms of imprisonment of ten years and life, respectively.

[41] These activities would certainly result in the direct receipt of a material benefit for members of the group, particularly if one considers the large amounts of cash and property seized as part of Project Sizzle.

[42] HOK is an organization that existed since at least 2010, long prior to the arrest of many of its members during Project Sizzle. Accordingly, I find that it is not a group of individuals who formed randomly for the commission of a single offence.

### **Membership of Mr. Joseph in HOK**

[43] The final determination to be made is whether or not Mr. Joseph is a member of HOK.

[44] Membership is not defined in the IRPA. In keeping with the objectives of the IRPA, specifically 3(1)(h) – to protect public health and safety and to maintain the security of Canadian society, the courts have held that the meaning of membership must be given a broad and unrestricted interpretation.

[45] In *Suresh v. MCI*, Justice Teitlebaum commented:

Membership cannot and should not be narrowly interpreted when it involved the issue of Canada's national security. Membership also does not only refer to persons who have engaged or who might engage in terrorist activities.

[46] In *Chiau v. MCI (2001)*, Judge Evans wrote:

As for the meaning of member, the judge held that, given the policy underlying paragraph 19(1)(c.2) the term 'member' was not limited to a person who actively participated in criminal acts, or to one with a membership card whose name appeared on a membership list. Rather, it should be understood more broadly to mean simply a person who 'belonged to' the criminal organization in question.

[47] The predominant judicial slant rejects the idea that, in a determination of membership, complicity is a pre-requisite.<sup>36</sup> The Federal Court of Appeal reinforces this in *Kanagendren v. Canada (Citizenship and Immigration)*.<sup>37</sup>

[48] These legal principles will inform my determination of whether or not Mr. Joseph is or was a member of HOK.

[49] The parties to the case take opposing stances on the question of membership. The Minister, relying on the existence of multiple photographs of Mr. Joseph dressed in HOK regalia, his references to HOK in his YouTube music videos and interviews, references to HOK on his music materials, on his connections to persons linked to the organization, court documents and on his criminal history, takes the position that Mr. Joseph is or was a member of HOK.

[50] Mr. Joseph denies being a member of HOK. He denies knowing that HOK was involved in any criminal activities until he heard about the allegations in court.

[51] Mr. Joseph was charged with a number of offences in connection with Project Sizzle. In the ITO in support of the warrant which was sought and obtained by police during the course of their investigations, Mr. Joseph is identified, along with Mr. Kalonji, as key members of the criminal organization known as HOK.<sup>38</sup>

[52] The ITO contained information obtained from confidential informants (CIs) who provided that HOK was led by Jahmal Richardson and that the gang was involved in drug trafficking, violence and pimping women ... many of these CI's listed members of the HOK, including Mr. Richardson, Mr. Sparks, Mr. Kalonji, Mr. Joseph, Mr. Boursiquot and Mr. Habib.<sup>39</sup>

[53] In her judgment upholding the issuance of the warrant, Justice Greene of the Ontario Court of Justice found that there was sufficient information in the ITO to support the issuing Justice's opinion. Justice Greene found that the social media information confirms the CI information that certain individuals, including Mr. Kalonji, Mr. Joseph and other listed persons all associated with each other. The social media information also confirms that these individuals consider themselves to be members of a clique called HOK. Finally, during the course of the videos, there is talk of pimping and violence. While the content of the videos may just be the genre of "gangster rap", it also serves to confirm or corroborate some of what the CIs told their handlers.<sup>40</sup>

[54] Moreover, Justice Greene found that Mr. Joseph had been properly named in the warrant as "there was CI information that Mr. Joseph was a member of HOK and involved in the criminal acts of drug trafficking with HOK. This CI information was corroborated by police investigation and Mr. Joseph's own statement to a woman that he was HOK, just weeks before the authorization was obtained. In my view the information in the ITO about his membership in HOK is sufficient to name him."<sup>41</sup>

[55] In his report and oral testimony, Detective Constable Katafigiotis concludes that Mr. Joseph is a member of the Heart of a King gang. Detective Constable Katafigiotis bases his opinion on the intercepted calls in which Mr. Joseph was made aware of gang activities and in which he is acknowledged as a member; the YouTube videos and interviews; the HOK regalia sported by Mr. Joseph; as well as his association with known HOK members.<sup>42</sup> I give considerable weight to the opinion evidence of Detective Constable Katafigiotis given the depth and breadth of his experience.

[56] No single piece of evidence is determinative on the issue of whether Mr. Joseph is or is not a member of the HOK, and that the evidence must be looked at cumulatively.<sup>43</sup> Based on the totality of the evidence, I am satisfied that there are reasonable grounds to believe that Mr. Joseph is or was a member of HOK.

### **Mr. Joseph's Criminal History**

[57] Inadmissibility on grounds of organized criminality does not necessarily require the existence of criminal charges or a conviction.<sup>44</sup> Nonetheless, where criminal charges and convictions signal the presence of organized crime, the law does not preclude their examination. The courts have also pointed out that, where a conviction is registered, it is the true statement of the facts and the conclusions underlying the conviction that may support the assertion that a person is a member of a criminal organization.<sup>45</sup>

[58] Mr. Joseph was convicted on January 10, 2010 of robbery.<sup>46</sup> The circumstances surrounding this conviction are set forth in the police report dated August 2, 2009:

On 2009/08/02, the victim Abraham SMITH and a friend, Conroy RECORD, had exited the Government Nightclub and proceeded to walk toward their vehicle which was parked in a private parking lot located on the southwest corner of Lakeshore Road and Lower Sherbourne Street.

As he reached the parking lot, the victim was surrounded by a group of approximately six males, one of which was the accused. The victim was then robbed of several gold neck chains. During the robbery, a handgun was produced and a shot was fired.

The victim's friend, Record, having entered the group to assist his friend, noticed that all the males in the group were lifting their shorts and showing handguns concealed in their waistbands.

A short footchase ensued involving the accused, another male and the victim's friend Record. Police, responding to the sound of a shot fired, joined the footchase and the accused was taken into custody a short distance away.

Police immediately retraced the route that the fleeing parties had taken and a handgun was located. Two necklaces belonging to the victim were also seized from the accused.<sup>47</sup>

[59] In the opinion of Detective Constable Katafigiotis, “gang members commit robberies early in their criminal careers as an act to elevate or perpetuate their reputation in the gang and to make money.”<sup>48</sup>

[60] Mr. Joseph was convicted on March 19, 2009 of possession of a substance.<sup>49</sup> According to the police report dated May 15, 2007:

On Tuesday May 15<sup>th</sup>, 2007, officers from 51 Division Street Crime Unit were in the area of 42 Blevins Place for the purpose of arresting an unrelated male that was in breach of his conditions.

When officers moved in to affect the arrest of this unrelated male the accused Joseph fled from one set of officers. A second set of officers were in the process of affecting the arrest of a second male when Gamal Joseph shoved D.C. Lipkus to the ground.

Officers gave chase to the accused for a lengthy period of time until such time as the accused fell beside a large dumpster. It was at this time when the officers observed the accused toss a white plastic baggie tied in a knot under the dumpster.

Officers managed to place the accused under arrest for assaulting a peace officer. Officers recovered the white baggie thrown under the dumpster by the accused and observed it to be a quantity of crack cocaine.<sup>50</sup>

[61] Detective Constable Katafigiotis opines that this conviction is evidence of a gang-related crime. “The possession of cocaine is an offence that is associated with known criminal activities of the gang culture. At the time of the offence, Gamal Joseph was unemployed and supplemented his income by selling drugs. Trafficking of crack cocaine is also an offence directly associated with Heart of a King.”<sup>51</sup>

[62] At the time of the opening of this admissibility hearing, Mr. Joseph had outstanding charges stemming from Project Sizzle for conspiracy to commit an indictable offence, fraud, identity theft, trafficking in a substance, possession for the purpose of trafficking, possession of a substance and possession of property obtained by crime under \$5000.<sup>52</sup> During the course of his

hearing, Mr. Joseph testified that he had been convicted of possession for the purpose of trafficking cocaine, trafficking in a substance and possession of property obtained by crime.<sup>53</sup> Some of the circumstances relating to these convictions are outlined in the summaries of the intercepted calls obtained as part of the Project Sizzle investigation into HOK. In the summaries, Mr. Joseph is recorded over several days speaking to various individuals, including one other known HOK member, in what is described as a “coded language” meant to evade law enforcement. For example:

On February 14<sup>th</sup>, 2016, at 4:18 pm, Gamal JOSEPH had a series of drug related conversation with unknown males. The following is a summary of their communications. The unidentified male [UM1] said he would meet JOSEPH in a half hour in the hood. The identified male called JOSEPH and asked if he was downstairs by Tyndall. JOSEPH said h was by Dowling. The unidentified male said he would be there in a minute. At this point JOSEPH received another incoming call from another unidentified male named Mark would asked for an 8 for 60. JOSEPH said to meet him on Tyndall. JOSEPH told the unidentified male [Mark] to make it a half ounce and a quarter. The unidentified male [Mark] (unintelligible). JOSEPH said he was coming down right now. JOSEPH asked if the unidentified male [UM1] was still around. The unidentified male said to give him half an hour because he was heading back from uptown. JOSEPH said that his boy wanted a quarter or half ounce and that the unidentified male [UM1] should call him. The unidentified male [UM1] said to let him know because he was low and was trying to make something else. The unidentified male [UM1] confirmed that JOSEPH was looking for at least a quarter.<sup>54</sup>

[63] Mr. Joseph testified that when he was arrested as part of Project Sizzle, he did not really understand what the whole thing was about, but he understood the purpose of the investigation was “like those Scotians from Preston pimping.”<sup>55</sup> He testified that he did not understand what the charges were, but that the other charges he was facing as part of Project Sizzle were withdrawn.<sup>56</sup>

[64] While the existence of a criminal record does not on its own support a finding that Mr. Joseph was a member of HOK, when assessing his criminal activities cumulatively with the other evidence before me, it forms part of the foundation for my finding that Mr. Joseph was a member of HOK.



## Associations with Known HOK Members

[65] There are relationships/affiliations with other known HOK members that I view as providing reasonable grounds to believe that Mr. Joseph is or was a member of HOK, namely, his association with persons like the leader of HOK, “Bambino” Jahmal Richardson and other identified HOK members such as “DC” Herve Kalonji, “Benzy” Edinho Boursiquot and Llamall Weeden. Some of these individuals are featured prominently in Mr. Joseph’s music videos and have been present during his interviews.

[66] Mr. Joseph was charged with a number of criminal offences as a result of Project Sizzle. As part of his recognizance of bail, Mr. Joseph was prohibited from associating with several individuals, including “Bambino” Jahmal Richardson and Kyle Sparks-Mackinnon (the leader of HOK and his half-brother) as well as other identified HOK members including Edinho Boursiquot, Llamall Weeden, and Herve Kalonji.

[67] Mr. Joseph testified that he had only heard about “Bambino” Jahmal Richardson and knew that he drove a Bentley. Mr. Joseph was shooting a video and Mr. Richardson just pulled up to show off his Bentley in the video. Mr. Joseph testified that he had never spoken to Mr. Richardson before, not even on the day of the video.<sup>57</sup> Mr. Joseph was asked why, if he did not know Mr. Richardson, had he said during an interview, “Real pimp shit. Work for Bambino.” Mr. Joseph responded “Cause it’s you know like through like social media and like he’s always just showing off like you know like he’s a pimp and that’s what he does and stuff like that. You know, it’s just at the time, I thought it was just something to rap about, you know. Like I guess it’s cool, social media, it’s everybody want to listen to it, I guess. I don’t know.”<sup>58</sup> I do not accept Mr. Joseph’s explanation regarding his lack of relationship with Mr. Richardson in light of the other evidence before me to the contrary.

[68] During intercepted and recorded telephone calls that were conducted as part of Project Sizzle, Mr. Joseph was recorded speaking to a number of individuals in coded terminology, purportedly about the sale of drugs. On February 16, 2016, Mr. Joseph was recorded conducting

a telephone conversation with HOK member, Llamall Weeden in which the two men discussed the sale of drugs. Mr. Joseph told Mr. Weeden that he needed to get some “wizards” and Mr. Weeden told Mr. Joseph that he had that “sizzy” and if he wanted it, he could do it for 13. Mr. Weeden said he had one “sizzy” and a “hizzy, all chunked up.” In Detective Constable Katafigiotis’ opinion the two men were discussing the sale of controlled substances that Mr. Weeden was willing to sell to Mr. Joseph for \$1,300. Detective Constable Katafigiotis indicates that the terms wizards, sizzy and hizzy are all coded terms used to evade law enforcement.<sup>59</sup>

[69] When assessed in light of all the other evidence before me I find that the evidence of Mr. Joseph’s relationships and affiliations with other known HOK members provide reasonable grounds to believe that Mr. Joseph is or was a member of HOK.

### **Interviews and other Social Media**

[70] References to HOK, HOK members and the criminal activities engaged in by the group are prevalent in social media and interviews featuring Mr. Joseph. For example, in the Eazyano Royalty Radio Interview,<sup>60</sup> “HOK – Royalty Radio Takeover” is displayed at the outset of the video,<sup>61</sup> and prior to the commencement of the interview, several individuals are shown dancing, displaying HOK regalia including baseball hats and sweatshirts.<sup>62</sup> Mr. Joseph is introduced by the radio host as “... the head of the HOK crew in the building, Eazyano,” to which Mr. Joseph responds “HOK, we in the building.”<sup>63</sup> Mr. Joseph describes writing rap music when he was on house arrest and how he was just “messing around with it, you know, me and my crew, HOK.” Present during the radio interview were HOK members Herve Kalonji and Edinho Boursiquot. Individuals present displayed their HOK tattoos and other gang regalia, and during the interview, Mr. Joseph rapped a song that included lyrics featuring HOK.

[71] In a video entitled “Eazyano Speaks on HOK Movement, Upcoming Projects, Addresses Rumours & Freestyle,”<sup>64</sup> Mr. Joseph is accompanied by other HOK members, with HOK regalia on display. Mr. Joseph states, “I ain’t no rapper. You know what I’m saying. Every shit I say is real life nigga, you know what I’m saying.”<sup>65</sup> During the video, Mr. Joseph identifies HOK as

“straight family,”<sup>66</sup> and raps about gun violence,<sup>67</sup> prostitution, pimping, and working for Bambino <sup>68</sup> (Jahmal Richardson, the head of HOK).

[72] Mr. Joseph’s Facebook username in October 2013 was Eazyano Hok.<sup>69</sup> While it appears to have been changed at some point to Eazyano Dolo, his Facebook page contains several references to HOK as well as pictures of individuals in HOK regalia.

[73] According to the Department of Justice’s Research and Statistics Division’s report on the Nature of Canadian Urban Gangs, some urban gangs have members who identify themselves by wearing certain colours, clothing or symbolic markings ... Other urban gangs, particularly the more well-established, tend not to advertise their presence by tagging but might wear symbolic jewellery or tattoos.<sup>70</sup> The report also notes that there are two basic types of gang clothing, with the first type of clothing leading the observer to the conclusion that the individual belongs to a gang without specifically identifying which one. The clothing may indicate the type of gang, such as Hispanic or African-American, but not the name of the particular gang. The second type of gang clothing specifically identifies a gang. This is apparent in areas where street gang members wear jackets or sweatshirts with their gang name or logo on the back or clothing of a specific color that identifies the primary gang of the area.<sup>71</sup>

[74] Detective Constable Katafigiotis testified that HOK did not have any symbolic identifiers other than their use of t-shirts, hats and tattoos.<sup>72</sup>

[75] I find that Mr. Joseph’s references to HOK in his social media and interviews; the presence of other identified HOK members during these interviews and on his social media; and his use and display of HOK regalia and identifiers supports a finding that he is or was a member of HOK.

## Mr. Joseph's YouTube Music Videos

[76] References to HOK and to the criminal activities of the gang are prominently featured in Mr. Joseph's music videos. Persons in the videos, including Mr. Joseph, wear HOK regalia. Other HOK members are also featured in his videos.

[77] Detective Constable Katafigiotis testified that social media plays a role in his assessment of street gangs. He describes that social media paints a story,

“Membership, meanings of coded language, tattoo symbols, gang sign symbols, also it performs great associations of relation, guys that are from the north end of the city with the south end, why are they together making a rap video, or why are they making together making an interview, which promotes gang alliances or even the gang, it promotes gang beefs or rivalries as you would say.”<sup>73</sup>

[78] Detective Constable Katafigiotis testified that the way the rapper world works within the gang culture is “your music is sort of a reflection on yourself and your life. You cannot rap about something that you have not done,” because otherwise you would be “called out by other rappers or other people in your area.”<sup>74</sup> He then went on to clarify,

“So what I am trying to say is when you are rapping you are trying to set credibility and your credibility is tested through your video. For example you are saying I am a drug dealer and you have never been arrested or never been seemed to do drugs or you claim yourself to be this bad gangster and you have never been arrested, you have never had a crime committed. Other members of another organized gang or even in the community that know you might make a statement and say, hey, what are you rapping about you have never done this. So what happens is it lowers their credibility and – well, street credibility and respect within that gang culture.”<sup>75</sup>

[79] Detective Constable Katafigiotis was asked if according to his research, does somebody who is rapping about a gang need to be an associate of the gang or linked to the gang and he responded, “You are linked to the gang because you basically have to have permission to do something in relation to a gang, you cannot just all of a sudden get up and say, well I am going to make a rap video about this gang without having some approval to do so.”<sup>76</sup>

[80] Mr. Joseph maintained throughout the course of his testimony that he was not a gang member, had no idea that HOK were involved in criminal activities and his use of the term HOK or Heart of a King in his music was just a name to rap about: “It’s just like – like I just use it through my music, you know, like something to like – you know, like when you’re an artist and you need to like – I don’t know like how to – like an artist, you just need to have a name like you know, to like rap behind or like you know, or something to rap about, you know. That’s what I just rap about.”<sup>77</sup> He testified that HOK meant nothing to him outside of his music career.

[81] At the outset of the rap video for “My Klik”, featuring Mr. Joseph as Eazyano, Mr. Joseph is depicted underneath the heading “Eazyano – Still Baller Blockin”. HOK – Heart of a King is featured prominently at the lower right-hand corner of the screen.<sup>78</sup>

[82] Mr. Joseph was asked why HOK was displayed on his album cover and he responded that the individual who created the album cover, High Grade, was responsible for putting the HOK image on it. When asked how High Grade came to put the image on his album cover, Mr. Joseph responded that he did not know.<sup>79</sup> Mr. Joseph responded that the first time he saw that particular HOK design was when someone, a visual artist, sent it to him on social media and prior to that, he had not been rapping about HOK.<sup>80</sup> Mr. Joseph was unable to explain why, if he had not previously been rapping about HOK, this individual would have sent the HOK graphic design to him. Mr. Joseph then testified that when he moved back to Parkdale in 2009, his brother and his friends had HOK stuff. Mr. Joseph later clarified that it was after 2012 that he started rapping about HOK. When asked about what HOK means, Mr. Joseph responded “I don’t know. Like I found this out like after this heart of a king. I just though like heart of a king and then like nothing like violent, so I just put it in my music, you know.”<sup>81</sup>

[83] Mr. Joseph testified that some other people told him to use HOK in his music, and that he would never on his own have included the term HOK.<sup>82</sup>

[84] The term HOK is used in the lyrics of “My Klik:” “HOK. My clique, my clique. You can’t fuck around with my clique ... you fuck around with my clique, you gonna end up in that

ditch.”<sup>83</sup> HOK member Herve Kalonji appears in the video for “My Klik”, displaying an HOK tattoo on his forearm. HOK leader Jahmal “Bambino” Richardson also makes an appearance in the video alongside Mr. Joseph. After the conclusion of the music video, references are made to pimping with Mr. Richardson stating “I turned my first bitch when I was 17 years old.”<sup>84</sup>

[85] In the music video “Back 2 the Paper” Mr. Joseph is featured holding Canadian currency of multiple denominations, wearing a black baseball cap backwards with HOK displayed on the rear of the cap.<sup>85</sup> In another frame, another black cap is worn by an individual with “Heart of a King” spelled out in cursive writing.<sup>86</sup> During the video, Mr. Joseph sings about being on house arrest and about what appears to be reference to various drugs: “I’ve got the kush for the low-low” and “I got the all-white ... snow snow” (while brushing a finger under his nose) and about HOK itself: “H-O-motherfucking-K.”<sup>87</sup>

[86] In his video entitled “Popping Freestyle, Mr. Joseph is wearing a white t-shirt with the HOK logo on the front of the shirt.<sup>88</sup> Mr. Joseph testified that he wore HOK regalia only in his music videos, and only at the request of a store called DOT at Dundas and Bloor, to advertise for them. Mr. Joseph did not know if the store was still in existence. Mr. Joseph was asked why he would associate his name to HOK if he did not know what it was all about and he responded “Just like I’ve been using it through my music and I just felt like you know like, I guess advertise it to my music. I don’t know like, I really don’t know the answer to that – the answer to that. I wouldn’t know what to say about that.”<sup>89</sup>

[87] I find Mr. Joseph’s testimony regarding the use of HOK in his lyrics and on his music materials to be disingenuous in light of the evidence that HOK’s criminal activities, Mr. Joseph’s own interactions with members of that criminal organization and the contextual use of HOK in his own music lyrics and during interviews. I find Mr. Joseph’s use of the term HOK in his music provides support to a finding that he is or was a member of HOK.

## Report of Dr. Jooyoung Kim Lee

[88] Mr. Joseph submitted the report<sup>90</sup> of Dr. Jooyoung Kim Lee into evidence. Dr. Lee was not called to provide oral testimony at Mr. Joseph's hearing. Dr. Lee is an Associate Professor of Sociology at the University of Toronto. Dr. Lee has authored a number of papers, books and textbooks on a variety of subjects ranging from rap music to serial killers, criminal psychopaths, gun violence and the aftermath of shootings.

[89] It is the opinion of Dr. Lee, based on his review of the disclosure materials in evidence before me that Mr. Joseph is an aspiring rapper who hopes to make it in the music industry.<sup>91</sup> He submits that while Mr. Joseph had been seen wearing gang-related paraphernalia, he disagrees with Detective Constable Katafigiotis' opinion that an individual would not be permitted to openly wear gang clothing unless they were a member or associate of the group. Instead, he suggests, that Detective Constable Katafigiotis' report makes too many assumptions about Mr. Joseph's presumed active membership without attending to alternative scenarios.

[90] I place very little weight on the report of Dr. Lee for the following reasons. Dr. Lee was not called to provide oral testimony, so the Minister was not given the opportunity to challenge any of the information he provides in his report. Dr. Lee, while he appears to have a great depth and breadth of experience in relation to American gang culture, mass shootings, gun violence and rap music, does not cite any experience or specific knowledge relating to Toronto urban street gangs or HOK in particular; and finally, Dr. Lee's conclusions that Mr. Joseph was just an aspiring musician simply does not hold up against the preponderance of the evidence before me to the contrary.

## CONCLUSION

[91] While each one of these elements may not on its own support a finding that Mr. Joseph is or was a member of HOK, when assessed cumulatively, there is sufficient evidence on which to base a finding that he is or was a member. I base my conclusion on Mr. Joseph's own self-

identification as a member by wearing HOK regalia; the inclusion of HOK in his rap music and interviews; his association with other identified HOK members like “Bambino” Jahmal Richardson “DC” Herve Kalonji, Edinho Boursiquot, and Llamall Weeden; and his criminal history.

[92] In conclusion, I am satisfied that Mr. Joseph is or was a member of HOK, 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.

## ORDER

[93] Mr. Joseph is inadmissible to Canada pursuant to paragraph 37(1)(a) of the IRPA, for organized criminality.

[94] According to paragraph 45(d) of the IRPA and paragraph 229(1)(e) of the *Immigration and Refugee Protection Regulations (IRPR)*, the Immigration Division must issue a Deportation Order against him

(signed)

“K. Greenwood”

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K. Greenwood

October 7, 2019

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Date



Judicial Review – Under section 72 of the *Immigration and Refugee Protection Act*, you may make an application to the Federal Court for judicial review of this decision, with leave of that Court. You may wish to get advice from counsel as soon as possible, since there are time limits for this application.

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<sup>1</sup> 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.

<sup>2</sup> Exhibit AH-01, pp. 3-4.

<sup>3</sup> Exhibit AH-01, p. 2.

<sup>4</sup> Exhibit AH-10, Statement of Qualifications, Denis Katafigiotis.

<sup>5</sup> *R. v. F.O.*, 2016 ONSC 724.

<sup>6</sup> Exhibit AH-01, p. 3, Report under Subsection 44(1) of the IRPA.

<sup>7</sup> *Immigration and Refugee Protection Act* (S.C. 2001, c. 27), s. 46 (1) A person loses permanent resident status ... (c) when a removal order made against them comes into force; and s. 49 (1) A removal order comes into force on the latest of the following dates: ... (c) the day of the final determination of the appeal, if an appeal is made.

<sup>8</sup> 2006 FCA 326, [2007] 3 F.C.R. 198.

<sup>9</sup> *Saif v. Canada*, 2016 FC 437.

<sup>10</sup> *B010 v. Canada (MCI)*, 2015 SCC 58.

<sup>11</sup> *Toor v. Canada (Public Safety and Emergency Preparedness)*, 2018 FC 68 (CanLII), at paragraph 7.

<sup>12</sup> *R. v. Venneri*, [2012] 2 SCR 211, 2012 SCC 33 (CanLII), at paragraphs 31, 37-38.

<sup>13</sup> Exhibit AH-02, p. 6, Global News, [Project Sizzle leads to 53 arrests, 285 charges after ‘Heart of a King’ gang targeted.](#)

<sup>14</sup> Exhibit AH-02, [CBC News, Dismantles Toronto gang Heart of a King evolved from North Preston’s Finest](#), p. 8.

<sup>15</sup> *Ibid.*, p. 10.

<sup>16</sup> Exhibit AH-02, Toronto’s News, [Project Sizzle netted kin of tyrant who terrified prostitutes](#), p. 25.

<sup>17</sup> *Ibid.*

<sup>18</sup> *Ibid.*, p. 24.

<sup>19</sup> Exhibit AH-01, p. 18, Toronto Police Services Gun and Gang Task Force Investigative Support Section Gangs: Proposed Expert Report.

<sup>20</sup> Exhibit AH-02, p. 6, Global News, [Project Sizzle leads to 53 arrests, 285 charges after ‘Heart of a King’ gang targeted.](#)

<sup>21</sup> Exhibit AH-03, [The Nature of Canadian Urban Gangs and Their Use of Firearms](#), Research and Statistics Division, Department of Justice Canada.

<sup>22</sup> Exhibit AH-01, p. 19, Toronto Police Services Gun and Gang Task Force Investigative Support Section Gangs: Proposed Expert Report.

<sup>23</sup> *Ibid.*

<sup>24</sup> Exhibit AH-02, p. 35, Toronto Sun, [Jeers and cheers as verdict delivered in Spadina Ave. double murder.](#)

<sup>25</sup> Exhibit AH-02, p. 37, Toronto Star, [Toronto judge sentences admitted pimp and gang leader to nine years in prison.](#)

<sup>26</sup> Transcript of proceedings, July 24, 2019, p. 11.

<sup>27</sup> Exhibit AH-02, p. 12, CTV News, [“Project Sizzle” targeted “Heart of a King” street gang allegedly behind three murders.](#)

<sup>28</sup> Exhibit AH-01, p. 37, Toronto Star, [Toronto Judge sentences admitted pimp and gang leader to nine years in prison.](#)

<sup>29</sup> Exhibit AH-02, p. 16, The Globe and Mail, [Toronto Police target Heart of a King gang with Project Sizzle.](#)

<sup>30</sup> Exhibit AH-02, pp. 3-4, TPS News Release, Sizzle Singes Violent Gang.

<sup>31</sup> Exhibit AH-02, p. 70, *R. v. Kalonji* [2018] O.J. No. 5465, at paragraph 60.

<sup>32</sup> Transcript of proceedings, May 6, 2019, p. 64.

<sup>33</sup> Ibid.

<sup>34</sup> Criminal Code (R.S.C., 1985, c. C-46)

99 (1) Every person commits an offence who

(a) manufactures or transfers, whether or not for consideration, or

(b) offers to do anything referred to in paragraph (a) in respect of

a prohibited firearm, a restricted firearm, a non-restricted firearm, a prohibited weapon, a restricted weapon, a prohibited device, any ammunition or any prohibited ammunition knowing that the person is not authorized to do so under the Firearms Act or any other Act of Parliament or any regulations made under any Act of Parliament.

Punishment — firearm

(2) Every person who commits an offence under subsection (1) when the object in question is a prohibited firearm, a restricted firearm, a non-restricted firearm, a prohibited device, any ammunition or any prohibited ammunition is guilty of an indictable offence and liable to imprisonment for a term not exceeding 10 years and to a minimum punishment of imprisonment for a term of

(a) in the case of a first offence, three years; and

(b) in the case of a second or subsequent offence, five years.

<sup>35</sup> Controlled Drugs and Substances Act (S.C. 1996, c. 19)

5 (1) No person shall traffic in a substance included in Schedule I, II, III, IV or V or in any substance represented or held out by that person to be such a substance.

Possession for purpose of trafficking

(2) No person shall, for the purpose of trafficking, possess a substance included in Schedule I, II, III, IV or V.

Punishment

(3) Every person who contravenes subsection (1) or (2)

(a) if the subject matter of the offence is a substance included in Schedule I or II, is guilty of an indictable offence and liable to imprisonment for life, and ...

<sup>36</sup> *Mohammed Kashif Omer v. Canada (Minister of Citizenship and Immigration)*, [2007] FC 478, at paragraph 11; *Miguel v. Canada (Minister of Citizenship and Immigration)*, 2012 FC 802 (CanLII), at paragraph 22. Also see *Bruzzese v. Canada (Public Safety and Emergency Preparedness)*, 2014 FC 230 (CanLII).

<sup>37</sup> 2015 FCA 86 (CanLII). The Federal Court of Appeal upheld the Federal Court decision in *Kanagendren v. MCI and MPSEP*, 2014 FC 384. See also *Moussa v. Canada (Public Safety and Emergency Preparedness)*, 2015 FC 545 (CanLII); *Nassereddine v. Canada (Citizenship and Immigration)*, 2014 FC 85 (CanLII), at paragraph 77.

<sup>38</sup> Exhibit AH-02, *R. v. Kalonji* [2018] O.J. No. 5465.

<sup>39</sup> Ibid., at paragraph 44.

<sup>40</sup> Ibid., at paragraph 47.

<sup>41</sup> Ibid., at paragraph 70.

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- <sup>42</sup> Exhibit AH-01, Toronto Police Services Gun and Gang Task Force Investigative Support Section Gangs: Proposed Expert Report, p. 68.
- <sup>43</sup> *Thaneswaran v. Canada (Minister of Citizenship and Immigration)*, 2007 FC 189; *Canada (Minister of Citizenship and Immigration) v. Thanaratnam*, 2005 FCA 122 (CanLII).
- <sup>44</sup> *Castelly v. Canada (Minister of Citizenship and Immigration)*, 2008 FC 788 (CanLII), 2008 FC 788, [2009] 2 F.C.R. 327 at paragraphs 25-26.
- <sup>45</sup> See *Tang v. Canada (Citizenship and Immigration)*, 2009 FC 292 (CanLII), paragraph 19; also *Burton v. Canada (Public Safety and Emergency Preparedness)*, 2012 FC 727 (CanLII), where Near, J. considered these matters at paragraphs 37-43.
- <sup>46</sup> Exhibit AH-01, p. 82, Statutory Declaration.
- <sup>47</sup> Exhibit AH-01, p. 113, Police Report dated August 2, 2009.
- <sup>48</sup> Exhibit AH-01, p. 21, Toronto Police Services Gun and Gang Task Force Investigative Support Section Gangs: Proposed Expert Report.
- <sup>49</sup> Exhibit AH-01, p. 82, Statutory Declaration.
- <sup>50</sup> Exhibit AH-01, p. 102, Police Report dated May 15, 2007.
- <sup>51</sup> Exhibit AH-01, p. 22, Toronto Police Services Gun and Gang Task Force Investigative Support Section Gangs: Proposed Expert Report.
- <sup>52</sup> Exhibit AH-01, p. 83, Statutory Declaration.
- <sup>53</sup> Transcript of proceedings, June 26, 2019, p. 33; July 24, 2019, p. 11.
- <sup>54</sup> Exhibit AH-01, p. 38, Toronto Police Services Gun and Gang Task Force Investigative Support Section Gangs: Proposed Expert Report.
- <sup>55</sup> Transcript of proceedings, June 26, 2019, p. 33.
- <sup>56</sup> *Ibid.*, p. 36.
- <sup>57</sup> *Ibid.*, p. 41.
- <sup>58</sup> *Ibid.*, p. 45.
- <sup>59</sup> Exhibit AH-01, pages 38-39, Toronto Police Services Gun and Gang Task Force Investigative Support Section Gangs: Proposed Expert Report.
- <sup>60</sup> Exhibit AH-04, DVD containing YouTube videos, Eazyano Royalty Radio Interview.
- <sup>61</sup> *Ibid.*, at 0:00:17.
- <sup>62</sup> *Ibid.*, at 0:00:23.
- <sup>63</sup> *Ibid.*, at 0:01:00.
- <sup>64</sup> Exhibit AH-04, DVD containing YouTube videos, Eazyano Speaks on HOK Movement, Upcoming Projects, Addresses Rumours & Freestyle.
- <sup>65</sup> *Ibid.*, at 0:01:33.
- <sup>66</sup> *Ibid.*, at 0:03:46.
- <sup>67</sup> *Ibid.*, at 0:05:50.
- <sup>68</sup> *Ibid.*, at 0:06:39.
- <sup>69</sup> Exhibit AH-01, Facebook photos, page 130.
- <sup>70</sup> Exhibit AH-03, page 22, The Nature of Canadian Urban Gangs and Their Use of Firearms, Research and Statistics Division, Department of Justice Canada.
- <sup>71</sup> *Ibid.*, page 47.
- <sup>72</sup> Transcript of proceedings, May 6, 2019, p. 29.
- <sup>73</sup> *Ibid.*, p. 48.
- <sup>74</sup> *Ibid.*, p. 51.
- <sup>75</sup> *Ibid.*, p. 53.
- <sup>76</sup> *Ibid.*, p. 55.
- <sup>77</sup> Transcript of proceedings, June 20, 2019, p. 12.
- <sup>78</sup> Exhibit AH-04, DVD containing YouTube videos, Big Ro\$en feat. Eazyano – My Klik, at 0:00:19.
- <sup>79</sup> Transcript of proceedings, June 20, 2019, p. 15.
- <sup>80</sup> *Ibid.*
- <sup>81</sup> *Ibid.*, p. 17.
- <sup>82</sup> *Ibid.*, p. 21.
- <sup>83</sup> Exhibit AH-04, DVD containing YouTube videos, Big Ro\$en feat. Eazyano – My Klik, at 0:01:17.

<sup>84</sup> Ibid., at 0:04:45

<sup>85</sup> Exhibit AH-04, DVD containing YouTube videos, Eazyano – Back 2 the Paper.

<sup>86</sup> Ibid., at 0:02:01.

<sup>87</sup> Ibid., at 0:00:27.

<sup>88</sup> Exhibit AH-01, Exhibit AH-01, Toronto Police Services Gun and Gang Task Force Investigative Support Section Gangs: Proposed Expert Report, p. 23.

<sup>89</sup> Transcript of proceedings June 26, 2019, p. 20.

<sup>90</sup> Exhibit AH-07, Report and Curriculum Vitae of Dr. Jooyoung Kim Lee.

<sup>91</sup> Ibid., p. 1.