



Case in Brief: **Mason v. Canada (Citizenship and Immigration)**

Judgment of September 27, 2023 | On appeal from the Federal Court of Appeal
Neutral citation: 2023 SCC 21

The Supreme Court quashes immigration decisions that found two foreign nationals inadmissible to Canada.

Earl Mason and Seifslam Dleiw are foreign nationals in Canada. In 2012, Mr. Mason was charged with attempted murder and discharging a firearm following an argument with a man in a bar. The charges were eventually dropped because of delay. In Mr. Dleiw's case, he was alleged to have engaged in acts of violence against intimate partners. Some of the criminal charges from these incidents were dropped and he pled guilty to three others.

Following these incidents, officials at the Canada Border Services Agency prepared reports alleging that both Mr. Mason and Mr. Dleiw were inadmissible to Canada pursuant to the *Immigration and Refugee Protection Act (IRPA)*. Section 34(1)(e) of the *IRPA* says that "a permanent resident or a foreign national is inadmissible to Canada on security grounds for engaging in acts of violence that would or might endanger the lives or safety of persons in Canada".

The reports led to admissibility hearings before the Immigration Division of the Immigration and Refugee Board of Canada, an administrative tribunal responsible for deciding immigration and refugee matters. In Mr. Mason's case, the decision was appealed to the Appeal Division. The two men were ultimately found inadmissible to Canada. In their cases, the immigration bodies interpreted "acts of violence" under section 34(1)(e) in a broad sense, without requiring there to be a link to national security or the security of Canada. This meant that the violent conduct of both men, despite posing no threat to national security, could justify finding them inadmissible in Canada under section 34(1)(e).

Mr. Mason and Mr. Dleiw disagreed. They asked the Federal Court of Canada to review these administrative decisions. In Mr. Mason's case, the Federal Court concluded the Appeal Division's interpretation of section 34(1)(e) was unreasonable because "security grounds" under section 34(1)(e) needed a link between the alleged facts and national security. It applied the same reasoning to Mr. Dleiw's case.

The Minister of Citizenship and Immigration appealed to the Federal Court of Appeal, which allowed the appeals. It said the immigration boards had reasonably interpreted section 34(1)(e) as not requiring a link to national security. Mr. Mason and Mr. Dleiw appealed to the Supreme Court of Canada.

The Supreme Court has allowed their appeals.

A person can only be found inadmissible to the country under section 34(1)(e) of the *IRPA* if they engage in violent conduct linked to national security or the security of Canada.

Writing for the majority, Justice Jamal applied this Court's framework in [Vavilov](#) to decide the appeals. According to that framework, the appropriate standard of review of these administrative decisions is reasonableness. Upon review of the decisions, he concluded both were unreasonable.

Justice Jamal said there was a "single reasonable interpretation of [section] 34(1)(e) – a person can be found inadmissible under [section] 34(1)(e) only if they engage in acts of violence with a nexus to national security or the security of Canada". As neither Mr. Mason nor Mr. Dleiw were alleged to have engaged in acts of violence with a link to national security or the security of Canada, section 34(1)(e) of the *IRPA* does not provide a legal basis for the inadmissibility of either person.

Breakdown of the decision: **Majority:** Justice [Jamal](#) allowed the appeals (Chief Justice [Wagner](#) and Justices [Karakatsanis](#), [Rowe](#), [Martin](#), [Kasirer](#) and [O'Bonsawin](#) agreed) | **Concurring:** Justice [Côté](#) agreed to allow the appeals, but she would have applied a different standard in reviewing the administrative decisions.

More information: [Decision](#) | [Case information](#) | [Webcast of hearing](#)

Lower court rulings: [Judgment on Mr. Mason's application](#) (Federal Court) | [Judgment on Mr. Dleiw's application](#) (Federal Court) | [Appeal](#) (Federal Court of Appeal)

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