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'Why are hardened criminals being allowed to remain?' Non-citizen convicted of manslaughter sentenced for drug and gun charges

Why a non-citizen with a serious criminal record was still in the country at the time of the most recent offences is the question no one could answer

By [Mason Kossak](#)
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A Canada Border Services Agency shoulder patch. PHOTO BY BRENT CALVER/POSTMEDIA

A non-citizen with a manslaughter conviction was under court-ordered supervision when police found a loaded handgun, cocaine and fentanyl in his car.

David Jajua, 34, was sentenced to six-and-a-half years last month in the Ontario Superior Court of Justice.

The offence dates to January 2024. At the time, he had already lost his immigration status. Jajua was a front-seat passenger in a car stopped in Addington Highlands, in eastern Ontario, north of Napanee. Under his seat, police found a loaded 9-mm handgun, about 80 grams of cocaine and about 12 grams of fentanyl, enough for roughly 120 doses. He was under a weapons prohibition at the time. He pleaded guilty to four counts: occupying a vehicle knowing a firearm was present, possession of cocaine for the purpose of trafficking, possession of fentanyl for the purpose of trafficking and possession of a firearm in breach of a prohibition order.

It was not his first serious conviction. Jajua had already been convicted of manslaughter, for which he served a federal penitentiary sentence. He also has prior convictions for robbery and drug trafficking. He was under community supervision when he was caught.



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Jajua came to Canada from Sierra Leone when he was 13 years old. The sentencing decision did not state if he lost his immigration status before or after he was convicted of manslaughter, but the judge said he took it into consideration when deciding his sentence.

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“Your inability to obtain lawful employment due to your immigration status created financial pressures that contributed to your involvement in drug trafficking,” Justice Graeme Mew wrote in his decision. That pressure could not overshadow the seriousness of the offence, the judge said, and he gave denunciation and deterrence the greatest weight.

Why a non-citizen with a serious criminal record was still in the country at the time of the most recent offences is the question no one could answer.

Sergio Karas, a Toronto lawyer and certified specialist in immigration law who was not involved in the case and spoke only in general terms, said the Canada Border Services Agency (CBSA) issues a Section 44 report once a permanent resident or foreign national is convicted, setting out the convictions and seeking removal. The immigration division then holds a hearing.

“It is usually an open and shut case at that particular point because all the CBSA has to prove is that the person has been convicted of that offence,” Karas said.

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“Why are hardened criminals being allowed to remain in Canada?”

The length of the sentence matters. A custodial term of six months or more removes the right to appeal a removal order to the Immigration Appeal Division, Karas said. At six-and-a-half years, Jajua would be well past that line. What remains, Karas said, is an application on humanitarian and compassionate grounds, where an offender sets out the reasons he should be allowed to stay.

Serious offenders should be the highest priority for removal once they have served their sentences, Karas said, because they put the public at risk.

The CBSA, in an email, described the process without addressing Jajua directly. The agency said it has a legal obligation to remove all foreign nationals found inadmissible under the Immigration and Refugee Protection Act, and that it assigns the highest priority to cases involving security, organized crime, crimes

against humanity and criminality.

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Removal does not happen while a sentence is being served. “Any foreign nationals convicted of crimes in Canada cannot be removed until they have served their sentence,” the CBSA said, adding that it begins removal steps while the person is still in custody so the order can be enforced as soon as the sentence ends.

Even then, a removal order does not mean a person leaves. The agency said the most common obstacle is a foreign government that refuses to take someone back or issue travel documents.

Immigration, Refugees and Citizenship Canada (IRCC) said in an email it could not discuss the case without the individual’s signed consent. In general, the department said, a person found inadmissible can lose a work permit, lose permanent residence or temporary status and be removed unless they obtain some form of relief under the Act. The IRCC said removals are the responsibility of the CBSA.

Karas said the likeliest explanations were that the case fell through the cracks, that the CBSA lacked the resources to pursue it or that a refugee claim stood in the way. The CBSA did not address the specifics of his case.

If Jajua came to Canada as a refugee, removing him would be far harder, Karas said, because the Supreme Court of Canada has held that a person cannot be sent to a country where they are likely to face persecution. The decision does not say how he arrived, only that he came at 13.

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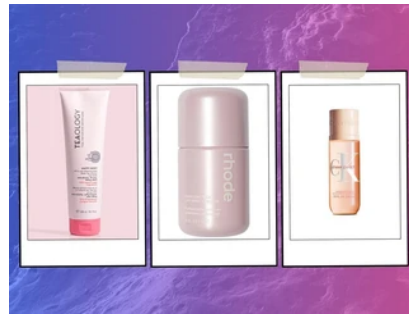
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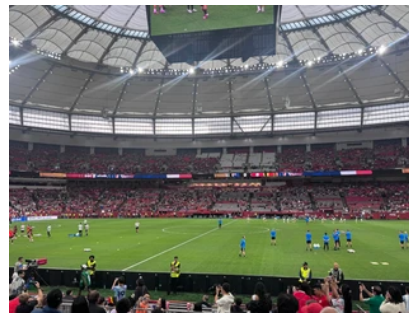
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