Federal Court  Cour fédérale

**Date: 20150828**

**Docket: IMM-7687-13**

**Citation: 2015 FC 1024**

**Ottawa, Ontario, August 28, 2015**

**PRESENT: The Honourable Mr. Justice O'Keefe**

**BETWEEN:**

**SIRAJ AHMED (AKA AHMED SIRAJ)**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP AND IMMIGRATION**

**Respondent**

## REASONS FOR JUDGMENT AND JUDGMENT

[1] This is an application for judicial review of a decision of Citizenship and Immigration Canada, dated October 23, 2013, wherein the Director, Case Determination, appointed as the Minister's delegate (the delegate), refused the applicant's request for reconsideration of the Minister's opinion issued against him on November 10, 2010, stating that he constitutes a danger to the public under paragraph 115(2)(a) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [the Act].

[2] The applicant seeks an order setting aside the decision and returning the matter to a different delegate for redetermination.

## I. Background

[3] The applicant is a citizen of Pakistan. In October 1993, he entered Canada at the port of Vancouver and claimed refugee status.

[4] On May 9, 1996, the applicant became a permanent resident as a Convention refugee.

[5] On February 2, 2001, an inadmissibility report for serious criminality was issued against the applicant following his conviction for aggravated assault. He was issued a warning letter.

[6] On January 28, 2004, an inadmissibility report for serious criminality was issued against the applicant following his convictions in 2001 for trafficking in a controlled substance. A deportation order was consequently issued. The applicant filed an appeal to the Immigration Appeal Division of the Immigration and Refugee Board.

[7] On August 30, 2007, an inadmissibility report for serious criminality was issued against the applicant following his 2007 drug related convictions.

[8] On July 7, 2008, a deportation order for serious criminality was issued against the applicant.

[9] On November 10, 2010, the applicant was found to be a danger to Canada pursuant to subsection 115(2)(a) of the Act and not at risk if removed to Pakistan.

[10] On November 14, 2012, the applicant made a request for reconsideration of his danger opinion. The submissions included a new statutory declaration from him, which details his involvement in criminal matters.

## II. Decision Under Review

[11] In a decision dated October 23, 2013, the delegate refused the applicant's request for reconsideration of the Minister's opinion issued against him on November 10, 2010, stating that he constitutes a danger to the public under paragraph 115(2)(a) of the Act.

[12] First, the delegate conducted the danger assessment. The delegate found that the applicant is inadmissible for serious criminality under paragraph 36(1)(a) of the Act, based on his convictions in 2000, 2001 and 2007. The delegate found that the applicant's criminal activities were both serious and dangerous to the public and that there is a lack of evidence of meaningful rehabilitation despite his efforts to pursue education and upgrade his skills.

[13] The delegate noted that the applicant's explanation of his role in the criminal offences differs from the Court's transcript and this demonstrates an attempt to minimize his role in the crimes. The delegate observed some positive factors, such as the applicant's compliance with the conditions of release, his participation in rehabilitative programming and his efforts to improve his employment opportunities. Ultimately, the delegate found that, on a balance of probabilities,

the applicant represents a present and future danger to the Canadian public. It was determined that the new evidence presented by the applicant did not lead the delegate to a different decision.

[14] Second, the delegate conducted the risk assessment. The delegate noted that the test is whether the applicant, "if removed to Pakistan, will personally face a risk of persecution, risk to life or risk of torture or cruel and unusual treatment or punishment." The applicant stated in his request for reconsideration that in July 2011, his picture was in the paper because his house was firebombed and burned in Pakistan. In submissions dated May 16, 2013, the applicant stated he has become a target of the Tehrik-e-Taliban Pakistan (TTP) due to his brother's political involvement. He claimed there is a poster of him placed on the wall of his mosque as a TTP target.

[15] The delegate considered the following new evidence and the risks alleged by the applicant:

i. a First Information Request (FIR) possibly related to the 1993 arrest warrant issued against the applicant;
ii. the risk from the MQM-Haqiqi faction;
iii. death threats to his family from the Pakistan People's Party (PPP), which was suspected to be behind the house burning; and
iv. the risk due to his brother's political involvement which resulted in the TTP naming both him and his brother on a hit list, as evidenced by their picture on a poster outside a mosque.

[16] Insofar as the FIR is concerned, the delegate gave it little weight. The delegate first summarized the circumstances in Pakistan which led to the applicant's refugee claim. The delegate stated that the 1993 arrest warrant was included as an exhibit during the refugee hearing. The applicant also provided a copy of a FIR dated May 1, 1990 detailing him as one of three leaders of a violent demonstration. The delegate noted the circumstances described in the FIR and determined they are similar to the basis of the 1993 arrest warrant; however, the Personal Information Form (PIF) narrative described an event taking place on May 5, 1991, over one year later. The delegate found there is a lack of clarity regarding the sequence of events. The UK Border Agency's Country of Origin Report - Pakistan (2004 UK Report) dated June 18, 2004, was then reviewed and the delegate stated that most of the documents presented by asylum seekers were falsified. Relying on this report and the contradiction between the dates, the delegate gave the FIR little weight.

[17] Insofar as the risk from the MQM-Haqiqi faction is concerned, the delegate found that the risk is low. The delegate acknowledged that, at the time the applicant left Pakistan, he was a high ranking active member of the MQM and the MQM-Haqiqi had an interest in him. It found, however that given the applicant's prolonged absence from Pakistan and a lack of continued high profile as an active member of the MQM, the applicant would not likely be a target. The delegate drew support from the most recent 2013 UK Country of Origin Information Report detailing the political landscape in Pakistan.

[18] With respect to the newspaper article about the burning of the applicant's home in Qasba Colony, the delegate found that there is insufficient evidence to establish that his home was

deliberately targeted. The delegate first observed a report from a CIC analyst who prepared the Request for Minister's Opinion on April 10, 2013, noting the Daily Ummat News Karachi is one of 141 newspapers published in Sindh Province. The delegate stated that, according to the 2004 UK Report, it is possible to pay to have a newspaper article published depicting a situation of persecution. The delegate found that there was insufficient evidence on file to lead him or her to conclude that the applicant's house was deliberately targeted.

[19] Also, the delegate found that the fact that the applicant normally speaks Pashto "decreases the weight of his submission that he is a member of the Muhajir community."

[20] With respect to the risk allegedly faced by the applicant due to his brother's political involvement, two types of evidence were submitted: photographs and hit posters. The delegate found that photographs of him and his brother with political figures at what appears to be a public event are not indicative of his and his brother's allegiance to the MQM. In light of the applicant's prolonged absence, the delegate found that, although the threat of violence from the TTP is credible, the applicant would not likely be a target. Regarding the hit posters, the delegate noted that "hit list" photos are typically taken during meetings, at public events or from news articles; however, the photos on the posters are passport-style photos of the applicant and his brother. The delegate held that the posters are not authentic.

[21] Next, the delegate discussed the general situation of violence in Karachi. The delegate referenced excerpts from documentary evidence and acknowledged the state of violence in Karachi and that the MQM has been blamed for human rights abuses. The delegate noted that

MQM members have been targeted by opposition groups and that it is possible that an individual, even one who is not politically active, might be caught up in the general violence. The delegate found however, that "this mere possibility of risk due to the general violence in Karachi, a city of over 11 million people, does not, in my opinion, outweigh the danger that Mr. Ahmed poses to the public in Canada."

[22] The delegate then determined the applicant's risk of return as a deportee. The delegate found that he is not at risk due to an alleged outstanding arrest warrant against him in Pakistan. The delegate acknowledged that if the warrant exists, the applicant could be arrested at the airport upon his return. However, the delegate found that the applicant is not likely the subject of an arrest warrant from 1993, as shown by his ability to apply for a passport in his own name and his unrestricted travel into and outside of Pakistan since 1993.

[23] Therefore, the delegate found the applicant would not personally face a risk to life, liberty or security of the person on a balance of probabilities.

[24] With respect to humanitarian and compassionate (H&C) considerations, the delegate found that the applicant has not demonstrated a degree of establishment in Canada that would cause him disproportionate hardship should he be removed.

[25] In conclusion, the delegate determined that the need to protect Canadian society outweighs the possible risks that the applicant might face if returned to Pakistan.

## III. Issues

[26] The applicant raises the following issues for my consideration:

1. Did the delegate err by relying on outdated evidence?
2. Did the delegate exceed his or her jurisdiction?
3. Did the delegate make unreasonable findings?

[27] The respondent raises one issue: the applicant has not demonstrated that there is a serious or arguable issue of law upon which the proposed application might succeed.

[28] I would rephrase the issues as follows:

A. What is the standard of review?

B. Was the delegate's risk assessment reasonable?

C. Did the delegate exceed his or her jurisdiction?

D. Did the delegate follow the proper steps for the assessment under paragraph 115(2)(a) of the Act?

## IV. Applicant's Written Submissions

[29] First, the applicant submits that the delegate erred in relying on outdated documents in forming its decision. He argues that the delegate relied heavily on an Immigration and Refugee Board (IRB) document, "Fraudulent Documents." This document reports that it is possible to pay for a newspaper article to be published depicting a situation of persecution. It dates back to 2004.

He argues that this document is outdated and that a 2011 IRB document now forms part of the current standard National Documentation Package for Pakistan.

[30] The 2011 IRB document indicates that "some newspaper articles may be fraudulent" and estimates that one to five percent of the reports made by Pakistan's 100,000 newspapers are false. It also notes that some FIRs may be "fraudulent". However, the applicant contends that a reading of the document reveals that "fraud" is not a matter of falsified documents, but rather reflects police officers' poor forensic and investigatory techniques and low ethical standards. This happens even in genuine cases. The applicant argues that the current evidence indicates a different situation than that which existed in 2004.

[31] The applicant argues that the delegate's reliance on the 2004 report is a reviewable error. First, the delegate used this information to completely avoid analyzing the risk that the applicant faces due to the outstanding arrest warrant and to discount his submission of risk. Second, the delegate highlighted the discrepancy in dates between the FIR and the applicant's testimony during his refugee claim, even though the 2011 report shows that, even in genuine cases, there might be errors in FIRs. Third, the delegate relied on the 2004 report to find that "it is possible to pay to have a newspaper article published depicting a situation of persecution" while ignoring the statement in the 2011 report that this practice has become less frequent. The applicant argues, therefore, that the delegate used this outdated report in a manner that prejudiced him.

[32] Second, the applicant submits the delegate exceeded its jurisdiction by going behind a refugee determination to disprove elements that were essential to the initial grant of refugee

protection. Under *Nagalingam v Canada (Minister of Citizenship and Immigration)*, 2008 FCA 153 at paragraph 43, [2009] 2 FCR 52 [*Nagalingam*], a delegate's role in assessing a danger opinion is not to "remove or alter the subject's status as Convention refugee."

[33] Here, the delegate made a finding that the applicant is not a Muhajir, even though the applicant's identity was accepted by the IRB and was central to its finding that he had refugee status. The delegate found that Pashto, one of the languages the applicant normally speaks, "decreases the weight of his submission that he is a member of the Muhajir community." The delegate then used this finding to cast doubt on the political affiliation claimed by the applicant, such as his membership in the MQM. The delegate also erred in refusing to accept the applicant's prior criminal record and FIR from Pakistan. Therefore, the delegate exceeded its jurisdiction by attempting to reassess key elements of the applicant's refugee status. This error prevented the delegate from properly analyzing whether the applicant's status might place him at risk in Pakistan as alleged.

[34] Third, the applicant submits that the delegate's decision was unreasonable. First, the delegate made fundamental errors in determining that the applicant was not at risk due to an outstanding arrest warrant in Pakistan. The delegate discounted his outstanding criminal charge because he or she concluded that the FIR was not genuine based on outdated documentation. Second, the delegate did not cite any evidence that led him or her to conclude that an individual cannot be issued a passport if he or she has an outstanding criminal charge. Third, the applicant argues that the documentary evidence and specifically, the 2012 UK Country of Origin Information Report relied on by the delegate, notes the contrary: "even a person that was the

accused in multiple FIRs would not be barred from obtaining a passport unless the central government had specifically ordered that a passport not be issued to him or her … .” Fourth, the applicant argues that the delegate erred in determining that he is not at risk for his political association due to his prolonged absence and lack of high profile because the delegate ignored the evidence that his brother is still in the public eye for his political activities with the MQM.

[35] Further, the applicant submits that the delegate improperly conflated distinct steps of a danger opinion. He cites *Nagalingam* for the steps the delegate ought to take under the proper process. He argues that even after the delegate accepted the evidence that Karachi is a dangerous city, he or she failed to engage in a proper balancing of that risk against the danger posed by the applicant. The delegate came to a conclusion without doing a step-by-step analysis.

V. Respondent’s Written Submissions

[36] First, the respondent points out that the applicant does not contest the finding that he is inadmissible on grounds of serious criminality under paragraph 36(1)(a) of the Act. It states the two main issues are the delegate’s factual findings with respect to i) risk evaluation; and ii) the balancing of any risk with the need to protect Canadian society. It submits that the delegate’s factual conclusions are reviewable on the standard of reasonableness (*Nagalingam* at paragraph 32).

[37] Second, the respondent submits that the delegate’s analysis was thorough and reasonable and that the applicant is asking this Court to adopt a microscopic approach to the delegate’s decision. The Federal Court of Appeal cautions against this approach in *Ragupathy v Canada*

*(Minister of Citizenship and Immigration)*, 2006 FCA 151 at paragraph 15, [2007] 1 FCR 490 [*Ragupathy*]. The respondent cites *Hasan v Canada (Minister of Citizenship and Immigration*), 2008 FC 1069 at paragraph 10, [2008] FCJ No 1342 [*Hasan*], for the process of determining a danger opinion. It submits that, although the applicant challenges the delegate's analysis for steps four and five, it is ultimately the applicant's onus to establish current risk or hardship. The applicant cannot simply rely upon his status as a Convention refugee (*Hasan* at paragraph 22).

[38] The respondent also points out that the FIR dated May 1, 1990, which names the applicant as one of three leaders of a violent demonstration, is new evidence that the applicant submitted at his reconsideration request. The delegate reasonably examined this evidence in the context of the applicant's submissions and the available information at the time of the IRB refugee hearing.

[39] Further, the applicant does not challenge the discrepancies in dates as identified by the delegate, but rather challenges the weight the delegate gave to the FIR. Here, the delegate did not err by relying on the 2004 report because, unlike the 2011 report, it was more contemporaneous to the dates of the applicant's purported arrest warrant of 1993 and the 1990 FIR. As for the 2011 news article in the Daily Ummat, the delegate was reasonable to find that this article was published at the applicant's request to further his interests, given the availability of fraudulent documents and the significant period of his absence. The delegate reasonably found that in light of the applicant's prolonged absence and a lack of demonstrated continued high profile as an active member of the MQM, the applicant has a decreased likelihood of being a target of opposition party members.

[40] The delegate also acknowledged the risk of the applicant's return as a deportee and the possibility of him getting arrested at the airport. However, it reasonably found that he is not likely still the subject of an arrest warrant from 1993 as shown by his ability to apply for a passport in his own name and his unrestricted travel into and outside of Pakistan since 1993.

[41] In response to the applicant's reliance on the 2012 UK Country of Origin Information Report, the respondent argues that this report also notes that many FIRs are baseless and the registration of FIRs does not prevent the issuance of a passport unless specifically ordered by the central government. Here, the government did not issue such an order, which suggests that it is not interested in the applicant. The delegate also properly noted the applicant's submission about his brother's purported political profile.

[42] The respondent notes that the delegate was reasonable to give no weight to the applicant's submissions about the TTP and to find that there was insufficient evidence to conclude that the applicant, his brother and his family were targets of the TTP. While the delegate acknowledged that the TTP was a credible threat to some groups in Pakistan, the delegate reasonably concluded that the applicant would not likely be targeted because of his limited involvement in the MQM since 1993.

[43] Third, the respondent submits that the delegate did not exceed its jurisdiction. Here, the delegate took into consideration the applicant's status as a Convention refugee. In the context of the new evidence, the delegate thoroughly considered each area of risk raised by the applicant. The delegate did not go behind the applicant's status as a Convention refugee in the analysis.

The delegate assessed his risk based on the current record. Here, there was no indication that the 1990 FIR was submitted to the IRB.

[44] Fourth, the respondent submits that the delegate's danger opinion was reasonable. The delegate appropriately assessed the risk to the applicant should he return and balanced the danger to the public against the degree of any risk. Here, in support of the delegate's conclusion that the need to protect Canadian society outweighs the risk to the applicant, the delegate found that:

i. the applicant was inadmissible for serious criminality;

ii. his criminal activities were both serious and dangerous to the public;

iii. he represented a present and future danger to the Canadian public; and

iv. if removed from Canada, he would not face a risk to life, liberty or security of the person on a balance of probabilities.

The respondent argues this demonstrates that the delegate considered all possible risks.

VI. Applicant's Reply

[45] The applicant submits that the respondent has not provided support for the conclusion that the redetermination of key aspects of the applicant's refugee claim would not improperly exceed the delegate's jurisdiction.

[46] Also, he argues that the delegate made negative plausibility findings regarding the applicant's brother's political affiliation. These findings should only be made in the clearest of cases. Here, the delegate did not provide any documentary evidence in support of this conclusion.

[47] Further, the applicant submits that the respondent erred in noting the requirements of risk assessments pursuant to sections 96 and 97 of the Act; rather, risk should be assessed pursuant to section 7 of the *Charter* which comprises risk beyond the scope of sections 96 and 97 of the Act.

## VII. Analysis and Decision

### A. *Issue 1 - What is the standard of review?*

[48] Where the jurisprudence has satisfactorily resolved the standard of review, the analysis need not be repeated (*Dunsmuir v New Brunswick*, 2008 SCC 9 at paragraphs 45, 47, 48, 49, 53, 57 and 62, [2008] 1 SCR 190).

[49] In *Nagalingam* at paragraph 32, the Federal Court of Appeal found that the factual findings of a delegate should be reviewed on a standard of reasonableness and a high degree of deference should be afforded.

[50] The standard of reasonableness means that I should not intervene if the Board's decision is transparent, justifiable, intelligible and within the range of acceptable outcomes (*Dunsmuir* at paragraph 47). Here, I will set aside the Board's decision only if I cannot understand why it reached its conclusions or how the facts and applicable law support the outcome (*Newfoundland and Labrador Nurses' Union v Newfoundland and Labrador (Treasury Board)*, 2011 SCC 62 at paragraph 16, [2011] 3 SCR 708). As the Supreme Court held in *Canada (Citizenship and Immigration) v Khosa*, 2009 SCC 12 at paragraphs 59 and 61, [2009] 1 SCR 339, a court

reviewing for reasonableness cannot substitute its own view of a preferable outcome, nor can it reweigh the evidence.

[51] I wish to first deal with Issue 3.

B. *Issue 3 - Did the delegate exceed his or her jurisdiction?*

[52] The applicant claims that the delegate exceeded his or her jurisdiction by going behind the findings of the Refugee Board which had found that the applicant was a Mohajir and a member of the MQM. The delegate stated in the decision:

> Mr. Ahmed's Record of Landing indicates that his mother tongue is Pashto. The documentary evidence indicates that the MQM represents the mostly Urdu-speaking Mohajir community, originally Indian Muslims who fled to Pakistan following the 1947 partition. Mr. Ahmed has indicated that he speaks Urdu in other immigration documents and, based on his participation in his refugee hearing using an Urdu interpreter, I do believe that he is fluent in Urdu, the official language of Pakistan. However his indication that Pashto is one of the languages he normally speaks decreases the weight of his submission that he is member of the Muhajir community.

[53] The above statement by the delegate indicates to me that the delegate disagreed with the Board's finding as to the identity of the applicant as a Mohajir and a member of the MQM.

[54] In *Nagalingam*, the Federal Court of Appeal states at paragraphs 41 to 43:

> 41 Respectfully, I find that Justice Kelen ignored the structure of section 115, as well as Canada's overall responsibilities with regards to the Convention, when finding that the absence of risk for the appellant, if returned to Sri Lanka, was determinative of his right to *non-refoulement*.

> 42 The scope of section 115 is such that the principle of *non-refoulement* continually applies to a protected person or a Convention refugee until one of the two exceptions listed therein is engaged. Thus, to determine that the principle of *non-refoulement* no longer applies simply because the conditions in the protected person's or the Convention refugee's country of origin have improved is to short-circuit the process.
>
> 43 The approach of Justice Kelen essentially forces the Delegate to act beyond his jurisdiction, ruling on the appellant's status as a Convention refugee, rather than whether the nature and severity of the acts committed deprive him of the benefits associated with that status (i.e. not to be *refouled*). To this end, I agree with the respondent that the *Ragupathy* approach ensures that the Delegate maintains his jurisdiction as his role is not in any way to remove or alter the subject's status as Convention refugee (respondent's memorandum at paragraph 71). Proceeding in this manner guarantees that the Delegate's function will not usurp the role of the Refugee Protection Division on a cessation determination pursuant to subsection 108(2) of the Act.

[55] For ease of reference, section 115 of the Act reads as follows:

| | |
|---|---|
| 115. (1) A protected person or a person who is recognized as a Convention refugee by another country to which the person may be returned shall not be removed from Canada to a country where they would be at risk of persecution for reasons of race, religion, nationality, membership in a particular social group or political opinion or at risk of torture or cruel and unusual treatment or punishment. | 115. (1) Ne peut être renvoyée dans un pays où elle risque la persécution du fait de sa race, de sa religion, de sa nationalité, de son appartenance à un groupe social ou de ses opinions politiques, la torture ou des traitements ou peines cruels et inusités, la personne protégée ou la personne dont il est statué que la qualité de réfugié lui a été reconnue par un autre pays vers lequel elle peut être renvoyée. |
| (2) Subsection (1) does not apply in the case of a person | (2) Le paragraphe (1) ne s'applique pas à l'interdit de territoire : |
| (a) who is inadmissible on | a) pour grande criminalité qui, |

| | |
|---|---|
| grounds of serious criminality and who constitutes, in the opinion of the Minister, a danger to the public in Canada; or | selon le ministre, constitue un danger pour le public au Canada; |
| (b) who is inadmissible on grounds of security, violating human or international rights or organized criminality if, in the opinion of the Minister, the person should not be allowed to remain in Canada on the basis of the nature and severity of acts committed or of danger to the security of Canada. | b) pour raison de sécurité ou pour atteinte aux droits humains ou internationaux ou criminalité organisée si, selon le ministre, il ne devrait pas être présent au Canada en raison soit de la nature et de la gravité de ses actes passés, soit du danger qu'il constitue pour la sécurité du Canada. |
| (3) A person, after a determination under paragraph 101(1)(e) that the person's claim is ineligible, is to be sent to the country from which the person came to Canada, but may be sent to another country if that country is designated under subsection 102(1) or if the country from which the person came to Canada has rejected their claim for refugee protection. | (3) Une personne ne peut, après prononcé d'irrecevabilité au titre de l'alinéa 101(1)e), être renvoyée que vers le pays d'où elle est arrivée au Canada sauf si le pays vers lequel elle sera renvoyée a été désigné au titre du paragraphe 102(1) ou que sa demande d'asile a été rejetée dans le pays d'où elle est arrivée au Canada. |

[56] In my view, the delegate exceeded his or her jurisdiction by not accepting the IRB's finding that the applicant was a member of the Muhajir community and a member of the MQM party. The delegate then used his finding to deny the applicant's request. I find that this was unreasonable and as a result, the decision must be set aside and returned to a different delegate for reconsideration. I have no way of knowing what the conclusion of the delegate would have been had the delegate accepted the finding of the IRB.

[57] Because of my finding on this issue, I need not deal with the other issues.

[58] The respondent requested that since the responses to information requests dated December 13, 2011 were not before the delegate, it should not be part of the record. I agree.

[59] Neither party wished to submit a proposed serious question of general importance for my consideration for certification.

## JUDGMENT

**THIS COURT'S JUDGMENT is that** the application for judicial review is allowed and the matter is referred to a different delegate for redetermination.

"John A. O'Keefe"

Judge

## ANNEX

### Relevant Statutory Provisions

### *Immigration and Refugee Protection Act*, SC 2001, c 27

| | |
|---|---|
| 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; |
| … | … |
| 72. (1) Judicial review by the Federal Court with respect to any matter — a decision, determination or order made, a measure taken or a question raised — under this Act is commenced by making an application for leave to the Court. | 72. (1) Le contrôle judiciaire par la Cour fédérale de toute mesure — décision, ordonnance, question ou affaire — prise dans le cadre de la présente loi est subordonné au dépôt d'une demande d'autorisation. |
| … | … |
| 115. (1) A protected person or a person who is recognized as a Convention refugee by another country to which the person may be returned shall not be removed from Canada to a country where they would be at risk of persecution for reasons of race, religion, nationality, membership in a particular social group or | 115. (1) Ne peut être renvoyée dans un pays où elle risque la persécution du fait de sa race, de sa religion, de sa nationalité, de son appartenance à un groupe social ou de ses opinions politiques, la torture ou des traitements ou peines cruels et inusités, la personne protégée ou la personne dont il est |

political opinion or at risk of torture or cruel and unusual treatment or punishment.

statué que la qualité de réfugié lui a été reconnue par un autre pays vers lequel elle peut être renvoyée.

(2) Subsection (1) does not apply in the case of a person

(2) Le paragraphe (1) ne s'applique pas à l'interdit de territoire :

(a) who is inadmissible on grounds of serious criminality and who constitutes, in the opinion of the Minister, a danger to the public in Canada; or

a) pour grande criminalité qui, selon le ministre, constitue un danger pour le public au Canada;

(b) who is inadmissible on grounds of security, violating human or international rights or organized criminality if, in the opinion of the Minister, the person should not be allowed to remain in Canada on the basis of the nature and severity of acts committed or of danger to the security of Canada.

b) pour raison de sécurité ou pour atteinte aux droits humains ou internationaux ou criminalité organisée si, selon le ministre, il ne devrait pas être présent au Canada en raison soit de la nature et de la gravité de ses actes passés, soit du danger qu'il constitue pour la sécurité du Canada.

**FEDERAL COURT**

**SOLICITORS OF RECORD**

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| **DOCKET:** | IMM-7687-13 |
| **STYLE OF CAUSE:** | SIRAJ AHMED (AKA AHMED SIRAJ) v THE MINISTER OF CITIZENSHIP AND IMMIGRATION |
| **PLACE OF HEARING:** | TORONTO, ONTARIO |
| **DATE OF HEARING:** | MARCH 3, 2015 |
| **REASONS FOR JUDGMENT AND JUDGMENT:** | O'KEEFE J. |
| **DATED:** | AUGUST 28, 2015 |

**APPEARANCES:**

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| Naseem Mithoowani | FOR THE APPLICANT |
| A. Leena Jaakkimainen | FOR THE RESPONDENT |

**SOLICITORS OF RECORD:**

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