

Federal Court



Cour fédérale

Date: 20160112

Docket: IMM-132-16

Citation: 2016 FC 39

Vancouver, British Columbia, January 12, 2016

PRESENT: The Honourable Mr. Justice Shore

BETWEEN:

HUSSEIN SEFU

Applicant

and

**MINISTER OF PUBLIC SAFETY AND
EMERGENCY PREPAREDNESS**

Respondent

ORDER AND REASONS

[1] **UPON** the Court having received a Motion in respect of an Applicant for a stay of Removal Order in regard to a removal set for January 13, 2016.

[2] **UPON** having read the material submitted to the Court.

[3] **AND UPON** having heard counsel for the parties in a hearing at General Sittings.

[4] In the context of the Applicant, he has failed to make full and frank disclosure in respect of his background. Such failure of disclosure is detrimental to the granting of equitable relief. It is important for a Court to know all relevant facts in a case before it.

[5] The Applicant has not disclosed his situation in Canada as to the set of facts on which he finds himself before the Court. The Applicant has not explained adequately the matter of his arrest upon arrival in Canada.

[6] The Applicant's evidence *per se* states he did not know that he had been in the United States, nor that he had come to Canada until having been informed of such. The Applicant did not adequately explain how he came to the U.S., nor that he had entered the U.S., although having himself shown, his own passport to the American Immigration Authorities. The pertinent evidence demonstrates that the Applicant did not act in an open or informative manner with the border or immigration authorities of Canada (nor does his affidavit inform more so); nor are key factors in that regard known to this Court, such as with whom he had travelled, as he was found with another individual at the Canada-U.S. border.

[7] As the Applicant did not make full and frank disclosure, the facts weigh against the granting of equitable relief.

[8] As an interlocutory injunction in respect of a stay of execution of removal is an extraordinary and discretionary remedy, it is not available in circumstances of failure to disclose pertinent, essential, or primordial information.

[9] As the Applicant does not have “clean hands” in regard to the Canadian Authorities as per *Brunton v Canada (MPSEP)*, 2006 FC 33, having shown disregard for Canadian Immigration laws, or does not have “clean hands”, the Court has decided that it will not entertain the Motion for a stay of removal on its substance.

ORDER

THIS COURT ORDERS that the Motion, on its intrinsic and inherent basis, not be heard on its substance.

"Michel M.J. Shore"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-132-16

STYLE OF CAUSE: HUSSEIN SEFU v THE MINISTER OF PUBLIC SAFETY AND EMERGENCY PREPAREDNESS

PLACE OF HEARING: VANCOUVER, BRITISH COLUMBIA

DATE OF HEARING: JANUARY 12, 2016

ORDER AND REASONS: SHORE J.

DATED: JANUARY 12, 2016

APPEARANCES:

Shahryar Zandnia FOR THE APPLICANT

Sam Arden FOR THE RESPONDENT

SOLICITORS OF RECORD:

Zandnia Law FOR THE APPLICANT
Vancouver, British Columbia

William F. Pentney FOR THE RESPONDENT
Deputy Attorney General of Canada
Vancouver, British Columbia