

Federal Court



Cour fédérale

Date: 20190821

Docket: IMM-4786-19

Citation: 2019 FC 1089

[UNREVISED CERTIFIED ENGLISH TRANSLATION]

Ottawa, Ontario, August 21, 2019

PRESENT: The Honourable Mr. Justice Shore

BETWEEN:

LEONIE MOUSSOUNDA

Applicant

and

**THE MINISTER OF PUBLIC SAFETY AND
EMERGENCY PREPAREDNESS**

Respondent

ORDER AND REASONS

[1] The applicant seeks the stay of an order to remove her to the Republic of Congo effective August 22, 2019. This application is related to an application for leave and for judicial review [ALJR] by the applicant concerning the pre-removal risk assessment [PRRA].

[2] The applicant arrived in Canada as a temporary resident on April 3, 2016, for a period not exceeding six months.

[3] The applicant filed a refugee protection claim alleging persecution in her country because she is homosexual.

[4] Due to the lack of credibility, the refugee protection claim was rejected by the Refugee Protection Division.

[5] The applicant's appeal was dismissed by the Refugee Appeal Division [RAD], again as a result of a lack of credibility, as the RAD did not believe applicant's allegations.

[6] The ALJR of the RAD's decision was also dismissed by this Court, which found that the RAD's decision with respect to credibility and subjective fear was reasonable, in light of the applicant's entire record.

[7] Following the previous proceedings, the application for humanitarian and compassionate considerations was rejected.

[8] In addition, the applicant's PRRA application was also rejected.

[9] New evidence, arising after the previous proceedings, presented by the applicant and related, in her opinion, to her testimony and to her written evidence, which the decision-makers below have already found not to be credible, cannot be circumvented to argue that she faces a

risk should she return to her country of origin. (*Salomon Herrada v Canada (Minister of Citizenship and Immigration)*, 2006 FC 1004 [*Salomon*]; *Jozsefne v Canada (Public Safety and Emergency Preparedness)*, 2008 FC 1411; and *Malagon v Canada (Citizenship and Immigration)*, 2008 FC 1068, with respect to the documents considered to have no probative value.)

[10] On July 29, 2019, the applicant was advised of her removal scheduled for August 22, 2019, that is, three weeks after her Direction to Report in which she was informed of the decision regarding her removal.

[11] Having considered the written and oral representations of both parties, the Court is of the opinion that the stay application is without merit (*Salomon*, above, at paras 30 to 32).

[12] The removal order is reasonable, as the applicant did not meet the three criteria in *Toth* (*Toth v Canada (Minister of Employment and Immigration)* (1988), 86 NR 302 (FCA)).

[13] With respect to the arguments relating to the *Canadian Charter of Rights and Freedoms* [Charter] and international law, removal following an assessment is not contrary to sections 7 and 12 of the Charter.

[14] According to the law, the public interest requires the Department of Public Safety and Emergency Preparedness to remove any person who is the subject of an enforceable removal order (*Shaikh v Canada (Citizenship and Immigration)*, 2007 FC 110 at para 39).

[15] For all of these reasons, the applicant's stay application is dismissed.

ORDER in IMM-4786-19

THE COURT ORDERS that the applicant's stay application be dismissed.

“Michel M.J. Shore”

Judge

Certified true translation
This 3rd day of September, 2019.
Michael Palles, Reviser

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-4786-19

STYLE OF CAUSE: LÉONIE MOUSSOUNDA v THE MINISTER OF
PUBLIC SAFETY AND EMERGENCY
PREPAREDNESS

**MOTION HEARD BY TELECONFERENCE ON AUGUST 20, 2019, IN MONTRÉAL,
QUEBEC**

ORDER AND REASONS: SHORE J.

DATED: AUGUST 21, 2019

ORAL AND WRITTEN SUBMISSIONS BY:

Miguel Mendez FOR THE APPLICANT

Caroline Doyon FOR THE RESPONDENT

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