Federal Court  Cour fédérale

Date: 20100720

Docket: IMM-4115-10

Citation: 2010 FC 766

[UNREVISED ENGLISH CERTIFIED TRANSLATION]

Ottawa, Ontario, July 20, 2010

PRESENT: The Honourable Mr. Justice Shore

BETWEEN:

CHUYO CRUZ OSCAR ARTURO

Applicant

and

THE MINISTER OF PUBLIC SAFETY AND EMERGENCY PREPAREDNESS

Respondent

REASONS FOR ORDER AND ORDER

I. Preamble

[1] The removal officer had before him no reason to defer the removal in question. The applicant had the onus to present evidence justifying the deferral of the removal, but did not do so. This has been explained by the Court as follows:

> [2] The applicant did not demonstrate that she had submitted evidence to the removals officer that could constitute sufficient justification for the officer to exercise his discretion, which is limited to deferring a removal **by reason of special or compelling circumstances**:

> [45] The order whose deferral is in issue is a mandatory order which the Minister is bound by law to execute. **The exercise of deferral requires justification for failing to obey a positive obligation imposed by statute**. That justification must be found in the statute or in some other legal obligation imposed on the Minister which is of sufficient importance to relieve the Minister from compliance with section 48 of the Act [*Immigration Act*, R.S.C. 1985, c. 1‑2]. [Emphasis added.]

(*Duran v Canada (Minister of Public Safety and Emergency Preparedness)*, 2007 FC 738)

[2] With respect to the applicant's allegations that his safety would be at risk if he were removed to Peru, the risks alleged were assessed various times, that is, by the Convention Refugee Determination Division (CRDD) (Application for leave and judicial review (ALJR) dismissed by the Federal Court on March 18, 1998) and in the context of the pre-removal risk assessment (PRRA). The negative PRRA decision dated March 26, 2010, was not challenged before the Federal Court by the applicant. All of these proceedings dismissed the applicant's allegations that he would face a risk to his life and safety if he were to return to Peru.

II. Introduction

[3] According to the assessment of the applicant's risks of return, the applicant stated that he fears for his life in Peru because terrorist groups called "Shining Path" and "Tupac Amaru" apparently threatened him. He was hired by a security agency in May 1989 and was assigned to provide security and protection services to diplomats, dignitaries and embassies, including the American embassy. The terrorist groups purportedly uttered death threats against him and threats against his family if he refused to disclose very sensitive information to them.

[4] The CRDD's member panel, which heard the applicant at the hearing of his claim, found, after careful analysis, that he did not act like someone with a well-founded fear. The applicant did not seek protection from the Peruvian authorities before deciding to go abroad. Furthermore, he did not demonstrate that he was pressured to leave his country because, according to his statement, he started to receive threats in 1990.

[5] The PRRA found that there would be no risk, within the meaning of the Regulations, to the applicant if he were to return to Peru. In fact, the applicant did not succeed in convincing the PRRA officer that his fear of danger in Peru was well-founded. The work that he did had risks. However, the PRRA officer did not believe the latest threats he says he received. The circumstances in which they were made were considered unlikely.

[6] The applicant's passport shows that he obtained a US visa on October 24, 1994, and that he stayed there from January to March 1996. The applicant failed to avail himself of the opportunity to seek refuge abroad.

III. Judicial procedure

[7] On July 16, 2010, the applicant filed an ALJR against the removal officer's decision dated July 9, 2010.

[8] In that decision, the officer refused to defer the applicant's removal to Peru scheduled for July 21, 2010.

[9] Along with that ALJR, the applicant filed, on July 16, 2010, a motion for the stay of his removal to Peru.

Preliminary remark: The applicant does not come before the court with clean hands

[10] In *Castillo v Canada (Minister of Citizenship and Immigration)*, 2008 FC 172, the Court specified that it consistently refuses to hear people who do not appear before them with clean hands. The failure to appear at a meeting for his departure arrangements in anticipation of his removal in 1998, together with the fact that he remained in Canada illegally for 11 years while working under an alias, is enough to refuse to hear a stay application on the merits:

> [1] The applicant did not report for his removal on October 7, 2006. An arrest warrant was issued against him on October 23, 2006. This arrest warrant was executed on October 31, 2007, i.e. one year later.
>
> [2] His failure to report to the airport on October 7, 2006, is enough in itself to dismiss this stay application.
>
> [3] No person should able to benefit from their own wrongdoing. This is why the Court consistently refuses to hear people who do not appear before them with clean hands:
>
> > [2] . . . Moreover, as the applicant failed to present himself to an interview with Citizenship and Immigration Canada officials, a warrant for arrest was issued against him on July 17, 2002 and executed almost six months later on January 14, 2003. Clearly, the applicant is not presenting himself with clean hands before the Court. . . .
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> (*Mohar v. Canada (Minister of Citizenship and Immigration)*, 2005 FC 952, [2005] F.C.J. No. 1179 (QL); also, *Chen v. Canada (Minister of Citizenship and Immigration)*, 2003 FC 1464, [2003] F.C.J. No. 1901 (QL), paragraph 3.) [Emphasis added.]

(Also: *Wong v Canada (Minister of Citizenship and Immigration)*, 2010 FC 569, by Justice Yvon Pinard)

[11] The applicant cannot ask the Court for an extraordinary remedy while disregarding the law. The applicant's unwarranted statement about his former counsel is not enough to justify his decision to hide from 1998 until his arrest in November 2009.

[12] Not only is the applicant's statement about his former counsel not supported by the evidence, but there is also no indication of any follow-up on the investigation request that was made in 1998: Did the applicant meet with the assistant syndic? Was the complaint accepted? There is no evidence regarding that serious accusation and, more importantly, there is no evidence that a complaint was actually filed with the disciplinary council further to the applicant's investigation request.

[13] There has been an abuse of process in this case and the Court could stop here and refuse to hear this application. Yet, the Court has decided to continue so that the findings with respect to the facts and points in law it has adopted are clear.

IV. Facts

[14] The applicant, a Peruvian citizen, arrived in Canada on March 31, 1997, and claimed refugee protection. A departure order was issued on that date against the applicant.

[15] On December 1, 1997, the Immigration and Refugee Board (IRB) informed the applicant that he was not a Convention refugee because his actions did not demonstrate a well-founded fear of persecution and because he did not meet his obligation to avail himself of protection in his country.

[16] On March 6, 1998, the applicant's application in the Post-Determination Refugee Claimants in Canada Class (PDRCC) was rejected because the risks identified were not substantiated.

[17] On March 18, 1998, in docket IMM-5419-97, the Federal Court dismissed the applicant's application for leave and judicial review because he failed to file his record.

[18] On November 5, 1998, an arrest warrant was issued against the applicant because he did not appear at his meeting to arrange his departure.

[19] On November 25, 2009, the applicant was arrested and detained until November 27, 2009, at which time he was conditionally released. The circumstances of the applicant's arrest showed that he had been hiding in his son's home; a subsequent interview with the applicant revealed that he had been self-employed, had been paid in cash and had been using an alias.

[20] On March 26, 2010, a pre-removal risk assessment (PRRA) was done and a negative decision was rendered. That decision was communicated to the applicant on June 15, 2010.

[21] On July 9, 2010, the removal officer refused to defer the applicant's removal.

V. Issue

[22] Has the applicant met the three requisite criteria for obtaining a judicial stay of enforcement of a removal order?

VI. Analysis

[23] To obtain a judicial stay of enforcement of a removal order, the applicant must meet the following three cumulative tests set out in *Toth v Canada (Minister of Employment and Immigration)* (1988), 86 NR 302 (FCA) and consistently endorsed since then:

a. First, he has raised a serious issue to be tried;

b. Second, he will suffer irreparable harm if the order is not granted; and

c. Third, the balance of convenience, based on the overall situation of both parties, favours granting the order.

(For example, see *Castillo v Canada (Public Safety and Emergency Preparedness*), 2008 FC 172 at paragraph 10)

[24] The applicant does not meet the test established in *Toth*, above, as demonstrated by the respondent, with whom the Court is in complete agreement.

A. Serious issue

[25] The applicant must show that his application is not frivolous or vexatious. The Court must conduct a preliminary review of the merits of the case to determine whether an issue worthy of consideration is raised:

> [18] Granting this motion would effectively grant the relief which the Applicant seeks in the underlying application for leave and for judicial review (i.e. deferring removal). This Court must, therefore, engage in a more extensive review of the merits of the application. . . . [Emphasis added.]

(*Patterson v Canada (Minister of Citizenship and Immigration)*, 2008 FC 406)

[26] None of the issues raised by the applicant in his submissions constitutes a serious issue.

[27] A removal officer is required to enforce any validly issued removal order. Nonetheless, subsection 48(2) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 (IRPA) grants some discretion to the officers in carrying out their duties:

Enforcement of Removal Orders	***Exécution des mesures de renvoi***
48. (1) Enforceable removal order – A removal order is enforceable if it has come into force and is not stayed.	**48. (1) Mesure de renvoi** – La mesure de renvoi est exécutoire depuis sa prise d'effet dès lors qu'elle ne fait pas l'objet d'un sursis.
(2) Effect – If a removal order is enforceable, the foreign national against whom it was made must leave Canada immediately and it must be enforced as soon as is reasonably practicable.	**(2) Conséquence** – L'étranger visé par la mesure de renvoi exécutoire doit immédiatement quitter le territoire du Canada, la mesure devant être appliquée dès que les circonstances le permettent.

[28] Thus, officers have the discretion to stay a removal order **if it is not reasonably practicable to enforce the removal**.

[29] However, the scope of this discretion is **extremely narrow**. Indeed, the jurisprudence of this Court has established that a removal should only be stayed in cases where there is a serious, practical impediment to the removal:

> [7] As my colleague Mr. Justice Barnes noted in *Griffiths v. Canada (Solicitor General)*, [2006] F.C.J. No. 182 at paragraph 19, a deferral is "a temporary measure necessary to obviate a serious, practical impediment to immediate removal". [Emphasis added.]

(*Uthayakumar v Canada (Minister of Public Safety and Emergency Preparedness)*, 2007 FC 998, per Justice Eleanor Dawson)

[30] It has been clearly established that the person requesting the deferral must provide **evidence** that the deferral is justified (*Duran*, above).

[31] As a result, to justify the deferral of his removal, the applicant had the burden of demonstrating to the officer the existence of a serious impediment to his return to Peru. That was not done. This Court explained the following concerning a removal order:

> [19] The validity of the removal order is not in doubt. Removal officers have a statutory duty to remove persons subject to valid removal orders from Canada as soon as reasonably practicable. (*Immigration and Refugee Protection Act*, S.C. 2001, c. 27 (IRPA), ss. 48(2).)
>
> [20] The discretion which a removal officer may exercise is very limited, and in any case, is restricted as to when a removal order will be executed. In deciding when it is "reasonably practicable" for a removal order to be executed, an officer may consider various factors such as illness, other impediments to travelling, and pending H&C applications. (*Simoes v. Canada (Minister of Citizenship and Immigration)* (2000), 187 F.T.R. 219; *Wang*, above.) (Emphasis added.]

(*Patterson*, above)

[32] An application for residence on humanitarian and compassionate grounds that is in progress, the claim that a sponsorship application for the applicant's spouse was filed, the applicant's alleged attachment to his niece, the separation from his family in Canada and the unsubstantiated risks raised by the applicant do not constitute reasons that justify deferring the applicant's removal.

[33] The officer's decision to refuse to defer the removal is owed deference by this Court:

> [5] While there is some divergence in the jurisprudence with respect to the applicable standard of review, the preponderance of authority appears to be to the effect that the appropriate standard of review of an officer's refusal to defer removal is patent unreasonableness. See, for example, *Zenunaj v. Canada (Minister of Citizenship and Immigration)*, [2005] F.C.J. No. 2133, and the pragmatic and functional analysis at paragraph 21. . . . [Emphasis added.]

(*Uthayakumar*, above)

[34] The applicant alleges in his affidavit that his counsel contacted the officer to request a stay of the deferral of the removal and indicated that an application for permanent residence on humanitarian and compassionate grounds had been filed, that all of his family was in Canada and that there was no one for him to stay with in Peru, that he was the victim of an error made by his former counsel, that he is very attached to his niece's child, who regards him like a grandfather, and, finally, that he filed an application for leave and judicial review of the negative PRRA decision in Federal Court.

[35] Contrary to what the applicant states, his counsel did not file an application for leave and judicial review of the negative PRRA decision. The only matter before the Federal Court is docket IMM-4115-10, which concerns the refusal to defer removal.

[36] The applicant also alleges that an application for permanent residence sponsored by his son concerning his son's mother and the applicant's spouse, Lydia Margarita Piaggio Humphery (spouse) was filed. The applicant's spouse is currently visiting Canada.

[37] Moreover, a letter dated July 13, 2007, on this point simply stated that a sponsorship application for parents or grandparents was received, but it did not say who it concerned; furthermore, according to the Field Operating Support System notes (FOSS notes), there is no proof that the referenced application is being processed. In addition, the Citizenship and Immigration Canada (CIC) office that processes these types of applications is very behind; the applications that are currently being processed in Mississauga are from June 2007. The application is therefore far from being finalized, as claimed in the applicant's memorandum, at page 16 of his record.

[38] The reasons raised and the absence of evidence demonstrating that the circumstances did not allow for the enforcement of the removal justify the officer's decision to not defer the removal.

[39] With respect to the pending application for permanent residence on humanitarian and compassionate grounds (H&C application) that was filed by the applicant in December 2009 and that is being processed, it is well established that the fact that the applicant must leave Canada when

a decision has not yet been rendered on his H&C application does not constitute, in itself, an irreparable harm or a serious issue. That application will proceed (*Villareal v Canada (Minister of Citizenship and Immigration)*, [1999] FCJ No 1754 (QL) (FC)).

[40] According to the FOSS notes, the application has not yet been transferred to the local CIC in Montréal and is far from being completed.

[41] The legislation does not provide for a stay pending the review of a sponsorship application (*Immigration and Refugee Protection Regulations)*, SOR/2002-227 (Regulations), and it is settled law that a sponsorship application does not constitute an impediment to removal:

> [24] It is settled law that a pending sponsorship application is not *per se* an obstacle to removal.
>
> > [52] Turning to the issue in the underlying judicial review, the removal officer's refusal to defer the removal pending the disposition of the H & C application, I find no serious issue with regard to the removal officer's conduct. As set out above, a pending H & C application on grounds of family separation is not itself grounds for delaying a removal. To treat it as such would be to create a statutory stay which Parliament declined to enact: *Green v. Minister of Employment and Immigration*, [1984] 1 F.C. 441 (C.A.), cited in *Cohen v. Canada (Minister of Citizenship and Immigration)* (1995), 31 Imm. L.R. (2d) 134 (F.C.T.D.), per Noël J. (as he then was). . . .
>
> (*Wang*, above . . .)

[42] The sponsorship application filed by the applicant's son will proceed even when the applicant is outside Canada (Regulations, section 117).

[43] It is clear that officers have very little discretion and that, as a result, their obligation to consider the interests of children (the applicant's niece) is not comparable to that of a decision-maker in the context of an application for humanitarian and compassionate considerations:

> [9] The Federal Court of Appeal, in *Canada (Minister of Citizenship and Immigration) v. Varga*, 2006 FCA 394, at paragraph 16 noted the "limited" discretion of a removal officer, remarking that "their obligation, if any, to consider the interests of affected children is at the low end of the spectrum".
>
> . . .
>
> [12] Without doubt, when assessing an H & C application an officer must carefully consider and weigh the long-term best interests of an affected child. That, however, is not the obligation of a removal officer, who is to decide when it is "reasonably practicable" to enforce a removal order. A removal officer should consider the short-term interests of a child who faces the removal of a parent. This will essentially entail inquiry into whether, after the departure of the parent, the child will be adequately looked after. Such inquiry should not be duplicative of a full H & C assessment. [Emphasis added.]

(*Uthayakumar*, above)

[44] In this case, in the absence of any evidence, the decision to refuse to defer the removal was completely reasonable:

> [4] In this case I am not persuaded that the underlying application has a likelihood of success for these reasons:
>
> 1. The removals officer was not under an obligation to consider the best interests of the child in this case. His discretion to defer removal is limited. The case of *Baker v. Canada (Minister of Citizenship and Immigration)*, [1999] 2 S.C.R. 817 does not, in my view, extend to the discretion of a removals officer, particularly where there is no clear evidence before the officer as to the impact of the removal on the child (*Simoes v. Canada (Minister of Citizenship and Immigration)*, [2000] F.C.J. No. 936 (T.D.) (QL); *John v. Canada (Minister of Citizenship and Immigration)*, 2003 FCT 420, [2003] F.C.J. No 583 (QL)). In this case, even if I assume that no specific request was required, there was no evidence put before the officer other than the existence of a child and family. [Emphasis added.]

[45] Regarding the applicant's separation from his family in Canada, there is extensive case law to the effect that family separation does not constitute irreparable harm, but rather an inevitable consequence of any removal (*Atwal v Canada (Minister of Citizenship and Immigration)*, 2004 FCA 427).

[46] What the applicant alleges with respect to a serious issue and irreparable harm are simply normal and inevitable consequences of deportation. In this case, his allegations do not constitute a serious issue regarding the officer's decision to not defer the removal and do not constitute irreparable harm as the case law of this Court has defined numerous times:

> [21] But if the phrase irreparable harm is to retain any meaning at all, it must refer to some prejudice beyond that which is inherent in the notion of deportation itself. To be deported is to lose your job, to be separated from familiar faces and places. It is accompanied by enforced separation and heartbreak. [Emphasis added.]

(Melo v Canada (Minister of Citizenship and Immigration) (2000), 188 FTR 39)

> [13] The removal of persons who have remained in Canada without status will always disrupt the lives that they have succeeded in building here. This is likely to be particularly true of young children who have no memory of the country that they left. Nonetheless, the kinds of hardship typically occasioned by removal cannot, in my view, constitute irreparable harm for the purpose of the *Toth* rule, otherwise stays would have to be granted in most cases, provided only that there is a serious issue to be tried . . . .

(*Selliah v Canada (Minister of Citizenship and Immigration)*, 2004 FCA 261)

[47] Finally, the allegation concerning the applicant's former counsel has no basis and it provided grounds to the officer to conclude that it was also not a reason to defer the removal.

B. Irreparable harm

[48] The concept of irreparable harm was defined by the Court in *Kerrutt v Canada (Minister of Employment and Immigration)* (1992), 53 FTR 93, as the **removal of a person to a country where his safety or life are in jeopardy.** In the same decision, the Court also found that mere personal inconvenience or family separation do not constitute irreparable harm.

[49] That decision has since been cited many times, including by Justice Sandra Simpson in *Calderon v Canada (Minister of Citizenship and Immigration)*, [1995] FCJ No 393 (QL), where she stated the following regarding the definition of irreparable harm established in *Kerrutt*, above:

> [22] In *Kerrutt v. MEI* (1992), 53 F.T.R. 93 (F.C.T.D.) , Mr. Justice MacKay concluded that, for the purposes of a stay application, irreparable harm implies the serious likelihood of jeopardy to an applicant's life or safety. This is a very strict test and I accept its premise that irreparable harm must be very grave and more than the unfortunate hardship associated with the breakup or relocation of a family. [Emphasis added.]

[50] The applicant bears the burden of providing clear evidence of the harm that he alleges:

> [23] The evidence in support of harm must be clear and non-speculative. (*John c. Canada (Minister of Citizenship and Immigration)*, [1999] F.C.J. No. 915 (QL); *Wade v. Canada (Minister of Citizenship and Immigration)*, [1995] F.C.J. No. 579 (QL).)
>
> . . .
>
> [25] Moreover, to demonstrate irreparable harm, the Applicants must demonstrate that if removed from Canada, they would suffer irreparable harm between now and the time at which any positive decision is made on their application for leave and for judicial review. The Applicants have not done so. (*Reddy v. Canada (Minister of Citizenship and Immigration)*, [1999] F.C.J. No. 644 (QL); *Bandzar v. Canada (Minister of Citizenship and Immigration)*, [2000] F.C.J. No. 772 (QL); *Ramirez-Perez v. Canada (Minister of Citizenship and Immigration)*, [2000] F.C.J. No. 724 (QL).) [Emphasis added.]

(*Adams v Canada (Minister of Citizenship and Immigration)*, 2008 FC 256)

[51] The applicant has not demonstrated that his removal to Peru would cause him irreparable harm.

[52] The applicant cited *Suresh v Canada (Minister of Citizenship and Immigration)*, [1999] 4 FC 206 (CA), but it does not apply given the facts in this case.

[53] Consequently, the allegation of risk to his safety cannot be used to demonstrate irreparable harm to obtain a stay of his removal order.

[54] The applicant also claims that his removal would constitute a breach of section 7 of the *Canadian Charter of Rights and Freedoms, Constitution Act, 1982* (U.K.), being Schedule B to the *Canada Act 1982* (U.K.), 1982, c 11. (Charter).

[55] In any event, this Court has clearly established and repeated that removal does not constitute a breach of the Charter:

> [52] Moreover, the Supreme Court of Canada has recently held that deportation does not as such deprive a non-citizen of his right to life, liberty or security of the person. (*Medovarski v. Canada (Minister of Citizenship and Immigration)*, 2005 SCC 51, [2005] S.C.J. No. 31(QL), at paragraph 46; *Romans v. Canada (Minister of Citizenship and Immigration)*, 2001 FCA 272, [2001] F.C.J. No. 1416 (QL).) [Emphasis added.]

(*Gonzalez v Canada (Minister of Citizenship and Immigration)*, 2006 FC 1274)

[56] Moreover, a risk assessment was done and completed on March 26, 2010. Also, in 1997, the applicant's refugee claim was rejected, and the ALJR against that decision was also dismissed. Furthermore, an initial pre-removal risk assessment was done in 1998 under the former "Post-Determination Refugee Claimants in Canada class" (PDRCC), and, in the context of that assessment, it was again determined that the applicant would not face a risk if he were to be removed to Peru.

[57] As a result, that argument cannot stand and must be rejected. The risks were analyzed and it is clear that the applicant's removal does not breach section 7 of the Canadian Charter. This raises absolutely no serious issue.

[58] The applicant submits no evidence of irreparable harm. The applicant's argument must therefore fail.

C. Balance of convenience

[59] In the absence of a serious issue and irreparable harm, the balance of convenience favours the public interest in ensuring that the immigration process provided for in the IRPA follows its course (*Mobley v Canada (Minister of Citizenship and Immigration)*, [1995] FCJ No 65 (QL). Recently, this Court noted the following:

> [33] The Federal Court of Appeal has confirmed that the Minister's obligation is "not simply a question of administrative convenience, but implicates the integrity and fairness of, and public confidence in, Canada's system of immigration control." (*Selliah*, above, para.22.)

> [34] In the present case, the Applicant seeks extraordinary equitable relief. It is trite law that the public interest must be taken into consideration when evaluating this last criterion. In order to demonstrate that the balance of convenience favours the Applicant, the latter should demonstrate that there is a public interest not to remove him as scheduled. (*RJR-MacDonald*, above; *Blum v. Canada (Minister of Citizenship and Immigration)* (1994), 90 F.T.R. 54, [1994] F.C.J. No. 1990 (QL), per Justice Paul Rouleau.). [Emphasis added.]

(*Patterson*, above)

[60] In fact, subsection 48(2) of the IRPA sets out that a removal order must be enforced as soon as possible.

[61] Justice Reed, in *Membreno-Garcia*, also discussed the issue of the balance of convenience on stay motions and the public interest that must be considered:

> [18] What is in issue, however, when considering balance of convenience, is the extent to which the granting of stays might become a practice which thwarts the efficient operation of the immigration legislation. It is well known that the present procedures were put in place because a practice had grown up in which many cases, totally devoid of merit, were initiated in the court, indeed were clogging the court, for the sole purpose of buying the appellants further time in Canada. There is a public interest in having a system which operates in an efficient, expeditious and fair manner and which, to the greatest extent possible, does not lend itself to abusive practices. This is the public interest which in my view must be weighed against the potential harm to the applicant if a stay is not granted.

(*Membreno-Garcia v Canada (Minister of Employment and Immigration)*, [1992] 3 FC 306)

[62] In this case, the applicant arrived in Canada in 1997 and filed a refugee protection claim, which was rejected; the Federal Court dismissed his application for leave and judicial review on March 18, 1998. The applicant applied for permanent residence on humanitarian and compassionate grounds, and that application is currently being examined. The applicant filed a PRRA application,

which was assessed and resulted in a negative outcome; the decision has not been challenged before the Federal Court. The applicant could have used every recourse to which he was entitled.

[63] The applicant has been the subject of an arrest warrant since 1998 and has remained in Canada illegally until today, under an alias, working under the table with no permit.

[64] In this case, the balance of convenience favours the Minister.

VII. Conclusion

[65] In light of the foregoing, the applicant does not meet the test set out in the case law with respect to obtaining a judicial stay.

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

ORDER

THE COURT ORDERS the dismissal of the applicant's application for a stay of the removal order.

"Michel M.J. Shore"
Judge

Certified true translation
Janine Anderson, Translator

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	IMM-4115-10
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