Federal Court  Cour fédérale

Date: 20120921

Docket: IMM-9684-11

Citation: 2012 FC 1109

Ottawa, Ontario, September 21, 2012

PRESENT: The Honourable Mr. Justice Zinn

BETWEEN:

EMMA AVDONINA

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

REASONS FOR JUDGMENT AND JUDGMENT

[1] Notwithstanding that all agree that this application is moot, the applicant asks the Court to exercise its discretion and hear it.

[2] The applicant is a failed refugee claimant. This application seeks judicial review of the negative Pre-Removal Risk Assessment (PRRA) decision. After the PRRA decision, Canada Border Services took steps to remove the applicant from Canada. She brought an unsuccessful motion to stay her removal in March 2012, and was deported on April 1, 2012. On June 7, 2012,

the judge who had denied the stay motion granted the applicant leave for judicial review of the PRRA decision.

[3] The Court of Appeal in *Solis Perez v Canada (Minister of Citizenship and Immigration)*, 2009 FCA 171 at para 5, has held that the judicial review of a negative PRRA decision is moot after the applicant has been removed from Canada.

> We agree that the application for judicial review is moot, and in particular with the statement made by Martineau J. at paragraph 25 of his reasons [2008 FC 663] where he says:
>
> > […] Parliament intended that the PRRA should be determined before the PRRA applicant is removed from Canada, to avoid putting her or him at risk in her or his country of origin. To this extent, if a PRRA applicant is removed from Canada before a determination is made on the risks to which that person would be subject to in her or his country of origin, the intended objective of the PRRA system can no longer be met. Indeed, this explains why section 112 of the Act specifies that a person applying for protection is a "person in Canada".
>
> By the same logic, a review of a negative decision of a PRRA officer after the subject person has been removed from Canada, is without object.

[4] The applicant submits that she has met the criteria set out in *Borowski v Canada (Attorney General)*, [1989] 1 S.C.R. 342 and begs the Court to exercise its discretion to hear her application.

[5] Despite the able submissions of counsel for the applicant, I am not persuaded that the criteria have been met. There is no longer any adversarial relationship between these parties because the basis of the application, review of the PRRA decision, has disappeared. Further,

judicial economy would not be served in hearing this application and there is no public interest in having it heard.

[6] No question is proposed for certification.

JUDGMENT

THIS COURT'S JUDGMENT is that the application is dismissed and no question is certified.

"Russel W. Zinn"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	IMM-9684-11
STYLE OF CAUSE:	EMMA AVDONINA v. THE MINISTER OF CITIZENSHIP AND IMMIGRATION
PLACE OF HEARING:	Toronto, Ontario
DATE OF HEARING:	September 5, 2012
REASONS FOR JUDGMENT AND JUDGMENT:	ZINN J.
DATED:	September 21, 2012

APPEARANCES:

Jonathan E. Fedder	FOR THE APPLICANT
Jane Stewart	FOR THE RESPONDENT

SOLICITORS OF RECORD:

JONATHAN E. FEDDER Barrister & Solicitor Toronto, Ontario	FOR THE APPLICANT
MYLES J. KIRVAN Deputy Attorney General of Canada Toronto, Ontario	FOR THE RESPONDENT