

Federal Court



Cour fédérale

**Date: 20130508**

**Docket: IMM-7817-12**

**Citation: 2013 FC 447**

**Ottawa, Ontario, May 8, 2013**

**PRESENT: The Honourable Mr. Justice Simon Noël**

**BETWEEN:**

**THE MINISTER OF CITIZENSHIP  
AND IMMIGRATION**

**Applicant**

**and**

**B344**

**Respondent**

**PUBLIC REASONS FOR JUDGMENT AND JUDGMENT**

**(Confidential Reasons for Judgment and Judgment  
released April 30, 2013)**

[1] This is an application for judicial review under section 72(1) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [IRPA] of a decision by the Refugee Protection Division [RPD] of the Immigration and Refugee Board, dated July 19, 2012, granting the Respondent refugee status.

**I. Facts**

[2] The Respondent is a Tamil male from Sri Lanka who arrived in Canada on August 10, 2010 on the *MV Sun Sea*.

[3] The Respondent was displaced within Sri Lanka in [redacted] and [redacted] until the Sri Lankan Army [SLA] gained control over Jaffna.

[4] The Respondent completed his university studies in [redacted] and started working in [redacted] in Jaffna. [Redacted].

[5] On [redacted], the [redacted] interrogated. The officers [redacted] Respondent was detained [redacted] and tortured. A [redacted].

[6] [Redacted].

[7] [Redacted]. He obtained a passport and [redacted] paid for his ticket to Thailand. While in Thailand, he met an agent and made arrangements to take a trip to Canada on the *MV Sun Sea*.

**II. Decision under review**

[8] The RPD found that the Respondent did not have a well-founded fear of persecution when he left Sri Lanka because of credibility issues. The RPD determined that it was implausible that the [redacted] and that he omitted important information in his Personal Information Form. The RPD

also found it implausible that the Respondent applied for a passport and was able to leave the country, despite there being stringent security checks in place in Sri Lanka at the time, particularly for those suspected of having ties to the LTTE. Therefore, the RPD concluded that the Respondent cannot be found to have a well-founded fear of persecution on the sole basis that he is a Tamil from the north of Sri Lanka.

[9] The RPD however found that the Respondent has a valid *sur place* claim. Indeed, the RPD determined that the Sri Lankan government suspects the *MV Sun Sea* to be linked to the LTTE and that passengers returning to Sri Lanka would be subjected to questioning. Relying on the documentary evidence, which establishes that Sri Lankan authorities use torture as a mean of securing information, the RPD concluded that the Respondent has a well-founded fear of persecution.

[10] The RPD reviewed a number of documentary evidence on human rights abuse by the government of Sri Lanka and determined that the Respondent faced a risk as a former passenger of the *MV Sun Sea*. This finding was based on the human rights reports of several international organizations and the United States Department of State Report, which also claim that the widespread use of torture has not abated since the civil war, and that the anti-terrorism legislative regime in Sri Lanka continues to provide structures enabling human rights violations with impunity.

[11] On the issue of nexus to a Convention ground under section 96 of the IRPA, the RPD concluded that being a passenger on a ship alone is not sufficient to establish nexus and that there

are “mixed motives” on the part of the agent of persecution. The Respondent’s Tamil ethnicity was considered to be a contributing factor to the risk he would face should he return to Sri Lanka.

[12] The evidence is clear that the Respondent would be questioned by Sri Lankan authorities upon his return to Sri Lanka and that his status as a former *MV Sun Sea* passenger would become known.

[13] The evidence also establishes that the Sri Lankan government perceives the *MV Sun Sea* to be part of an LTTE-administered trafficking operation, regardless of the Respondent’s previous perceived association with the LTTE.

[14] As for Sri Lankan authorities’ treatment of returnees, there is evidence that they use torture and abusive force against suspected terrorists and also against those who may have information about suspected terrorists. The Respondent would therefore face more than a mere possibility of being persecuted as a Tamil who traveled on the *MV Sun Sea*.

[15] As for state protection, the RPD concluded that the Sri Lankan Government itself is a potential agent of persecution, and that there is no ability to report abuses to the state. The RPD also determined that the Respondent does not have an internal flight alternative available to him as government agents would be able to locate him in Colombo.

### **III. Applicant’s submissions**

[16] The Applicant first submits that the RPD erred in determining that the Respondent's fear has a nexus to a Convention ground. In the present case, the RPD's reasons for its nexus finding are not intelligible or transparent as it is not clear which of the five grounds is engaged. Moreover, the Respondent's situation should not have been characterized as a case of mixed motives as the RPD did not determine that the Respondent would be targeted because of his ethnicity. The RPD's decision to grant refugee protection on the basis that the Respondent's ethnicity is a contributing factor to his risk is contrary to the principles established in *Canada (Minister of Citizenship and Immigration) v Huntley*, 2010 FC 1175 at para 129, 93 Imm LR (3d) (36), Russell J [*Huntley*] as ethnicity should be an independent basis for the persecution.

[17] Second, the Applicant submits that the RPD erred in determining that the Respondent is part of a particular social group that is targeted as he was a passenger on the *MV Sun Sea* and therefore suspected of being linked to the LTTE. Choosing to travel aboard an illegal human smuggling operation has nothing to do with the defence of human rights and is unrelated to the anti-discrimination and human right purpose of the Convention as established in *Canada (Minister of Citizenship and Immigration) v B380*, 2012 FC 1334, 224 ACWS (3d) 177, Crampton CJ [*B380*].

[18] Third, the Applicant submits that the RPD's determination that the Sri Lankan authorities' perception that the Respondent has information on the LTTE might amount to a perceived political opinion is unreasonable. Indeed, even if the Sri Lankan authorities might question the Respondent, there is no evidentiary basis for a finding that he will be deemed to share the political opinions of the LTTE. Information about criminal activity is not a political opinion within the meaning of the grounds for refugee protection.

[19] Finally, the Applicant concludes that the RPD committed an error as it did not state that the Respondent has established the facts underlying his claim on a balance of probabilities. Moreover, it came to an unreasonable conclusion because its finding that the Respondent would face a risk of persecution is based on evidence that is out of date and there is no reliable evidence as to the treatment of *MV Sun Sea* passengers who returned to Sri Lanka.

#### **IV. Respondent's submissions**

[20] The Respondent submits that the reasons provided by the RPD with respect to nexus to a Convention ground are intelligible and transparent. It has been recognized that mixed motives of persecution may form the basis of a well-founded fear of persecution. Nexus is established when at least one of the motives is based on a Convention ground. In the present case, the RPD concluded that "the claimant's Tamil ethnicity is a contributing factor to his risk." It has been established in *Veeravagu v Canada (Minister of Employment and Immigration)*, [1992] FCJ 468, 1992 CarswellNat 1270 (FCA), Hugessen JA [*Veeravagu*] as well as in other case law from this Court that when a person faces risk because he belongs to a group, one of whose defining characteristics is race, then that person has a nexus to a Convention ground. As it has been recognized that Tamils from the north of Sri Lanka are a particular social group, in addition to the nexus of race, it is reasonable to conclude that Tamils from Sri Lanka who travelled on the *MV Sun Sea* also meet this definition. As for the decision *B380*, above, cited by the Applicant, the Respondent submits that the reasoning in the decision ignores who the passengers of the *MV Sun Sea* are and that the reasons why they came together in the first place was to escape the denial of their human rights. The RPD

reasonably found that the Respondent would be at risk of torture, a mean used by Sri Lankan authorities to secure information on terrorist activities.

[21] The Respondent further submits that the Applicant's reliance on *Huntley*, above is misplaced as this case does not stand for the proposition that the race element must be sufficient to put the Respondent at risk, regardless of other aspects of the case, and that it is therefore distinguishable from the case at bar.

[22] The Respondent submits that the debate on whether, in addition to nexus on the basis of race and particular social group, the Respondent also has a nexus on the basis of "perceived political opinion" is academic as the RPD determined that he would face persecution on the basis of his Tamil ethnicity and found his presence on the *MV Sun Sea* to be an additional risk factor. Moreover, the Government of Sri Lanka clearly indicated that it considers the *MV Sun Sea* to be a human smuggling operation organized by the LTTE. Whether the Respondent is perceived as an LTTE supporter or simply as having information on the LTTE, he is at greater risk than other refugee returnees. Therefore, the RPD's decision on nexus is reasonable.

[23] Finally, the Respondent submits that the evidence relied on by the RPD was not out of date. As an example, it considered a declaration by the Sri Lankan government that was made a month before the hearing. Moreover, contrary to what is alleged by the Applicant, there is evidence about a returnee who was a passenger on the *MV Sun Sea*. He was detained upon arrival and tortured. The RPD is entitled to consider evidence of similarly situated claimants such as a case where Sri Lankan nationals who fled to Australia were tortured while detained in Boosa upon their return to Sri Lanka.

The RPD reasonably found that evidence such as in cases where there is monitoring by international governmental agents, Sri Lankan authorities pay attention to standards of procedure does not solve the issue of what happens to returnees who do not benefit from this level of protection. Considering human rights abuses in Sri Lanka, it is reasonable to determine that returnees who do not benefit from this monitoring process are at risk. The Respondent submits that the RPD's conclusion that he is at risk of being tortured if returned to Sri Lanka is reasonable.

**V. Applicant's reply**

[24] The Applicant submits that *Veeravagu*, above should be distinguished from the present case because in that case, the RPD did not find that the Applicant's race was a causal factor and that case was decided over twenty years ago.

[25] Second, the Applicant argues that the RPD disregarded the evidence before it that Tamils do not face persecution by reason of their ethnicity anymore.

[26] The Applicant further submits that some evidence was ignored by the RPD. Indeed, the RPD dismissed evidence showing that many returnees from abroad were able to resettle in the country without encountering significant difficulties but speculated that this would not apply in the Respondent's case as he was a passenger on the *MV Sun Sea*. The Applicant is of the view that the RPD's reliance on an outdated and unclear evidence of Boosa detainees is insufficient to meet the threshold to establish more than a mere possibility of risk.



[27] Finally, the Applicant is of the view that the RPD does not rely on evidence demonstrating that the authorities use torture with cooperative witnesses. Nothing in the RPD's analysis indicates that the Respondent would be unwilling to provide information to Sri Lankan authorities. This Court found in two decisions: (*P.M. v Canada (Minister of Citizenship and Immigration)*, 2013 FC 77 at para 21, 2013 CarswellNat 206, Snider J and *S.K. v Canada (Minister of Citizenship and Immigration)*, 2013 FC 78 at para 21, 2013 CarswellNat 207, Snider J.) that although returnees who traveled on the *MV Sun Sea* would be subjected to questioning upon return, such evidence is insufficient to establish that these particular returnees would be persecuted or tortured.

## **VI. Issues**

1. Is the RPD's finding that the Respondent is a Convention refugee based on an established nexus to a Convention ground unreasonable?
2. Did the RPD apply a wrong standard of proof to its findings of fact by basing critical elements of its decision on speculation and outdated, unclear evidence?

## **VII. Standard of review**

[28] Both parties agree that the standard of reasonableness applies to both issues as they raise mixed question of fact and law (*Dunsmuir v New Brunswick*, 2008 SCC 9 at para 51, [2008] 1 SCR 190 [*Dunsmuir*]). I agree. When assessing the reasonableness of a decision, a Court looks for justification, evidentiary foundation and understandable reasoning. As for the conclusion arrived at by the administrative body, a Court needs to consider whether it falls within a range of possible,

acceptable outcomes which are defensible in respect of the facts and the applicable law (see *Dunsmuir*, above at paras 47-48).

### VIII. Statutory provision

[29] Section 96 of the IRPA reads as follows:

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

*Loi sur l'immigration et la  
protection des réfugiés, LC 2001,  
ch 27*

#### Convention Refugee

#### Définition de « réfugié »

**96.** A Convention refugee is a person who, by reason of a well-founded fear of persecution for reasons of race, religion, nationality, membership in a particular social group or political opinion,

**96.** A qualité de réfugié au sens de la Convention — le réfugié — la personne qui, craignant avec raison d'être persécutée du fait de sa race, de sa religion, de sa nationalité, de son appartenance à un groupe social ou de ses opinions politiques:

(a) is outside each of their countries of nationality and is unable or, by reason of that fear, unwilling to avail themselves of the protection of each of those countries; or

a) soit se trouve hors de tout pays dont elle a la nationalité et ne peut ou, du fait de cette crainte, ne veut se réclamer de la protection de chacun de ces pays;

(b) not having a country of nationality, is outside the country of their former habitual residence and is unable or, by reason of that fear, unwilling to return to that country.

b) soit, si elle n'a pas de nationalité et se trouve hors du pays dans lequel elle avait sa résidence habituelle, ne peut ni, du fait de cette crainte, ne veut y retourner.

### IX. Analysis

[30] The RPD's determination based on section 96 of the IRPA reads as follows:

I find, on the evidence before me in this claim that various factors combine to demonstrate more than a mere possibility that the claimant faces treatment constituting persecution upon his return to Sri Lanka because he is a Tamil who was a passenger on the *Sun Sea*. (See para 26 of the decision.)

[31] Before coming to this conclusion, the Board member made a number of successive detailed findings as her analysis shows, the most relevant points of which are summarized as follows:

1. The Board member found that all Tamils in Sri Lanka still face state-sponsored discrimination but that Tamil ethnicity alone was not a sufficient ground to establish a serious possibility of persecution. In the RPD's view, it was a contributing factor to be considered along with other relevant components. It is important to note that in its decision, the RPD referred to the Respondent's Tamil ethnicity on numerous occasions to highlight the fact that it was a contributing factor to the risk of persecution as well as an aggravating consideration in the treatment he may get upon return at the hands of the Sri Lankan authorities. The RPD noted that his Tamil ethnicity needs to be considered along with the fact that the Sri Lankan government may draw conclusions regarding his political opinions based on his status as a former passenger on the *MV Sun Sea*.
2. The Board member found that the Respondent's presence on the *MV Sun Sea* was a factor that added to the risk of persecution.

3. The Board member also found that the Respondent would be questioned by government authorities upon return. The RPD determined that he would have to explain how he left Sri Lanka and that as a result of this, his status as a former passenger on the *MV Sun Sea* would become known to the authorities.
4. The decision maker, after explaining how the Sri Lanka government perceives the *MV Sun Sea* and links it to an LTTE operation, found that there is a serious possibility that the Respondent who was a passenger on the *MV Sun Sea*, would face persecution at the time of arrival or after even though he does not have a past which relates him to the LTTE. Because of the attitude of the government towards the *MV Sun Sea*, associating it to the LTTE, the perception of the authorities would be that he is linked to or has potentially valuable information on this group and its role in the smuggling operation.
5. The RPD also considered the evidence to the effect that returnees are treated poorly upon return and that torture is a technique of questioning frequently used by government authorities in Sri Lanka.

[32] The cumulative effect of these findings led the RPD to identify race (Tamil ethnicity) and the Respondent's status as a former *MV Sun Sea* passenger as contributing factors of risk of persecution. Through the doctrine of mixed motives, the RPD determined that race and status as a former passenger on the *MV Sun Sea*, which is perceived by the Sri Lankan government to be a LTTE-driven operation, would trigger a risk of persecution at the hands of the agents of persecution upon his return. Moreover, in its decision, the RPD explained that the Respondent will be perceived

as having information on the LTTE, as he travelled on the MV Sun Sea, which is considered by the Sri Lankan authorities to be LTTE-driven. As such the Board member found that there is a serious possibility that the Respondent would be persecuted.

[33] The Applicant submits that the Respondent's potential knowledge about the LTTE is insufficient to establish a nexus based on political opinions as a claimant who fears persecution because he is perceived as having information about an organization as opposed to sharing the political views of that organization does not have a nexus to the Convention ground of "political opinion."

[34] Such argument cannot be accepted. In *Canada (Minister of Citizenship and Immigration) v B420*, 2013 FC 321 at para 21, Blanchard, J, a case dealing with a similar issue, this Court stated the following regarding the RPD's finding regarding imputed knowledge about the LTTE:

[21] The RPD's findings are not as clear as they could have been and in some cases arguably deficient. For instance, the RPD could not rely upon imputed *knowledge* of LTTE activities to support its finding of imputed political opinion. I am nevertheless satisfied that the evidence referred to by the Tribunal in its reasons supports a finding that the Respondent, as a young, Tamil male from northern Sri Lanka, has a well-founded fear of persecution by reasons of his race and his imputed political opinion by reason of his perceived *association* with the LTTE. I am satisfied that that the RPD's conclusion is reasonable.

[35] In its decision, the RPD made it clear that the basis for its finding that the Respondent would be at risk of persecution is based in part on his status as a former passenger on the *MV Sun Sea*, which is associated to the LTTE by the Sri Lankan authorities, as shown by the statement by the

Defence Secretary. There is therefore a sufficient basis to conclude that there is a nexus to political opinion as he would be perceived as being associated to the LTTE.

[36] The Applicant further argues that the RPD's finding that the Respondent's Tamil ethnicity in combination with other factors was, sufficient to create a valid nexus to a Convention ground pursuant to section 96 of the IRPA is unreasonable as it is not a determination of mixed motives based on ethnicity but rather an erroneous conclusion that passengers on the *MV Sun Sea* have a nexus to a Convention ground. It is submitted that in order to be successful in establishing mixed motives of persecution, one of the motives must be connected to a Convention ground. The Applicant argues that as the Board member did not connect Tamil ethnicity as such, to a Convention ground, there cannot be a nexus established pursuant to section 96 of the IRPA.

[37] I disagree with such a limited interpretation of the doctrine of mixed motives which goes against the spirit of the Convention. Section 96 of the IRPA has one objective which is to prevent people from being subjected to persecution as long as it is linked to a Convention ground. If one of the motivations of the agent of persecution is race but only in combination with another factor, how could that not be sufficient to meet the requirements of section 96 of the IRPA? After all, section 96 of the IRPA as written, is not to be interpreted in a narrow restrictive fashion: its purpose, as outlined, is to address fear of persecution and to protect any person who suffers from persecution based on race, religion, nationality, membership in a particular social group or political opinion. Moreover, section 3(2)(d) of the IRPA clearly states that one of the main purposes of Canada's refugee system is to "offer safe haven to persons with a well-founded fear of persecution based on race, religion, nationality, political opinion or membership in a particular social group, as well as

those at risk of torture or cruel and unusual treatment or punishment.” Section 96 of the IRPA needs to be interpreted in light of this objective.

[38] The mixed motives approach to a finding related to section 96 of the IRPA is not new. The Federal Court of Appeal has been recognizing the validity of this type of analysis for more than 20 years. Indeed, in both *Salibian v Canada (Minister of Employment and Immigration)* (1990), 11 Imm LR (2d) 165 at paras 17-19, 73 DLR (4th) 551 (FCA), Décary JA and *Veeravagu*, above, the Federal Court of Appeal recognized that race can be a “causal factor” when an individual is at risk to suffer persecution at the hands of state agents and that this causal factor, considered along with other motivations can establish a serious possibility of persecution:

In our view, it is obvious beyond any need of demonstration that if a person faces "real and oppressive" risks, including a risk of "substantial violence," from state sponsored sources (the IPKF) because he or she belongs to a group one of whose defining characteristics is race, (young Tamil males), it is simply impossible to say that such person does not have an objective fear of persecution for reasons of race.

(See *Veeravagu*, above at 2.)

It is not a question of whether the persecution can be connected to a Convention ground but rather an issue of whether a ground such as race can be a contributing or causal factor.

[39] The notion of mixed motives in the context of refugee protection claims was first recognized in *Zhu v Canada (Minister of Employment and Immigration)*, [1994] FCJ 80 at para 2, 1994 CarswellNat 1600 (FCA), MacGuigan JA when the Federal Court of Appeal noted that: “People

frequently act out of mixed motives, and it is enough for the existence of political motivation that one of the motives [be] political.”

[40] From then on, this Court has applied the mixed motives approach to many decisions under section 96 of the IRPA. For example, a mixed motives finding based on race and age as a contributing factor, was recognized as a valid basis for a Convention ground in *Jeyaseelan v Canada (Minister of Citizenship and Immigration)*, 2002 FCT 356 at para 8, 218 FTR 221, McKeown J. Moreover, mixed motives have also been associated with the perception of state agents of situations and their motives when assessing those situations. In a 2003 case, this Court noted that political opinions that an applicant “had or might have been imputed to [him] by government authority” may constitute the basis of a finding of mixed motives (see *Sopiqoti v Canada (Minister of Citizenship and Immigration)*, 2003 FCT 95 at para 14, 34 Imm LR (3d) 126, Martineau J.). In another decision of this Court, it was noted that if at least one of the motives can be related to a Convention ground, nexus may be established (see *Katwaru v Canada (Minister of Citizenship and Immigration)*, 2007 FC 612 at para 12, 62 Imm LR (3d) 140, Teitelbaum J.).

[41] More recently, this Court addressed the issue of mixed motives when it recognized that a motive can be not considered “purely” economic if the evidence indicates that there was a racial component to it. Mixed motives may then be found if one of the motives is related to a Convention ground (see *Gonsalves v Canada (Minister of Citizenship and Immigration)*, 2011 FC 648 at para 29, 2 Imm LR (4th) 113, Zinn J.).



[42] Counsel for the Applicant relies on *Huntley*, above to argue that racially motivated acts constitute persecution only if, taken individually, they are sufficient to establish a Convention ground. Respectfully, this is not my interpretation of this decision, to my mind, it was determined that if it had been considered that based on the evidence, there was a racial component to what the claimant suffered, a finding of “mixed motivation” could have been “conceivably possible” but such was not the case.

[...] I agree with respondent's counsel that such mixed motivation is conceivably possible. What is lacking in the present case, in my view, is objective evidence that the attacks, at least in part, were made to persecute the respondent for being white. [...]

(See *Huntley*, above at para 129.)

[43] Therefore, it was a matter of sufficiency of the evidence on the racial motivation. If the racial component of the assault had been demonstrated, then mixed motives on the part of the aggressor could have been established and race may have been found to be a contributing factor to the main motivation which was to rob the Applicant.

[44] The RPD found that the Respondent's Tamil ethnicity was a contributing and aggravating factor to the risk of persecution he faces should he return to Sri Lanka. The Board member found that this established a nexus to a Convention ground in conjunction with the fact that he was a passenger on the *MV Sun Sea*, which is perceived by the Sri Lankan government as a LTTE-driven operation. I consider this nexus finding to be reasonable and in line with the historical view of the mixed motives doctrine adopted by both the Federal Court of Appeal and this Court.

[45] In order to come to this conclusion, the Respondent's Tamil ethnicity was a prime contributing factor to the possibility of risk of persecution upon arrival in Sri Lanka. When considered individually, the motivations, which are based on the Respondent's Tamil ethnicity as well as his status as a former passenger on the *MV Sun Sea*, which is perceived by the government as a LTTE-driven operation, were not sufficient to establish a nexus to the Convention ground of race on their own, however, when taken together they cumulatively established a serious possibility of risk of persecution upon return. Without one of the contributing factors, the Convention ground would not be satisfactorily established but taken together, these motivations form the basis of the ground of race. Therefore, the nexus to race was essential to the RPD's conclusion that the risk of persecution upon return was a serious scenario to be envisaged.

[46] As a second argument, the Applicant submits that the findings of fact made regarding the Sri Lankan government's perception of the *MV Sun Sea* as a LTTE-related operation, its determination that the Respondent, as a former passenger of the *MV Sun Sea* would be subjected to questioning and that such status would become known to the authorities and its determination that there is evidence of torture of returnees by government agents were not done in accordance with the evidence submitted or assessed on a balance of probabilities.

[47] The decision under review is very well-written. It was meticulously drafted, well researched and is in conformity with the applicable law and jurisprudence. It is certainly a reasonable decision, as it falls within "a range of possible, acceptable outcomes" (*Dunsmuir*, above at para 47).

[48] The review of the documentary evidence on all matters including the attitude of the Sri Lanka government towards Sri Lankan returnees, its use of torture, its perception of the *MV Sun Sea* including the most recent statement by the Defence Secretary that the voyage of the *MV Sun Sea* is an example of the LTTE's international shipping criminal operations to smuggle people to western countries which is used to raise money for the separatist cause was well done, balanced and the conclusions arrived at were well justified. I do not find any speculation done by the RPD in its assessment of the evidence nor do I find that any of its findings was based on outdated or unclear evidence. The Applicant disagrees with the RPD's determinations and would like this Court to review the evidence and come to a different result. The RPD's findings were reasonable and the intervention of this Court is therefore not warranted.

[49] Counsel were invited to submit questions for certification but declined to do so.

#### *Confidentiality*

[50] The Parties shall file written submissions setting out their respective positions on the content of the Reasons to be released publicly no later than ten (10) days from receipt of these reasons.

**JUDGMENT**

**FOR ALL THESE REASONS, THIS COURT ORDERS AND ADJUDGES THAT** the judicial review of the July 19, 2012 decision is dismissed and no question will be certified.

“Simon Noël”

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Judge

**FEDERAL COURT**

**SOLICITORS OF RECORD**

**DOCKET:** IMM-7817-12

**STYLE OF CAUSE:** THE MINISTER OF CITIZENSHIP  
AND IMMIGRATION v B344

**PLACE OF HEARING:** Vancouver, British Columbia

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**DATED:** May 8, 2013

**APPEARANCES:**

Jennifer Dagsvik FOR THE APPLICANT

Laura Best FOR THE RESPONDENT

**SOLICITORS OF RECORD:**

Jennifer Dagsvik FOR THE APPLICANT  
Attorney at Law  
Vancouver, British Columbia

William F. Pentney FOR THE RESPONDENT  
Deputy Attorney General of Canada