

Federal Court



Cour fédérale

Date: 20161114

Docket: IMM-4736-16

Citation: 2016 FC 1268

Ottawa, Ontario, November 14, 2016

PRESENT: The Honourable Mr. Justice Shore

BETWEEN:

ALLISON ANDREA COX

Applicant

and

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

Respondent

JUDGMENT AND REASONS

[1] Serious criminality constitutes a basis for inadmissibility of permanent residents and foreign nationals. They are thus subject to removal as per the Supreme Court of Canada in *Canada (Minister of Employment and Immigration) v Chiarelli*, [1992] 1 SCR 711, p 736:

The deportation of a permanent resident who has deliberately violated an essential condition of his or her being permitted to remain in Canada by committing a criminal offence punishable by imprisonment of five years or more, cannot be said to outrage standards of decency. On the contrary it would tend to outrage such standards if individuals granted conditional entry into Canada

were permitted, without consequence, to violate those conditions deliberately.

[2] A motion for a stay of removal scheduled for tomorrow was placed before the undersigned this afternoon subsequent to immediate receipt by the Federal Court registry; this application for a stay of removal will not be entertained.

[3] Convicted of manslaughter, the Applicant was sentenced to nine years in prison. The appeal of the conviction and sentence was rejected by the Court of Appeal of Ontario. At which time, it was stated: “[the Applicant’s victim] endured a slow and no doubt painful lonely descent into death ... I must say that the circumstances of this death are among the worst I have experienced as a trial judge”. (*R v Allison Cox* (19 June 2008) Brampton CRIMJ(P) 1511-07 (ONSC) at 32 (Fragomeni J), quoted in *R v Cox*, 2011 ONCA 58 at para 51).

[4] The motion lacks clean hands. A stay of removal requires an injunction which is an extraordinary remedy. An equitable remedy is only available to an Applicant who has not committed an inequity (*Canada (Minister of Citizenship and Immigration) v Thanabalasingham*, 2006 FCA 14).

[5] In respect of specific family situations as described by the Applicant, the Court refers itself to *Ramirez Bazan v Canada (Public Safety and Emergency Preparedness)*, 2011 FC 1242.

[6] For all of the above reasons, the motion will not be heard on its merits; it will not be entertained by the Court.

ORDER

THIS COURT' JUDGMENT IS that the motion for a stay of removal scheduled for tomorrow will not be heard.

"Michel M.J. Shore"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-4736-16

STYLE OF CAUSE: ALLISON ANDREA COX v THE MINISTER OF
PUBLIC SAFETY AND EMERGENCY
PREPAREDNESS

**MOTION IN WRITING CONSIDERED AT OTTAWA, ONTARIO PURSUANT TO
RULE 369 OF THE *FEDERAL COURTS RULES***

JUDGMENT AND REASONS: SHORE J.

DATED: NOVEMBER 14, 2016

WRITTEN REPRESENTATIONS BY:

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Sybil Thompson FOR THE RESPONDENT

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