Federal Court  Cour fédérale

**Date: 20210205**

**Docket: IMM-5658-20**

**Citation: 2021 FC 119**

**Ottawa, Ontario, February 5, 2021**

**PRESENT: The Honourable Mr. Justice Southcott**

**BETWEEN:**

**HELMUT OBERLANDER**

**Applicant**

**and**

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

**Respondent**

# ORDER AND REASONS

## I. Overview

[1] The Applicant has brought a motion, filed on January 20, 2021, seeking an Order staying the commencement of his admissibility hearing before the Immigration Division [ID] of the Immigration and Refugee Board of Canada, currently scheduled for February 8 and 11, 2021, until such time as the application for leave and for judicial review in this matter is determined.

[2] The underlying application challenges a decision of the ID, dated October 20, 2020, which determined that it had jurisdiction to conduct an admissibility hearing in relation to the Applicant and that consideration of the Respondent's assertions in support of the Applicant's inadmissibility to Canada was not barred by the principles of *res judicata*, issue estoppel, or abuse of process [the Jurisdiction Decision].

[3] The Applicant has also brought a similar stay motion in a related matter (Court Docket: IMM-6692-20), in which he has filed an application for leave and for judicial review challenging another decision of the ID, dated December 11, 2020, denying the Applicant's request to postpone the scheduling of the admissibility hearing [the Scheduling Decision]. That stay motion is addressed in a separate decision of this Court.

[4] In the present motion, the Applicant seeks to stay the commencement of the upcoming admissibility hearing on the basis that his application raises serious issues with respect to the Jurisdiction Decision, that he will suffer irreparable harm if the stay is not granted, and that the balance of convenience favours granting the stay. The Respondent argues that the Applicant cannot succeed in any of those assertions.

[5] With respect to the demonstration of serious issues, the Respondent submits that the application fails to raise serious issues both on the merits of its challenge to the Jurisdiction Decision and in overcoming the prematurity principle. The prematurity principle is a principle of administrative law that prohibits judicial review of an interlocutory administrative decision before the administrative process has run its course, in the absence of exceptional circumstances.

[6] The Applicant raises the following as irreparable harm which would result if neither stay motion is allowed and the admissibility hearing proceeds:

A. If the admissibility hearing is commenced before the application for leave and for judicial review of the Scheduling Decision is decided, that application will be rendered moot;

B. The stress of having to attend an ID hearing could cause the Applicant severe debilitating health consequences;

C. Due to the Applicant's hearing disability and the effects of the COVID-19 pandemic, he cannot be adequately prepared for or fully understand the questions to be posed at the ID hearing, raising the risk of the provision of evidence that may not be what he intended;

D. In the application for leave and for judicial review of the Scheduling Decision, the Applicant seeks prohibition to protect *Charter* rights alleged to be in jeopardy. He asserts that this claim raises irreparable harm if the stay is not granted, as a breach of *Charter* rights may not be compensable in damages; and

E. The continuation of the ID's admissibility proceeding would be an abuse of process, representing harm to the Applicant and to the public interest that cannot be repaired.

[7] As explained in greater detail below, the motion is dismissed, because the Applicant has not met the elevated threshold applicable to demonstrating that his application raises a serious

issue in relation to the Applicant's ability to demonstrate exceptional circumstances as required to overcome the prematurity principle.

## II. **Background**

[8] The Applicant, Mr. Helmut Oberlander, has a long history of proceedings involving immigration authorities and the Canadian courts. For the purpose of addressing the present motion, I will set out only the recent history.

[9] In 2017, the Governor in Council revoked the Applicant's Canadian citizenship on the basis of misrepresentations made to Canadian immigration officials about his wartime service with the Ek10a, a Nazi killing squad. Efforts to challenge that decision before the Federal Courts were unsuccessful.

[10] In June 2019, two reports were made under s 44 of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [IRPA], reporting that, as a foreign national, the Applicant was inadmissible to Canada pursuant to ss 35(1)(a) and 40(1)(d)(i) of IRPA, for the commission of crimes against humanity and for misrepresentation. As a result, in August 2019, a request was made for the ID to hold an admissibility hearing.

[11] In November 2019, the Applicant brought an application to challenge the ID's jurisdiction to consider the s 44 reports, on the basis that he allegedly still retained Canadian domicile and based on assertions of *res judicata*, issue estoppel, and abuse of process. On October 20, 2020, the ID denied that application, finding that it does have the required

jurisdiction and that the principles of *res judicata*, issue estoppel and abuse of process did not preclude proceeding with an admissibility hearing.

[12] On November 4, 2020, the Applicant filed the within application for leave and for judicial review, seeking to challenge the Jurisdiction Decision by the ID. On November 19, 2020, the Respondent, the Minister of Public Safety and Emergency Preparedness, filed a motion in writing, seeking to strike the application on the basis of prematurity, because of the interlocutory nature of the Jurisdiction Decision. (That motion was ultimately dismissed by the Court on January 26, 2021 (see *Oberlander v Canada (MPSEP)*, 2021 FC 86 [*Oberlander*])).

[13] Following issuance of the Jurisdiction Decision, the ID held a case management conference [CMC] on November 25, 2020, to discuss procedural matters including the scheduling of the admissibility hearing. At the CMC, the Applicant requested that the hearing not yet be scheduled. In support of this request, the Applicant's counsel cited, among other things, inability to prepare the Applicant for the hearing and difficulty for the Applicant in comprehending and participating in the hearing due to his advanced age (96 years old) and medical conditions and resulting communication difficulties compounded by the COVID-19 pandemic. The Applicant requested that another CMC be convened 30 days later, at which point the circumstances surrounding the pandemic and its effect upon the Applicant could be re-assessed.

[14] The ID denied the Applicant's request and, in the Scheduling Decision now under review in Court Docket: IMM-6692-20, provided written reasons for that denial. The ID decided that the

admissibility hearing would be held in January 2021, and the parties were contacted to set a hearing date based on their earliest availability. On December 23, 2020, the parties exchanged dates of availability, following which the hearing was set for February 8 and 11, 2021.

[15] On December 24, 2020, the Applicant filed the application for leave and for judicial review in Court Docket: IMM-6692-20, seeking to challenge the Scheduling Decision. The Applicant challenges the reasonableness and fairness of the Scheduling Decision, including raising *Charter* arguments surrounding his right to a fair hearing and seeking an order in the nature of *certiorari* quashing the Scheduling Decision and an order prohibiting the ID from proceeding with the admissibility hearing at this time.

[16] On January 8, 2021, the Respondent filed a motion in writing, seeking to strike the application in Court Docket: IMM-6692-20 on the basis of prematurity, because of the interlocutory nature of the Scheduling Decision. (That motion was ultimately dismissed by the Court on January 26, 2021 (see *Oberlander v Canada (MPSEP)*, 2021 FC 87).

[17] On January 20, 2021, the Applicant filed the present stay motion, as well as a similar stay motion in Court Docket: IMM-6692-20. The Respondent has filed a record in response, and the parties argued both motions, by videoconference employing the Zoom platform, on February 2, 2021.

## III. **Issue**

[18] The sole issue in this motion is whether the Applicant has satisfied the test for a stay of the ID proceedings.

## IV. **Analysis**

[19] The parties agree that there is a tripartite test for an injunction or stay, as articulated by the Supreme Court of Canada in *RJR-MacDonald Inc v Canada (Attorney General)*, [1994] 1 SCR 311 [*RJR-MacDonald*]. That test is conjunctive in that, to be entitled to a stay, an applicant must satisfy all three elements of the test. These elements are the establishment of a serious issue raised by the underlying application for judicial review, irreparable harm that would result if the stay were not granted, and the balance of convenience favouring granting the stay.

[20] As explained in *RJR-MacDonald*, the usual standard for meeting the first element, showing that the underlying application raises a serious issue, is a low one, only requiring the applicant to satisfy the Court that the application is not frivolous or vexatious. However, *RJR-MacDonald* also recognizes that there are circumstances where an elevated standard or threshold applies, requiring the Court to engage in a more extensive review of the merits of the application. In *Wang v Canada (Minister of Employment and Immigration)*, 2001 FCT 148 (FCTD), Justice Denis Pelletier explained that the elevated threshold applies in circumstances where granting the relief sought through the stay motion grants the applicant the remedy that is the object of the application for judicial review. The judge hearing the stay motion must then closely examine the merits of the underlying application (at paras 8-10).

[21] The Respondent argues that the elevated standard applies to the present motion. The Applicant disagrees. In relation to the Applicant's arguments challenging the reasonableness of the Jurisdiction Decision, I agree with the Applicant that it need only show that those arguments are neither frivolous nor vexatious. Granting the relief sought in this stay motion does not achieve the object sought through those arguments, i.e. a determination that the Jurisdiction Decision is unreasonable. However, in relation to the Applicant's arguments that this case raises exceptional circumstances, warranting departure from the prematurity principle, further analysis is required to assess whether the elevated threshold should apply.

[22] *Oberlander* addressed the prematurity principle and the Applicant's arguments as to why his application should not be struck based on that principle. While I need not duplicate the analysis in *Oberlander* in the same level of detail in this decision, I will repeat some portions of that analysis that bear on the issue now before the Court.

[23] This principle of administrative law was explained as follows by Justice David Stratas in *Canada (Border Services Agency) v CB Powell Limited*, 2010 FCA 61 [*CB Powell*] at para 31:

> 31. Administrative law judgments and textbooks describe this rule in many ways: the doctrine of exhaustion, the doctrine of adequate alternative remedies, the doctrine against fragmentation or bifurcation of administrative proceedings, the rule against interlocutory judicial reviews and the objection against premature judicial reviews. All of these express the same concept: absent exceptional circumstances, parties cannot proceed to the court system until the administrative process has run its course. This means that, absent exceptional circumstances, those who are dissatisfied with some matter arising in the ongoing administrative process must pursue all effective remedies that are available within that process; only when the administrative process has finished or when the administrative process affords no effective remedy can they proceed to court. Put another way, absent exceptional

> circumstances, courts should not interfere with ongoing administrative processes until after they are completed, or until the available, effective remedies are exhausted.

[24] The prematurity principle was subsequently endorsed by the Supreme Court of Canada in *Halifax (Regional Municipality) v Nova Scotia (Human Rights Commission)*, 2012 SCC 10 at paras 35-36.

[25] However, there are decisions of this Court post-dating *CB Powell*, in which applications for judicial review of interlocutory administrative decisions, including applications based on arguments of abuse of process in the immigration context, have been allowed to proceed on the merits notwithstanding the prematurity principle. For instance, in *Almrei v Canada (Citizenship and Immigration)*, 2014 FC 1002, Justice Richard Mosley dismissed a motion to strike such an application, as he was not satisfied that the applicant had an adequate alternative remedy available to him. The Court concluded that there were exceptional circumstances pointing to an abuse of process that met the "clear and obvious" standard required to warrant early judicial intervention (at para 60).

[26] Similarly, in *Shen v Canada (Citizenship and Immigration)*, 2016 FC 70, Justice Simon Fothergill addressed on its merits an application for judicial review of a decision by the Refugee Protection Division to dismiss two preliminary motions brought by the Applicant. While the Court considered the prematurity principle, it was not satisfied that, in the circumstances of that case, the possibility of judicial review of the RPD's final decision provided an effective remedy (at para 27).

[27] Consistent with these cases, as identified in *CB Powell* (at para 31), the prematurity principle is not absolute. It applies in the absence of exceptional circumstances. Justice Stratas described this exception as follows (at para 33):

> 33. Courts across Canada have enforced the general principle of non-interference with ongoing administrative processes vigorously. This is shown by the narrowness of the "exceptional circumstances" exception. Little need be said about this exception, as the parties in this appeal did not contend that there were any exceptional circumstances permitting early recourse to the courts. Suffice to say, the authorities show that very few circumstances qualify as "exceptional" and the threshold for exceptionality is high: see, generally, D.J.M. Brown and J.M. Evans, *Judicial Review of Administrative Action in Canada* (looseleaf) (Toronto: Canvasback Publishing, 2007) at 3:2200, 3:2300 and 3:4000 and David J. Mullan, *Administrative Law* (Toronto: Irwin Law, 2001) at pages 485-494. Exceptional circumstances are best illustrated by the very few modern cases where courts have granted prohibition or injunction against administrative decision-makers before or during their proceedings. Concerns about procedural fairness or bias, the presence of an important legal or constitutional issue, or the fact that all parties have consented to early recourse to the courts are not exceptional circumstances allowing parties to bypass an administrative process, as long as that process allows the issues to be raised and an effective remedy to be granted: see *Harelkin*, *supra*; *Okwuobi*, *supra* at paragraphs 38-55; *University of Toronto v. C.U.E.W, Local 2* (1988), 55 D.L.R. (4th) 128 (Ont. Div. Ct.). As I shall soon demonstrate, the presence of so-called jurisdictional issues is not an exceptional circumstance justifying early recourse to courts.

[28] While this passage notes that the arguments before the Court in *CB Powell* did not require detailed consideration of the nature of exceptional circumstances, Justice Stratas provided further guidance on this subject in *Wilson v Atomic Energy of Canada Limited*, 2015 FCA 17 at paras 31 to 33:

> 31. The general rule against premature judicial reviews reflects at least two public law values. One is good administration –

> encouraging cost savings, efficiencies, promptness and allowing administrative expertise and specialization to be fully brought to bear on the problem before reviewing courts are involved. Another is democracy – elected legislators have vested the primary responsibility of decision-making in adjudicators, not the judiciary.
>
> 32. The weighty nature of these public law values explains the force and pervasiveness of the general rule against premature judicial reviews. Indeed, in appropriate cases, the general rule can form the basis of a preliminary motion to strike: *Canada (National Revenue) v. JP Morgan Asset Management (Canada) Inc.*, 2013 FCA 250, [2014] D.T.C. 5001 at paragraphs 66 (motion to strike available), 51-53 (general rule against supporting affidavits) and 82-89 (discussion of prematurity in the context of motions to strike). Such motions serve to nip in the bud premature judicial reviews that corrode these values.
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> 33. The force and pervasiveness of the general rule against premature judicial reviews and the need to discourage premature forays to reviewing courts means that the exceptions to the general rule are most rare and preliminary motions to strike are regularly entertained. As *C.B. Powell*, *supra* explained, the recognized exceptions reflect particular constellations of fact found in the decided cases. They are rare cases where the public law values do not sound loudly in the particular circumstances, the public law values are offset by competing public law values, or both. For example, there are rare cases where the effect of an interlocutory decision on the applicant is so immediate and drastic that the Court's concern about the rule of law is aroused: *Dunsmuir v. New Brunswick*, 2008 SCC 9, [2008] 1 S.C.R. 190 at paragraphs 27-30. In these cases – often cases where prohibition is available – the values underlying the general rule against premature judicial reviews take on less importance.

[29] In its recent decision in *Thielmann v The Association of Professional Engineers and Geoscientists of the Province of Manitoba*, 2020 MBCA 8 [*Thielmann*], the Manitoba Court of Appeal considered the question of what constitutes the exceptional circumstances that may warrant early judicial intervention in a tribunal's process. The Court concluded that there are no hard and fast rules, but it identified factors that had been considered relevant in applicable jurisprudence (see paras 36 to 50), summarizing its analysis as follows:

> 49. In conclusion, the courts have not provided a definition of "exceptional circumstances" with respect to the prematurity principle. The factors to be considered in exercising this discretion cannot be reduced to a checklist or a statement of general rules. The list of factors to be considered is not closed and courts will not have to apply every factor, but only those that are relevant.
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> 50. Among the factors that might be considered are: (i) hardship/prejudice (including irreparable harm, urgency, and excessive delay); (ii) waste of resources if judicial review is not proceeded with; (iii) delays if judicial review proceeds; (iv) fragmentation of proceedings; (v) strength of the case, including whether there is a clear abuse of process or proceedings that are so deeply flawed that it is clear and obvious that judicial review will be successful; and (vi) the statutory context, including whether there is an adequate alternative remedy. Furthermore, weight should always be given to the overarching consideration that an administrative tribunal should be given the opportunity to determine the issue first, and to provide reasons that can be considered by the court on any eventual review.

[30] In opposing the Respondent's recent motion to strike, the Applicant argued, *inter alia*, that his advanced age and medical conditions, in combination with the nature of the interlocutory decision under review and the consequences if his application were successful (i.e. the possibility that the admissibility proceeding would come to an end), constitute exceptional circumstances warranting departure from the prematurity principle. The Applicant's argument, that his case raises exceptional circumstances, was summarized as follows in his written representations in response to the motion to strike:

> 5. Mr. Oberlander now faces a potentially lengthy proceeding before the Immigration Division of the Immigration and Refugee Board into allegations of crimes against humanity. Justice MacKay's factual findings are not binding on the Immigration Division. As such, a fresh determination of facts must be made. When Justice MacKay determined the misrepresentation issue in 2000, the case took 19 sitting days of the court, not including discoveries and motions. Judgement was rendered 14 months after the close of arguments. It is possible that the Immigration Division

> proceedings will also be protracted and lengthy. Mr. Oberlander seeks to avoid such a process, if possible, by a resolution by this Court of his substantive right to Canadian domicile, and other issues, and the protections provided from deportation. These issues, raised at the outset as a preliminary matter for consideration, and without objection from the Minister, were fully argued, and decided by the Immigration Division. The issue is clear, distinct from the merits of the admissibility case and one of pure jurisdiction, relating to substantive rights and protections. Mr. Oberlander either has domicile and cannot be deported, or he does not have this protection. It is an exceptional determination, warranting an interlocutory judicial proceeding both because of the substantive and jurisdictional nature of the issues assessed and because of the medical situation of Mr. Oberlander, a frail 96-year-old, who is not capable of defending himself in a proceeding he does not fully appreciate. In this unique situation, access to the Federal Court on a preliminary matter which may end the dispute between the parties is justified and can be considered an exceptional circumstance.

[31] The Applicant also submitted, in response to the motion to strike, that he had not yet had the opportunity to fully put forward his evidence as to why his case raises exceptional circumstances. He explained that, because of the risks that he faces from COVID-19, he had been unable to see medical professionals other than his family doctor. However, he stated that further evidence may include additional documentation concerning his deteriorating health conditions and how these conditions make participation in a hearing process practically implausible and possibly dangerous to his health.

[32] My decision in *Oberlander*, dismissing the Respondent's motion to strike, applied the test applicable to such a motion, under which a notice of application for judicial review should be struck only where it is so clearly improper as to be bereft of any possibility of success (see *JP Morgan Asset Management (Canada) Inc. v Minister of National Revenue,* 2013 FCA 250 at para 47). I found as follows (at para 26):

> 26. Applying that test, I am unable to conclude that the application for leave and for judicial review has no possibility of success. Clearly, the prematurity principle is a substantial hurdle that the Applicant must overcome both in seeking leave and, if leave is granted, in advancing his application challenging the Decision. Applicable jurisprudence suggests that the fact alone that the Decision involves the ID's jurisdiction and issues of *res judicata*, issue estoppel and abuse of process will not be sufficient to overcome the presumption of judicial restraint. I also recognize that the threshold for exceptionality is high. However, it is possible that, under the hardship/prejudice factor identified in *Thielmann*, the Applicant's arguments about the effects of the proceeding upon him, in the context of his advanced age and medical conditions, could constitute exceptional circumstances warranting early judicial intervention in an interlocutory proceeding that could bring the overall admissibility proceeding to an end.

[33] Against that backdrop, I return to the motion at hand. The Applicant's evidence now includes a medical report, dated January 16, 2021, prepared by the Applicant's geriatrician, Dr. George Heckman, who examined the Applicant on January 13, 2021. The Applicant offers Dr. Heckman's report as evidence of the exceptional circumstances that were raised in response to the motion to strike, as a basis for departing from the prematurity principle. Before engaging with the substance of Dr. Heckman's report, I must assess whether an elevated threshold should apply to my consideration of whether the Applicant has raised a serious issue surrounding the existence of exceptional circumstances.

[34] In my view, it is appropriate to apply an elevated threshold to this issue. The Applicant cannot succeed in surmounting the prematurity principle unless this stay motion is granted. If the stay is denied, the ID hearing will proceed, the ID will make a decision on his admissibility, and there will no longer be any basis for the Applicant to argue that his challenge to the Jurisdiction Decision should be determined without waiting for the outcome of the admissibility decision

itself. On the other hand, if the stay is granted, based on the evidence in Dr. Heckman's report, the Applicant will have achieved on this motion the object of surmounting the prematurity principle. It is therefore appropriate that a high threshold now be applied to the assessment of whether the evidence raises exceptional circumstances.

[35] Turning to assessment of the evidence, the Applicant's position relies principally on Dr. Heckman's explanation of his frailty, which he describes as moderately severe. Dr. Heckman refers to a "CHESS score" of 4 as suggesting significant health instability. He notes that, in home care clients with a similar health profile, such a score is associated with a 50% risk of an adverse health event in the next 3 months.

[36] Dr. Heckman also explains that frailty is associated with an increased risk of adverse health outcomes, particularly when an individual faces a "stressor", such as a concurrent illness, the side effects of treatment, or environmental hazards. That is, the interaction of a stressor with frailty can increase the risk of an adverse health event. Applying that risk to the Applicant, Dr. Heckman opines as follows:

> The stress related to the upcoming hearing and concurrently being experienced by Mr. Oberlander can be considered a "stressor". At this time, we are seeing evidence that this is contributing to his elevated blood pressure and to his increasing health instability, as reflected by his CHESS score (driven by declining cognition and function, decreased food intake, weight loss, sarcopenia). In the case of Mr. Oberlander, the most likely short term to medium term health consequences would be an injurious fall (potentially including fracture) or a cardiovascular event (transient ischemic attack or stroke, or cardiac event). Given Mr. Oberlander's current moderately severe frailty, these events would most likely result in accelerated loss of physical function and cognitive function, or death. Should he survive, he could ultimately require placement in a long-term case home. The longer he is exposed to the stress

> related to legal proceedings, the more his health will become unstable and the more likely he will be to experience an adverse health event.

[37] The Respondent submits that this evidence does not demonstrate that participating in the hearing would cause the Applicant harm. The Respondent notes that s 173(b) of IRPA imposes a duty upon the ID to hear any proceeding before it without delay. It argues that, consistent with that duty and the prematurity principle, the Applicant has an adequate available remedy, by being able to challenge the ID's final decision, if it is ultimately unfavourable to him, and to raise his arguments surrounding the Jurisdiction Decision at that time. The Respondent submits that Dr. Heckman's evidence that the upcoming hearing is a stressor falls short of the high threshold necessary to establish exceptional circumstances that would warrant departing from the prematurity principle.

[38] I accept Dr. Heckman's evidence that the stress associated with the upcoming hearing can be considered a stressor and that the interaction of a stressor with frailty can increase the risk of an adverse health event. I also accept the Applicant's position that Dr. Heckman cannot be expected to opine with certainty as to an adverse future outcome. However, his opinion raises no more than the possibility of such an outcome. While Dr. Heckman describes the most likely short to medium term health consequences as an injurious fall or a cardiovascular event, I do not read this as an opinion that these results are likely. Rather, he is explaining that, should the Applicant experience an adverse event, it is most likely to be in one of those categories.

[39] Moreover, Dr. Heckman concludes his report by opining that, the longer the Applicant is exposed to stress related to legal proceedings, the more his health will become unstable and the

more likely he will be to experience an adverse health event. This opinion raises the possibility that the Applicant's health may be best served by proceeding to the ID hearing as quickly as possible and having his arguments surrounding the Jurisdiction Decision addressed at the same time as any challenges to the ID's ultimate decision, if unfavourable to him. As the Respondent submits, the outcome of the admissibility proceeding is currently unknown, as is the outcome of the Applicant's arguments challenging the Jurisdiction Decision. Depending on those outcomes, the end of the legal proceedings could potentially be achieved more quickly, precisely by avoiding the multiplicity of proceedings that the prematurity principle seeks to prevent.

[40] Taking into account the statutory obligation upon the ID to hold a hearing without delay and the high threshold for overcoming the prematurity principle, and applying an elevated threshold in examining the merits of the Applicant's position on the prematurity issue, I find that the Applicant has not raised a serious issue that this case presents exceptional circumstances warranting judicial review of the interlocutory Jurisdiction Decision.

[41] As failure to overcome the prematurity principle would be dispositive of the outcome of the application for judicial review, and the Applicant has failed to establish a serious issue in relation thereto, it is unnecessary for me to consider whether the Applicant has raised a serious issue (against the lower frivolous or vexatious threshold) surrounding its arguments on the merits of the Jurisdiction Decision. It is also unnecessary to consider the elements of irreparable harm or balance of convenience. As the test for a stay is conjunctive, failure to satisfy the serious issue element of the test means that the stay motion in the present application must be dismissed.

**ORDER IN IMM-5658-20**

**THIS COURT ORDERS** that the Applicant's motion for a stay is dismissed.

"Richard F. Southcott"
Judge

**FEDERAL COURT**

**SOLICITORS OF RECORD**

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| **DOCKET:** | IMM-5658-20 |
| **STYLE OF CAUSE:** | HELMUT OBERLANDER V THE MINISTER OF PUBLIC SAFETY AND EMERGENCY PREPAREDNESS |

**MOTION HEARD BY VIDEOCONFERENCE ON FEBRUARY 2, 2021 VIA TORONTO**

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| **ORDER AND REASONS:** | SOUTHCOTT J. |
| **DATED:** | FEBRUARY 5, 2021 |

**ORAL AND WRITTEN REPRESENTATIONS BY:**

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|---|---|
| Ronald Poulton<br>Barbara Jackman | FOR THE APPLICANT |
| Angela Marinos<br>Daniel Engel<br>Meva Motwani | FOR THE RESPONDENT |

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