Federal Court Cour fédérale

Date: 20240216

Docket: IMM-2363-24

Citation: 2024 FC 279

Ottawa, Ontario, February 16, 2024

PRESENT: The Honourable Mr. Justice Ahmed

BETWEEN:

THE MINISTER OF PUBLIC SAFETY AND EMERGENCY PREPAREDNESS

Applicant

and

LAHI ISMAIL ABDI

Respondent

ORDER AND REASONS

I. Overview

[1] The Applicant, the Minister of Public Safety and Emergency Preparedness, brings a motion for a stay of the Respondent's release from detention. The Respondent is set to be removed from Canada on February 21, 2024.

[2] The Applicant requests that this Court stay the Respondent's release until the determination of the underlying application for leave and judicial review of the decision from the

Immigration Division ("ID") ordering the Respondent's release. Additionally, the Applicant requests that the Court grant the application for leave and expedite the judicial review hearing and all preceding steps.

[3] For the reasons that follow, this motion is dismissed. I find that the Applicant has not met the tri-partite test required for staying the Respondent's release from detention.

II. Facts and Underlying Decisions

A. *Background*

[4] The Respondent is a 32-year-old citizen of Somalia. He arrived in Canada in 2003 and was granted refugee status.

[5] The Respondent has a long history of serious criminality. This includes charges and convictions for violent crimes, such as assault with a weapon and robbery, firearm offences, drug offences, and a failure to appear offence.

[6] In 2017, an inadmissibility report was issued against the Respondent for inadmissibility under section 36(1)(a) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 ("*IRPA*"). He failed to appear for the inadmissibility hearing. In 2019, a warrant for his arrest was issued. In October 2019, the Respondent was arrested and ordered to be detained. On April 3, 2020, a deportation order was issued against the Respondent.

[7] On April 22, 2020, the Respondent was released from detention and ordered to report to a residence facility. In September 2020, the Respondent was released from detention, subject to various conditions.

[8] On December 19, 2021, the Respondent was charged with numerous firearm offences. On July 19, 2022, he was placed in immigration hold. The Respondent has since been transferred to various other institutions, including provincial correctional facilities, but has remained in detention. As of the date of this hearing, the Respondent has spent over 577 days in detention, with approximately 470 of them spent in maximum-security prisons.

[9] On July 28, 2023, Immigration, Refugees and Citizenship Canada ("IRCC") issued a danger opinion against the Respondent. Since this time, the Respondent has had monthly detention reviews, none of which have seen his release. His most recent detention review was in February 2024.

[10] During this period of detention reviews, the Minister was repeatedly asked for evidence by the ID to establish that the Respondent's detention had a nexus to an immigration purpose.

[11] In an email dated July 31, 2023, a member of Canada Border Services Agency ("CBSA") stated that they had received a notice that there was "potential for approaching" Somali immigration authorities regarding the issuance of travel documents for the Respondent. The member said that "[I]t's a long shot, but that's the best we have."

[12] In an email dated November 1, 2023, the CBSA noted that the Stakeholder Engagement Unit ("SEU") would "keep working" with the Somali embassy to "conduct citizenship interviews," as the CBSA had been informed that the Somali immigrating authorities would not be coming. The CBSA member in this email stated that "there's no prospect of getting travel documents from Somalia on [sic] the short term."

[13] At the detention hearing in November, 2023, the ID noted that: "no nexus may not be what I find today but it very well could be found at the next detention review" given that the Minister had not provided a concrete plan or timeline for securing travel documents. The member in that hearing also urged the Minister to disclose correspondence regarding the travel document issue.

[14] At the detention hearing in December, 2023, the Minister continued to have issues setting an interview date between the Respondent and Somali delegates. The Minster stated that an interview was set for December 8, 2023. Counsel for the Minister also stated that upon hearing the results of this interview, the Minister would obtain a travel document and remove the Respondent or seek his release.

[15] At the detention hearing in January 2024, the Minister informed the ID that the December interview was not between the Respondent and Somali delegates, with the Somali delegates confirming that they were "committed to coming to Canada during the last week of January to the second week of February." The ID further found, at this hearing, that "more than internal correspondence" from the CBSA was required and that the Minister had the "bare minimum" for

establishing the Respondent's detention had a nexus to an immigration purpose. The ID member asked that the Minister provide more evidence at the ensuing hearing.

[16] In a further detention review in January 2024, the CBSA disclosed more internal correspondence and advised that there remained no date for an interview with Somali delegates. The ID adjourned the hearing for the CBSA to provide more evidence. Upon reconvening in February 2024, the evidence provided by the Minister included evidence that the Somali delegates would not be arriving as planned in February and further internal correspondence from the CBSA regarding efforts to get the Respondent a travel document.

B. *Decision under Review*

[17] In a decision dated February 7, 2024, the ID ordered the release of the Respondent. The ID member ("Member") found that the Minister had not established that the Respondent faced a "real possibility of removal" and, in the alternative, that the factors under section 248 ("248 factors") of the *Immigration and Refugee Protection Regulations*, SOR 2002/227 ("*IRPR*") weighed in favour of his release.

[18] The Member first found that there were grounds for detention, the Respondent being a flight risk, including for having failure to appear, and a danger to the public, including for his many violent criminal charges and convictions over the years and there being a lack of evidence of rehabilitation.

[19] The Member then turned to whether the Minister has established that the Respondent's removal was a possibility. The Minister relied upon jurisprudence holding that "the decision maker must be satisfied on the evidence that removal is a possibility … [which] must be realistic, not fanciful, and not based on speculation, assumption or conjecture" (*Brown v Canada (Citizenship and Immigration)*, 2020 FCA 130 ("*Brown*") at para 95).

[20] The Member, acknowledging the evidence, found that there was not a realistic possibility that the Respondent would be removed. This finding was based largely on a dearth of evidence provided by the Minister in relation to the Canadian government's efforts to speak with the Somalian government and obtain travel documents for the Respondent, despite the ID's numerous requests to provide more evidence.

[21] The Member acknowledged that the efforts began in July 2023, wherein the evidence showed that: "[t]here is potential for approaching the Immigration authorities in Somalia for a travel document, but it's a long shot and that's the best we have." Other evidence of these efforts included the repeated attempts to set up meetings with Somali delegates, have the Respondent interviewed by the Somalian government via teleconference, as well as the November 2023 CBSA statement that: "there's no prospect of getting travel documents from Somalia in the short term." The Member concluded that "while there may be a plan that may potentially circumvent the current impasse with respect to a travel documents, there is no evidence that it will lead to a real possibility of removal."

[22] The Member further relied upon the holdings that the lengthier the detention, the heavier the onus for the Minister to justify it (*Brown* at para 123) and that the Minister ought to disclose communications with foreign states (*Mawut v Canada (Public Safety and Emergency Preparedness)*, 2021 FC 1155 at para 38). The Member found the Minister had not justified the detention in light of the Respondent's extended period of detention and had not met the evidentiary disclosure requirements by providing the ID with a summary of the correspondence with the Somalian government. The Member concluded, overall, that "[f]inding that removal remains a possibility because of internal correspondence from the CBSA that states that a Diplomatic Note was sent to the Somalia Ministry of Foreign Affairs, and that the Canadian Ambassador will reach out to that Ministry without any further evidence with respect to how this would impact the prospect of removal would amount to speculation, assumption and conjecture."

[23] The finding that there was no realistic possibility of removal was determinative of this matter. However, the Member then examined, in the alternative, the 248 factors under the *IRPR*. The Member found that but for the reasons of the detention (*i.e.*, the Respondent being a flight risk and danger to the public), and excluding the best interest of the child, the 248 factors weighed in favour of the Respondent's release. The Member once more acknowledged that the Respondent had been detained for 568 days, which "is a very, very long time and weighs heavily in favour of release." The Member found that the "significant uncertainty" of the Respondent's removal from Canada further weighed heavily in favour of release, and that the Minister had incurred delay by contacting Global Affairs Canada regarding potential removal proceedings only in January 2024 and admitting that obtaining travel documents from Somalia Delegates "may not be successful." The Member accepted the Respondent's testimony regarding what

amounted to indefinite detention was doing to the Respondent's mental health and found that the conditions of detention "strongly favour his release."

[24] With respect to the existence of detention alternatives, the Member acknowledged that the Respondent was deemed a danger to the public and relied upon the holding that, with such individuals, "any conditions of release [must be] sufficiently robust to ensure that the general public will not be exposed to any material risk of harm" (*Canada (Public Safety and Emergency Preparedness) v Mawut*, 2022 FC 415 ("*Mawut*") at para 35). The Member, upon summarizing the evidence and responding to counsels' qualms, found that the Respondent could be released provided that he meet the following conditions:

- Remain under house arrest meaning remain at your residential address 24 hours a day 7 days a week with the following exceptions: to report to the CBSA, to attend your place of employment (upon receiving authorization in writing from the CBSA), to attend to medical emergencies, to meet with your lawyer and to attend any other appointments or visits with family provided you have first obtained authorization in writing from the CBSA. The other exception to this house arrest condition is for the purposes of allowing you to travel from the Immigration Holding Center to Alberta, if the residential address you provide to the CBSA is located in Alberta;
- Ensure compliance with the terms of your criminal release order dated July 19th, 2022;
- Advise the CBSA, in writing or in person, of any variations or changes to your criminal release order dated July 19th 2022 within 24 hours of any such change having come into force;
- You are prohibited from owning, having in your possession or carrying a weapon, including knives, except those required for the preparation or consumption of food. Work tools, while at work, is a permitted exception to this prohibition;
- Do not possess a firearm, imitation firearm, crossbow, prohibited weapon, restricted weapon, prohibited device, ammunition, prohibited ammunition or explosive substance. If you have any of these items, you are to surrender them to the nearest police department as well as any authorization, license or registration certificate or other document allowing the acquisition or possession of a firearm within 48 hours of release;

- Do not purchase, possess, use or consume intoxicating substances, including but not limited to alcohol, recreational cannabis and any drug not prescribed for you by a doctor or dentist;
- If offered by the CBSA and if accepted into the CBSA's electronic monitoring program, enroll in and abide by all requirements of said program including wearing any device required of you to ensure that the CBSA is apprised of your location at all times.

[25] Additionally, the Member imposed conditions that, should the Respondent reside in Alberta and in the event CBSA did not facilitate travel to Alberta:

- Prior to release, provide written proof to the CBSA that you have booked a flight to Alberta (as well as your itinerary) and proof that said flight is scheduled to depart within the following 24 hours.
- Prior to departing, confirm your departure with a CBSA officer at the airport from which you are departing to Alberta.
- Confirm your arrival in Alberta with a CBSA officer at the airport you will be landing at as soon after landing as possible.
- Report to the CBSA office closest to your residence in Alberta within 24 hours of landing.

III. <u>Analysis</u>

[26] The tripartite test for the granting of a stay is well established: *Toth v Canada (Minister of Employment and Immigration)* (1988), 86 NR 302 (FCA) ("*Toth*"); *Manitoba (A.G.) v Metropolitan Stores Ltd*., 1987 CanLII 79 (SCC), [1987] 1 SCR 110 ("*Metropolitan Stores Ltd*"*); RJR-MacDonald Inc. v Canada (Attorney General),* 1994 CanLII 117 (SCC), [1994] 1 SCR 311 ("*RJR-MacDonald*"); *R v Canadian Broadcasting Corp*, 2018 SCC 5 ("*CBC*") (CanLII), [2018] 1 SCR 196.

[27] The *Toth* test is conjunctive, in that granting a stay requires the applicant to establish: (i) a serious issue raised by the underlying application for judicial review; (ii) irreparable harm; and (iii) the balance of convenience favouring granting the stay.

A. *Serious Issue*

[28] In *RJR-MacDonald*, the Supreme Court of Canada established that the first stage of the test should be determined on an "extremely limited review of the case on the merits" (*RJR-MacDonald* at 314). The standard of review of an enforcement officer's decision is that of reasonableness (*Baron v Canada (Minister of Public Safety and Emergency Preparedness)*, 2009 FCA 81 (CanLII), [2010] 2 FCR 311 ("*Baron*") at para 67).

[29] However, in the context of a stay of release motion, I agree with my colleague Justice Norris that evaluating a serious issue under this tri-partite test demands the moving party demonstrate a "strong *prima facie* case" (*Canada (Public Safety and Emergency Preparedness) v Mohammed*, 2019 FC 451 ("*Mohammed*") at para 16, citing *CBC* at paras 15-16). I agree that "an order whose effect is to continue a denial of liberty ought to meet a similar threshold when it comes to evaluating the merits of the underlying application before the legal effect of an order for release should be suspended" (*Mohammed* at para 16).

[30] On this first prong of the tri-partite test, the Applicant submits that the Member erred in finding that there was no possibility of the Respondent's removal, unreasonably found that the Respondent's public and flight risks were tempered by the release conditions (including conditions the Respondent could not abide by, nor CBSA impose), and erroneously relied upon

the Respondent's testimony to find that circumstances had changed such that the Member could depart from the previous ID decisions mandating detention.

[31] The Respondent submits that the Applicant has not raised a serious issue. The Respondent maintains that the Member reasonably concluded that the Minister had failed to provide "credible, objective facts" in support of the possibility of the Respondent's removal. The Respondent further maintains that there is no serious issue with respect to the strict release conditions imposed with regard to the Respondent's submissions and circumstances (especially in relation to the CBSA's electronic monitoring policy), and that the ID's decisions regarding release conditions ought to be afforded deference (*Canada (Public Safety and Emergency Preparedness) v Suleiman*, 2022 FC 286). Moreover, the Respondent submits that there are no serious issues with respect to the 248 factors analysis.

[32] Having reviewed the Member's lengthy and comprehensive decision, as well as the materials, I agree with the Respondent. There was no serious issue with the Member's conclusion, upon review of the Minister's evidence—or lack thereof.

[33] The first error alleged by the Applicant does not constitute a serious issue. The Member thoroughly assessed the evidence to find that the possibility of removal is speculative. At its best, the Minister's evidence established that efforts to speak with Somali delegates are ongoing. Rigorous as the Minister's efforts may or may not have been, there is no serious issue with the Member's finding that the Minister's efforts to speak with Somali officials, let alone their

proposed plan to procure travel documents, are insufficient to establish a real possibility of removal.

[34] This is especially apparent given that the Minister's counsel conceded that "future length of detention is unknown as the travel document remains an impediment to removal" and there being no evidence to establish travel documents had been obtained previously through liaising with Somalian officials in the manner the Minister had been. I am also mindful of the fact that previous counsel for the Minister at an earlier detention hearing, in December 2023, stated with regard to discussions with Somali Delegates that "[w]e should be finding out shortly in regards to the outcome and then from there, either we get the travel document… or if [not], then the Minster would seek release based on [sic] that time." Furthermore, as noted above, the ID repeatedly and unequivocally requested that the Minister provide evidence other than internal correspondence from the CBSA regarding the efforts to obtain travel documents. Not once were these requests abided by, nor warnings regarded nexus heard. There is no serious issue with a conclusion that this evidence does not establish that there is a "plan to circumvent the impasse" such that there is a real possibility of removal (*Brown* at para 102).

[35] The second error alleged by the Applicant also does not constitute a serious error.

[36] I agree with the Respondent that the test for conditions to offset risk of harm to the public upon release from detention is not one of "virtual elimination." Rather, I agree with my colleague Justice Grammond, who held that such a standard would be "virtually impossible to meet," the test being "any conditions of release [must be] sufficiently robust to ensure that the

general public will not be exposed to any material risk of harm" (*Mawut* at para 35, citing *Canada (Public Safety and Emergency Preparedness) v Ali*, 2018 FC 552 at para 47). In addition to these reasons, I find that the standard of "virtually eliminating" the risk of harm to the public further offends Justice Grammond's incisive ruling regarding the "principle underlying section 58 [of the *IRPA*] namely, that release is the rule and detention, the exception" (*Canada (Public Safety and Emergency Preparedness) v Thavagnanathiruchelvam*, 2021 FC 592 ("*Thavagnanathiruchelvam*") at para 36). Accepting the standard set forth by the Applicant would invert this principle, making detention the rule, and release, the exception.

[37] With this standard in mind, I agree with the Respondent that there is no serious issue with the Member's conditions of release, which are exhaustive, robust, and without almost any exceptions. The Member carefully considered the evidence regarding the Respondent's circumstances and tailored the release conditions as such, especially in light of the Respondent's history of criminality and failure to appear before administrative bodies. The Member concluded that they had "imposed all of the conditions that I possibly can." This imposition is to be afforded deference (*Thavagnanathiruchelvam* at para 32) and I find no serious issue with it.

[38] I am further mindful of the fact that the parties had the opportunity to provide submissions regarding release conditions both before and during the hearing, demonstrating that the Member was alive and responsive to the submissions of the parties. This is a seminal feature of reasonableness review (*Mason v Canada (Citizenship and Immigration)*, 2023 SCC 21 at para 74, citing *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 ("*Vavilov*") at para 125). The Minister failed to put forth release conditions, instead arguing that

"we do not believe that he can be released on any conditions." This argument is made without regard to the law surrounding detention release (see e.g. *Thavagnanathiruchelvam* at para 36) and is an argument for the indefinite detention of the Respondent until removal is effected. This argument is meritless, and the Member cannot be reproached for acknowledging and rejecting it.

[39] The Applicant further maintains that the Member failed to consider factors regarding risk of harm upon release (including, for example, the allegations that the Respondent would be unsupervised and that the CBSA could not conduct electronic monitoring).

[40] However, I do not find that there are serious issues in the Member's decision that would substantiate these allegations. The Member was responsive to the Minister's submissions regarding the fact that no one would necessarily supervise the Respondent, finding that there was "nothing preventing the CBSA from checking on [the Respondent] at his residence at whatever frequency they find appropriate." Additionally, the Member found that while there was no bondsperson or community supervision over the Respondent, this was the first ID release order imposing conditions and the CBSA could subject the Respondent to electronic monitoring, subject to the CBSA's willingness to enroll him in the program. Despite the Minister's objections to the electronic monitoring condition, I note that the Member explicitly stated that "there's nothing physically stopping the CBSA" from offering this monitoring to the Respondent and the Member explicitly acknowledged a November 2, 2023 email from the CBSA stating that "[o]ne option is, of course, to bolster his rather strict probation conditions with *IRPA* conditions such as [electronic monitoring]." The Applicant's arguments are largely efforts to have this Court reweigh the evidence before the Member. That is not this Court's role on review (*Vavilov*

at para 125), and there is thus no serious issue with respect to this aspect of the Member's decision.

[41] Finally, there is no serious issue with respect to the Member departing from previous detention review decisions based on the Respondent's changed circumstances. Simply put, the evidence before the Member in this decision was qualitatively different than in previous decisions. Specifically, the testimony of the Respondent, which was not provided in the previous detention decisions, justified departing from previous decisions. The Member found the Respondent to be credible and acknowledged the effects upon his mental health due to spending 470 days in prison whilst on immigration hold, as well as ascribing partial responsibility to his past actions owing to his continued detention. The Applicant's allegations that this finding was unreasonable in light of the evidence is a blunt request for the Court to reweigh evidence (*Vavilov* at para 125) and a mischaracterization of what evidence was and was not provided in previous detention reviews.

[42] The Applicant has failed to establish any serious issue with respect to the Member's decision, which was articulate, thorough, and grounded in the evidence. The Member went as far as to provide a 248 factors analysis despite finding that the Respondent's detention no longer had a connection to an immigration purpose. The Minister was given every opportunity (and indeed, was asked by the ID more than once) to provide evidence and submissions that would justify detention. They did not do so. They were warned that nexus was increasingly difficult to establish. They did not heed these warnings. The Member is thus not to be faulted for the Minister's failings.

B. *Irreparable Harm*

[43] At the second stage of the test, applicants are required to demonstrate that irreparable harm will result if relief is not granted. Irreparable harm does not refer to the magnitude of the harm; rather, it is a harm that cannot be cured or quantified in monetary terms (*RJR-MacDonald* at 341). This Court must be satisfied on a balance of probabilities that the harm is not speculative, but does not have to be satisfied that the harm will occur (*Xu v Canada (Minister of Employment and Immigration)*, [1994] FCJ No 746, 79 FTR 107 (FCTD); *Horii v Canada (C.A.)*, [1991] FCJ No 984, [1992] 1 FC 142 (FCA)).

[44] The Applicant submits that irreparable harm will necessarily follow if the Court finds that there is a serious issue with respect to the Member's decision (*Canada (Public Safety and Emergency Preparedness) v Asante*, 2019 FC 905 at para 39). The Applicant maintains that the Respondent has a lengthy criminal history and that the Member's decision will not ensure compliance or appearance for removal, nor mitigate the danger to the public.

[45] The Respondent submits that the Applicant's submissions regarding irreparable harm rely on finding serious issues with respect to the Member's decision, and there being no such issues, the Applicant has failed to establish irreparable harm.

[46] I agree with the Respondent. The Applicant's submissions largely rely upon this Court finding a serious issue with respect to the Member's decision, which this Court has not done. The remainder of the submissions are not based on clear evidence (*Canada (Public Safety and Emergency Preparedness) v Allen*, 2018 FC 1194 ("*Allen*") at para 17). Indeed, the Applicant

fails to articulate which harm is alleged to be irreparable. Instead, the Applicant relies upon the Respondent being deemed a danger to the public and a flight risk to maintain irreparable harm will follow upon his release. In this matter, this is insufficient as evidence of irreparable harm, being insufficiently particular to establish irreparable harm will likely follow (*Allen* at para 17, citing *Canada (Attorney General) v Canada (Information Commissioner)*, 2001 FCA 25 at para 12; *International Longshore and Warehouse Union, Canada v Canada (Attorney General)*, 2008 FCA 3 at para 25; *United States Steel Corporation v Canada (Attorney General)*, 2010 FCA 200 at para 7).

[47] I find that accepting the Applicant's submissions that the release of an individual who has been deemed a danger to the public and a flight risk, but has strict and detailed release conditions, will constitute irreparable harm, would effectively mean accepting that no such individual could ever be released from detention. I do not accept these submissions, as it would make stay of detention release motions meaningless. The Applicant's efforts are lacking. Irreparable harm is not established.

C. *Balance of Convenience*

[48] The third stage of the test requires an assessment of the balance of convenience—a determination to identify which party will suffer the greater harm from the granting or refusal of the interlocutory injunction, pending a decision on the merits (*RJR-MacDonald* at 342; *Metropolitan Stores Ltd* at 129). It has sometimes been said, "Where the Court is satisfied that a serious issue and irreparable harm have been established, the balance of convenience will flow

with the Applicant" (*Mauricette v Canada (Public Safety and Emergency Preparedness)*, 2008 FC 420 (CanLII) at para 48).

[49] The Applicant submits that the balance of convenience is in their favour, the public interest being favoured in questions of public safety when carrying out an order under the *IRPA* and the Respondent having a lengthy history of criminality and failure to abide by release conditions.

[50] The Respondent submits that the balance of convenience is in his favour owing to the length of his detention.

[51] I agree with the Respondent. I find that the extended deprivation of his liberty in carceral institutions is, in my colleague Justice Norris's words, a "weighty consideration" (*Canada (Public Safety and Emergency Preparedness) v Erhire*, 2021 FC 908 ("*Erhire*") at para 45). The Applicant has failed to demonstrate, for the purposes of this motion, that the decision releasing the Respondent from the long time spent in these institutions is an unjustified provision of his liberty, there being little public interest in staying his conditioned and strict release, but much in seeing it (*Erhire* at para 44). The balance of convenience weighs in the Respondent's favour.

[52] At the hearing for this matter, counsel for the Applicant submitted that the balance of convenience is in their favour given that the Respondent was to be detained for "only five more days" until his potential removal from Canada.

[53] “Only five more days.” When seen as five amongst over five hundred, perhaps five more days seems slight. And perhaps some would consider five days in detention to be so. The Applicant’s submissions before the ID and this Court, effectively arguing for the Respondent’s indefinite detention, certainly do.

[54] I do not. The Court is not reviewing an addendum to detention, nor seriously considering what might be, in counsel for the Respondent’s words, “practicable.” The Court is reviewing the legality of denying a person their liberty. Here, that person has been detained for 577 days, with 470 days spent imprisoned in maximum-security provincial facilities. He has been ordered to be released from his confinement, subject to strict conditions. There has been no serious issue established with respect to this order, nor irreparable harm following from his release. Subject to his release conditions and abiding by them, the Respondent, may, for the first time in hundreds, have five days free of imprisonment—including having an opportunity to say goodbye to his family before his potential removal from Canada.

[55] My colleague Justice Norris held that “liberty ought never to be denied without a compelling reason” (*Mohammed* at para 17). I agree. The argument that the balance of convenience favours the Applicant by having the Respondent detained for five more days is not a compelling reason to have his liberty continue to be denied.

[56] The Applicant has not met the tri-partite test required for a stay of the Respondent’s release. This motion is therefore dismissed.

ORDER in 2363-24

THIS COURT ORDERS that:

1. The Applicant’s motion for a stay of the Respondent’s release from detention is dismissed.

2. The Minister’s application for leave and judicial review is to be expedited.

"Shirzad A.”
Judge

FEDERAL COURT

SOLICITORS OF RECORD

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