

Date: 20090807

Docket: IMM-3697-09

Citation: 2009 FC 804

Ottawa, Ontario, August 7, 2009

PRESENT: The Honourable Mr. Justice Shore

BETWEEN:

NAMDEO RAMRATTAN

Applicant

and

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

Respondents

REASONS FOR JUDGMENT AND JUDGMENT

I. Introduction

[1] Section 48 of the *Immigration and Refugee Protection Act*, S.C. 2001, c. 27 (IRPA), provides that an enforceable removal order must be put into effect as soon as practicable. The Applicant has remained in Canada for nineteen years without personal status in Canada. An enforceable removal order is in effect.

II. Judicial Procedure

[2] The Applicant requests a stay of removal, scheduled for August 7, 2009 at 11:55 p.m. An underlying application for leave and for judicial review challenges a negative Pre-Removal Risk Assessment (PRRA) decision of June 8, 2009.

III. Background

[3] Mr. Namdeo Ramrattan, a citizen of Trinidad and Tobago came to Canada in 1990 with an authorized work permit for one year. For the last nineteen years, since the expiration of the work permit, he has remained in Canada and worked for most of those years for a multi-national company on record. Reference is made to letters, Exhibits A to F inclusive, from the multi-national company in question under the company's letterhead, acknowledging the situation as it exists, wherein the position Mr. Ramrattan occupies is considered unique in its skill-set and, also, in the manner by which Mr. Ramrattan fulfills its challenging needs.

[4] Married with three children in Trinidad and Tobago, Mr. Ramrattan is in a relationship in Canada since 1993 with Ms. Lorraine Matheson.

[5] After eleven years in Canada, Mr. Ramrattan made a claim for refugee status in 2001. The Immigration and Refugee Board (IRB) determined that he is neither a Convention refugee nor a person in need of protection. Mr. Ramrattan discontinued an application for leave and for judicial review in 2003.

[6] As Mr. Ramrattan's common-law relationship with Ms. Matheson was not considered adequate in substance, his humanitarian and compassionate (H&C) application was denied.

[7] Subsequent to a PRRA, the Applicant applied for permanent residence, on a sponsorship application filed by Ms. Matheson. The sponsorship application is still pending.

[8] A subsequent PRRA decision, denied on June 8, 2009, was received by Mr. Ramrattan on July 6, 2009. This decision is now challenged in the underlying application for leave and for judicial review.

IV. Issue

[9] Has the Applicant satisfied all three parts of the conjunctive test for a stay as set out in *Toth v. Canada (Minister of Employment and Immigration)* (1988), 86 N.R. 302?

V. Analysis

[10] Extraordinary equitable relief in such a case would necessitate a positive conjunctive tripartite *Toth* test assessment. The balance of convenience in this case is in favour of the public interest in executing the deportation order pursuant to section 48.

[11] Subsequent to a string of denials in regard to (1) a refugee claim; (2) an H&C application; and (3) a PRRA application, the Applicant has not established any serious issue regarding the PRRA assessment, in and of itself.

[12] Although the multi-national company in question has communicated glowing reports in respect of both the unique nature of the skill-set for the work and the effective manner by which Mr. Ramrattan performs his duties (Exhibit F), to date, the multi-national company has not, as yet, sponsored him for this unique work skill-set. As a result, currently, it is outside of the purview of this specific decision, which, in fact, might have been otherwise had such a work sponsorship application been in progress. That would be for the multi-national company in question to effect subsequent to copies of its correspondence which have been forwarded to the Court, if the multi-national company is serious about the very clear positive assertions that have been made in Mr. Ramrattan's regard, including its statement "...and if given the chance, we are sure that he will certainly be an asset to Canada".

[13] In conclusion, however, without a work sponsorship application of the multi-national company in question, the Applicant has failed to establish all three prongs of the *Toth* test: serious issue, irreparable harm and balance of convenience.

VI. Conclusion

[14] Therefore, based on the most current evidence on file, the Motion for a stay of removal is denied.

JUDGMENT

THIS COURT ORDERS that the Motion for a stay of removal be denied.

“Michel M.J. Shore”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

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STYLE OF CAUSE: NAMDEO RAMRATTAN v.
THE MINISTER OF CITIZENSHIP
AND IMMIGRATION AND THE
MINISTER OF PUBLIC SAFETY
AND EMERGENCY PREPAREDNESS

PLACE OF HEARING: Ottawa, Ontario

DATE OF HEARING: August 7, 2009 (by teleconference)

**REASONS FOR JUDGMENT
AND JUDGMENT:** SHORE J.

DATED: August 7, 2009

APPEARANCES:

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