

Federal Court



Cour fédérale

Date: 20110505

Docket: IMM-2618-11

Citation: 2011 FC 525

Vancouver, British Columbia, May 5, 2011

Present: The Honourable Mr. Justice Pinard

BETWEEN:

KHDOR IBRAHIM

Applicant

and

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

Respondents

REASONS FOR ORDER AND ORDER

[1] This is a motion on behalf of the applicant for a stay of execution of a valid deportation order against him pending disposition of his application for leave and for judicial review of his third Pre-Removal Risk Assessment (“PRRA”), dated March 29, 2011. The deportation is scheduled for May 5, 2011, in the evening.

[2] The arguments of the applicant with respect to whether there is a serious issue in this matter deal basically with the reasonableness of the impugned decision. At this stage, I have serious doubts as to the existence of any valid reason to substitute my own appreciation of the facts to that made by the PRRA officer. In any event, without deciding whether there is a serious question to be determined by the Court, the requested stay is denied on the grounds that the applicant has failed to establish that he will suffer irreparable harm if he is removed to Lebanon, and to show that the balance of convenience is in his favour (see *Toth v Minister of Employment and Immigration* (1988), 86 NR 302 (FCA) and *RJR MacDonald Inc v Canada (AG)*, [1994] 1 SCR 311).

[3] With respect to the question of irreparable harm, the applicant's submission that his outstanding second Humanitarian and Compassionate ("H&C") application, filed just two weeks ago and based primarily on his establishment in Canada, will be rendered moot should he be removed from Canada, is without merit. It is trite law that neither an H&C application nor a judicial review application is rendered moot by the mere fact that a person has been deported (see *Palka v Minister of Public Safety and Emergency Preparedness*, 2008 FCA 165 at paras 15, 17 and 19).

[4] In fact, the applicant has had a previous H&C application which examined his establishment in Canada and which was refused. He has also had the benefit of a spousal sponsorship application with his then spouse which also was refused, in that case for lack of *bona fides*.

[5] Concerning the allegation of harm to the applicant's companion and her children, as well as the contractors paid by the applicant, the Supreme Court of Canada in *RJR MacDonald Inc*, *supra*, at para 58, has held that harm to a third party, as opposed to the applicant, does not meet

the “irreparable” threshold for the purposes of a stay motion (see also *Sittampalam v Minister of Citizenship and Immigration*, 2010 FC 562).

[6] Furthermore, irreparable harm must be something more than the inherent consequences of deportation. In *Melo v Canada (Minister of Citizenship and Immigration)* (2000), 188 FTR 39 at para 21, Mr. Justice Denis Pelletier stated:

. . . if the phrase “irreparable harm” is to retain any meaning at all, it must refer to some prejudice beyond that which is inherent in the notion of deportation itself. To be deported is to lose your job, to be separated from familiar faces and places. It is accompanied by enforced separation and heartbreak. . . .

[7] The applicant’s argument that the loss of his business will cause irreparable harm is also without merit. As held by this Court in *Kasi v Minister of Citizenship and Immigration* (March 2, 2009), IMM-396-09, disruption of industry and success in Canada does not equate to irreparable harm.

[8] Finally, there is no new evidence before me to demonstrate that the applicant, who has benefitted from an assessment of his refugee claim, three risk assessments and reviews by this Court, faces a risk to his life if he is removed. In the circumstances, the balance of convenience lies with the respondent, as section 48 of the *Immigration and Refugee Protection Act*, SC 2001, c 27, provides that an enforceable removal order must be enforced as soon as is reasonably practicable.

ORDER

For the above mentioned reasons, the applicant's motion for an order staying the execution of the deportation order against him is dismissed.

“Yvon Pinard”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: T-2618-11

STYLE OF CAUSE: KHDOR IBRAHIM v. MINISTER OF CITIZENSHIP
AND IMMIGRATION

PLACE OF HEARING: Vancouver, BC

DATE OF HEARING: May 2, 2011

**REASONS FOR ORDER
AND ORDER:** PINARD J.

DATED: May 5, 2011

APPEARANCES:

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