

Federal Court



Cour fédérale

Date: 20120607

Docket: IMM-4934-12

Citation: 2012 FC 695

Montréal, Quebec, this 7th day of June 2012

PRESENT: The Honourable Mr. Justice Pinard

BETWEEN:

Stephanie KHATTAR

Applicant

and

**THE MINISTER OF CITIZENSHIP
AND IMMIGRATION**

Respondent

REASONS FOR ORDER AND ORDER

[1] This is a motion made on behalf of the Applicant for an Order staying her removal from Canada to Lebanon, pending the disposition of her request for leave and for judicial review of the negative decision of an Immigration Officer (“the Immigration Officer”) who refused her request for an exemption to apply for permanent residence within Canada on humanitarian and compassionate grounds.

[2] To obtain the requested stay, the Applicant needed to demonstrate that all three criteria of the applicable tri-partite test established by the Federal Court of Appeal in *Toth v. Canada (M.E.I.)* (1988), 86 N.R. 302 [*Toth*] are met, namely (1) the existence of a serious issue in the underlying application for leave and for judicial review; (2) resulting irreparable harm if the removal order is executed; and (3) the balance of convenience in her favour.

[3] In this case, the Applicant has totally failed to satisfy me that she will suffer irreparable harm if removed to Lebanon.

[4] The irreparable harm alleged by the Applicant in this motion relies on the very same allegations of risk that were evaluated and dismissed by the Refugee Protection Division, the Pre-Removal Risk Assessment (“PRRA”) Officer and the Immigration Officer. I note that the PRRA Officer considered the Applicant’s particular situation and determined that she would face no risk upon her return to Lebanon. This decision has not been contested.

[5] Concerning the Applicant’s loss of employment in retail sales, a position that she has held for less than a year, and the separation from friends and family upon her return to Lebanon, it is well established that irreparable harm must be more than the usual consequences of deportation (see, for example, *Ali v. Minister of Citizenship and Immigration*, 2007 FC 751 [*Ali*]; *Atwal v. Minister of Citizenship and Immigration*, 2004 FCA 427; and *Thanabalasingham v. Minister of Public Safety and Emergency Preparedness*, 2006 FC 486).

[6] Finally, concerning the allegations of risk and irreparable harm mentioned in letters sent by the Applicant's father, mother and friend, I agree with the Respondent that these letters merely refer to vague threats from unnamed persons as a result of anonymous phone calls, and they do not contain any specific information upon which it could be alleged that the Applicant would personally be subjected to irreparable harm. The general allegations of harassment and potential risk to the Applicant's reputation contained in these letters is speculative (see *Ali*, above, at para 36).

[7] As the Applicant's failure to demonstrate that she will suffer irreparable harm if she returned to Lebanon is determinative of this stay motion, it will not be necessary to deal with the other prongs of the *Toth* test above, namely the existence of a serious issue and the balance of convenience.

ORDER

The Applicant's motion for an Order staying her removal from Canada to Lebanon is hereby dismissed.

"Yvon Pinard"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-4934-12

STYLE OF CAUSE: Stephanie KHATTAR v. THE MINISTER OF
CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: Montréal, Quebec

DATE OF HEARING: June 4, 2012

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

DATED: June 7, 2012

APPEARANCES:

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FOR THE APPLICANT

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FOR THE RESPONDENT

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FOR THE RESPONDENT