

Federal Court



Cour fédérale

**Date: 20140526**

**Docket: IMM-3893-14**

**Citation: 2014 FC 493**

**[UNREVISED ENGLISH CERTIFIED TRANSLATION]**

**Ottawa, Ontario, May 26, 2014**

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

**BETWEEN:**

**GLADYS JOSEPH-TROTTIER**

**Applicant**

**and**

**MINISTER OF PUBLIC SAFETY AND  
EMERGENCY PREPAREDNESS**

**Respondent**

**JUDGMENT AND REASONS**

[1] The applicant is seeking a stay of removal by this Court following a loss of permanent residence in Canada.

[2] The importation into Canada of cocaine by the applicant led to an offence of unlawful importation of a substance listed in Schedule 1 of the *Controlled Drugs and Substances Act*, SC 1996, c 19.

[3] On October 11, 2012, the Immigration Division concluded that a removal order should be issued against the applicant as a result of inadmissibility on grounds of serious criminality under paragraph 36(1)(a) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [IRPA].

[4] Once the removal order was issued, the applicant lost her permanent resident status under paragraph 46(1)(b) of the IRPA.

[5] Taking a number of proceedings in a number of steps to avoid a removal to Haiti, the applicant filed an application for leave against the removal decision in this Court on the grounds of fear of returning to Haiti because of her fear of being detained as a [TRANSLATION] “criminal deportee” as well as her psychological condition, depressive, and her physical condition, HIV-positive in addition to being the biological mother of three children.

[6] The applicant also stated that she could be the victim of criminality or even racist persecution because she was married to a white person.

[7] The applicant also submitted an application for permanent residence based on humanitarian and compassionate considerations. This application, although pending, does not have the effect of staying the removal order.

[8] As a result of research conducted by the officer who issued the removal order against the applicant, the record shows that responses were obtained stating that the applicant could be treated for HIV and depression in Haiti. The HIV treatments are completely free; the medication for depression is not.

[9] The decision-maker, the removal officer, also had information specifying that there would be an examination on arrival in Haiti and that the applicant was advised to have someone pick her up at the airport, once she arrived.

[10] The applicant's record shows that all of the applicant's concerns specified above were dealt with separately and as a whole in respect of the applicant, on the basis of detailed and thorough information from the country the applicant would be returned to; everything can be found, for each of the applicant's concerns, in the record before the Court. This information in the record establishes that the applicant would not be deprived of care or face a risk to her person, physically or psychologically, based on the situation she would be subject to.

[11] For all these reasons, under the tripartite test in *Toth v Canada (Minister of Employment and Immigration)* (1988), 86 NR 302 (FCA), the applicant has not met the three conjunctive requirements of the test to stay her removal.

**JUDGMENT**

**THE COURT ORDERS AND ADJUDGES that** the application for a stay of the applicant's removal order is dismissed.

"Michel M.J. Shore"

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Judge

Certified true translation  
Mary Jo Egan, LLB

**FEDERAL COURT**  
**SOLICITORS OF RECORD**

**DOCKET:** IMM-3893-14

**STYLE OF CAUSE:** GLADYS JOSEPH-TROTTIER v MINISTER  
OF PUBLIC SAFETY AND EMERGENCY  
PREPAREDNESS

**MOTION CONSIDERED BY TELECONFERENCE ON MAY 22, 2014, BETWEEN  
OTTAWA, ONTARIO AND MONTRÉAL, QUEBEC**

**JUDGMENT AND REASONS :** SHORE J.

**DATED:** MAY 26, 2014

**APPEARANCES:**

Éric Taillefer

FOR THE APPLICANT

Daniel Latulippe

FOR THE RESPONDENT

**SOLICITORS OF RECORD:**

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FOR THE RESPONDENT