

Federal Court



Cour fédérale

Date: 20160203

Docket: IMM-332-16

Citation: 2016 FC 126

Toronto, Ontario, February 3, 2016

PRESENT: The Honourable Mr. Justice O'Reilly

BETWEEN:

KAREN ANN MARIE GUTHRIE

Applicant

and

**THE MINISTER OF CITIZENSHIP
AND IMMIGRATION**

Respondent

ORDER AND REASONS

[1] Ms Karen Ann Marie Guthrie seeks an order staying her removal from Canada for Jamaica on February 15, 2016 pending final determination of her application for leave and judicial review of a negative pre-removal risk assessment (PRRA).

[2] I am satisfied that Ms Guthrie has met the three-part test for a stay, as follows:

I. Serious Issue

[3] Ms Guthrie raises three potential serious issues in respect of the PRRA officer's reasons. I am satisfied that at least one of them, the officer's articulation of the test applicable to state protection, qualifies as a serious issue. Therefore, I need not address the other two.

[4] The officer referred several times to Jamaica's efforts to provide protection to women who, like Ms Guthrie, are victims of domestic violence. The fact that Jamaica is making efforts at protection does not necessarily mean that Ms Guthrie's fear of persecution is not well-founded, which is the issue the officer had to decide. Accordingly, I find that a serious issue arises in respect of the officer's conclusion that state protection is available in Jamaica.

II. Irreparable Harm

[5] Given that a serious issue arises in respect of the assessment of the risk Ms Guthrie would face in Jamaica, it follows that she may experience irreparable harm if she were removed before the soundness of that assessment can be considered on judicial review. In addition, Ms Guthrie points to evidence showing that she faces an ongoing risk of domestic violence in Jamaica.

III. Balance of Convenience

[6] The balance of convenience favours allowing Ms Guthrie to remain in Canada to pursue her application for leave and judicial review.

ORDER

THIS COURT ORDERS that:

1. The request for a stay is allowed.
2. Ms Guthrie's removal is stayed until her application for leave and judicial review has been finally determined.

"James W. O'Reilly"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-332-16

STYLE OF CAUSE: KAREN ANN MARIE GUTHRIE v THE MINISTER OF
CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: TORONTO, ONTARIO

DATE OF HEARING: FEBRUARY 2, 2016

ORDER AND REASONS: O'REILLY J.

DATED: FEBRUARY 3, 2016

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