

Federal Court



Cour fédérale

**Date: 20160310**

**Dockets: IMM-5281-15  
IMM-174-16  
IMM-192-16  
IMM-638-16**

**Citation: 2016 FC 310**

**Vancouver, British Columbia, March 10, 2016**

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

**IMM-5281-15  
IMM-174-16**

**BETWEEN:**

**ALI MWINYI SHARIFF**

**Applicant**

**and**

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

**Respondent**

**IMM-192-16**  
**IMM-638-16**

**BETWEEN:**

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

**Applicant**

**and**

**ALI MWINYI SHARIFF**

**Respondent**

**JUDGMENT**

[1] **UPON** hearing these applications for judicial review at Vancouver, British Columbia, on March10, 2016;

[2] **AND UPON** reviewing the materials filed with the Court, including the certified tribunal records, and hearing the arguments and submissions of the parties;

[3] **AND UPON** reserving a decision with respect to each of these applications;

[4] **AND UPON** concluding that these applications for judicial review brought pursuant to subsection 72(1) of the *Immigration and Refugee Protection Act*, SC 2001, c 27, should each be denied and dismissed for the following reasons:

- (a) The style of cause in Court files IMM-5281-15 and IMM-174-16 is amended to replace the Minister of Citizenship and Immigration with the Minister of Public Safety and Emergency Preparedness.
- (b) The application for judicial review in Court file IMM-5281-15 is dismissed because, for the detailed reasons that will follow this judgment at a later date, the issues raised in such application have been rendered moot and, in addition, the Court declines to exercise its discretion to hear and determine the merits of this application.
- (c) The application for judicial review in Court file IMM-174-16 is dismissed because, for the detailed reasons that will follow this judgment at a later date, the issues raised in such application have been rendered moot. However, in view of the circumstances surrounding Mr. Shariff's detention and for the detailed reasons that will follow this judgment at a later date, the Court will exercise its discretion to hear and determine the merits of this application.
- (d) The applications for judicial review in Court files IMM-192-16 and IMM-638-16 are also dismissed because, for the detailed reasons that will follow this judgment at a later date, the orders for release of Mr. Shariff issued and made on January 13, 2016 and on February 10, 2016 by L. King, a member of the Immigration Division [ID] of the of the Immigration and Refugee Board of Canada, were justified in the circumstances of this case and, therefore, reasonable. The Court should not interfere since the ID's decision to issue each order for release is intelligible, transparent, justifiable, and defensible in respect of the facts and the law: *Dunsmuir v New Brunswick*, 2008 SCC 9, [2008] 1 S.C.R. 190 at para 47. The reasons

underlying the issuance of these two orders permit the Court to understand why the orders were made and permit it to determine that issuance of these orders was within the range of acceptable outcomes: *Newfoundland and Labrador Nurses' Union v Newfoundland and Labrador (Treasury Board)*, 2011 SCC 62, [2011] 3 S.C.R. 708, at para 16.

- (e) Detailed reasons for the foregoing judgment will follow at a later date. Neither party suggested a question for certification at the hearing of these applications; so, no such question is certified.
- (f) The Court directs that a copy of this judgment be placed in each of the four Court files noted above.

**JUDGMENT**

**THIS COURT'S JUDGMENT is that:**

1. The style of cause in Court files IMM-5281-15 and IMM-174-16 is amended to replace the Minister of Citizenship and Immigration with the Minister of Public Safety and Emergency Preparedness.
2. The applications for judicial review in Court files IMM-5281-15, IMM-174-16, IMM-192-16, and IMM-638-16, are each dismissed.
3. A copy of this judgment shall be placed in each of Court files IMM-5281-15, IMM-174-16, IMM-192-16, and IMM-638-16.
4. There shall be no order as to costs; and no question of general importance is certified.

"Keith M. Boswell"

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Judge