

Federal Court



Cour fédérale

Date: 20160812

Docket: IMM-3385-16

Citation: 2016 FC 925

Ottawa, Ontario, August 12, 2016

PRESENT: The Honourable Mr. Justice Shore

BETWEEN:

MICHAEL DARE COLE

Applicant

and

**THE MINISTER OF CITIZENSHIP
AND IMMIGRATION**

Respondent

JUDGMENT AND REASONS

[1] The motion for a stay of execution of removal, in this case, is an abuse of process, a disregard for the administration of justice and the integrity of the immigration system.

[2] The Applicant does not present himself before this Court with “clean hands”. In addition to serious criminality of bank fraud in the United States, he is in violation of the immigration system in Canada by having evaded Canada immigration authorities for six years since

disobeying a deportation order, scheduled for March 31, 2010. The deportation order led the Applicant to request a stay of such on March 30, 2010, which was refused.

[3] The Applicant only came to the light of the immigration authorities subsequent to a traffic violation on July 23, 2016. Arrested, the Applicant has been in detention awaiting removal with immigration escort.

[4] An applicant seeking an injunction, an extraordinary remedy of a discretionary nature, must appear before the Court with clean hands.

[5] Applications for a stay of removal are dismissed in case of disregard of immigration laws and failure to appear for removal (*Mohar v Canada (Minister of Citizenship and Immigration)*, 2005 FC 952).

[6] Jurisprudence has clearly pointed out that in such cases, applicants are not entitled to the extraordinary measures which a stay of removal injunction entails.

[7] The history of the file consists of a refugee claim, a PRRA application and an H&C application, all of which were denied. The Court also notes the underlying lack of credibility on the part of the Applicant that was found as such in the original refugee claim. It is duly noted that Justice Yves de Montigny of the Federal Court, at the time, denied a former stay of removal application (subsequent to a negative PRRA decision in response to a PRRA application by the Applicant).

[8] For all of the above reasons, the Applicant's stay of removal application will not be entertained.

JUDGMENT

THIS COURT'S JUDGMENT is that the stay of removal application not be heard.

"Michel M.J. Shore"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-3385-16

STYLE OF CAUSE: MICHAEL DARE COLE v THE MINISTER OF
CITIZENSHIP AND IMMIGRATION

**MOTION FOR A STAY OF EXECUTION OF REMOVAL CONSIDERED AT
OTTAWA, ONTARIO**

JUDGMENT AND REASONS: SHORE J.

DATED: AUGUST 12, 2016

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