

Federal Court



Cour fédérale

Date: 20160908

Docket: IMM-2753-16

Citation: 2016 FC 1018

[ENGLISH TRANSLATION]

Ottawa, Ontario, September 8, 2016

PRESENT: The Honourable Mr. Justice Shore

BETWEEN:

HAMIT TAHIR AHMAT

Applicant

and

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

Respondent

JUDGMENT AND REASONS

(Judgment delivered from the bench on July 7, 2016)

[1] The applicant's removal to his country of nationality is scheduled for July 9, 2016.

[2] On June 26, 2016, the applicant submitted an application for stay of removal, which was denied by a removal officer on June 27, 2016.

[3] This stay motion is related to his application for leave to seek judicial review of the removal officer's decision.

[4] The applicant is asking the Federal Court that his removal be postponed until he can submit a pre-removal risk assessment (PRRA) application, on December 22, 2016.

[5] The case history shows that the applicant left his country on October 13, 2014.

[6] His application for refugee protection was denied on April 15, 2015.

[7] Subsequently, the RAD denied his application against the RPD's decision, affirming the RPD's decision on December 24, 2015.

[8] To satisfy the Federal Court, the applicant must convince the Court by way of the three-pronged conjunctive test used in *Toth v. Canada (Minister of Employment and Immigration)*, (1988), 86 NR 302 (FCA), which is to say that the applicant must demonstrate that there is a serious issue, that he could suffer irreparable harm in the event that the stay is denied, and that there is a balance of inconvenience to him.

[9] The applicant states that his credibility was questioned and that both bodies of the Board refused to believe that he had converted to Christianity.

[10] In his application for administrative stay, the applicant submitted a new allegation of threat to his person. It was not mentioned at all to either body of the Board: he alleges that ties with his family pose a threat of harm to his person given that his family has been targeted by one of the main opponents of the current government.

[11] The Court takes into consideration the fact that the RPD denied his application in light of weaknesses in his testimony regarding his new faith.

[12] In addition, due to the applicant's lack of credibility, the RAD found that the applicant had failed to demonstrate that his family would persecute him, or even that his family would be intolerant of his alleged recent conversion.

[13] The RAD also noted in its decision, based on a review of the documentation, that Chad has a population composed of 53% Muslims, 20% Catholics and 14% Protestants. Chad is established as a secular country, wherein Muslim and Christian leaders share power within a rotation system.

[14] The Court notes that the Federal Court, through Mr. Justice Martineau, denied the application for leave to seek judicial review of this RAD decision on May 4, 2016.

[15] Despite the fact that the applicant alleges he shared his political views on his Facebook page, and that he asserts that his two letters of support from members of his father's side of the family demonstrate the threat of harm, this was not considered valid by the removal officer. Rather, the removal officer noted that these allegations arose on the eve of the removal to strengthen his case.

[16] The Court notes that the applicant did not make his new statements until June 13—just a few weeks before his removal date—following the two negative Board decisions and the very recent Federal Court judgment in May 2016, which did not favour the applicant.

[17] For all of these reasons, the applicant has failed to satisfy in any way the three conjunctive criteria in the *Toth* test.

JUDGMENT

For the reasons given, this Court finds that the application for stay of a removal order must be denied.

“Michel M.J. Shore”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-2753-16

STYLE OF CAUSE: HAMIT TAHIR AHMAT v THE MINISTER OF
PUBLIC SAFETY AND EMERGENCY
PREPAREDNESS

**MOTION HEARD BY CONFERENCE CALL ON JULY 7, 2016, BETWEEN OTTAWA,
ONTARIO AND MONTRÉAL, QUEBEC**

JUDGMENT AND REASONS: SHORE J.

DATED: SEPTEMBER 8, 2016

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