

Federal Court



Cour fédérale

Date: 20190321

Docket: IMM-3165-18

Citation: 2019 FC 346

Ottawa, Ontario, March 21, 2019

PRESENT: The Honourable Mr. Justice Bell

BETWEEN:

MOHAMED ELKAMIL ELIMAM SHARIF

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

I. Overview

[1] Sudan is led by a brutal repressive regime (the Bashir regime). The Bashir regime in place in 2003 remains the regime in place today. In 2003, Sudanese law required that one obtain an exit visa prior to leaving the country. That same law remains in force today. In 2003, political

opponents of the Bashir regime were persecuted and tortured. According to country condition documents, opponents of the Bashir regime today may be subject to persecution and torture.

[2] In 1986, Mr. Sharif joined the Democratic Union Party [DUP] in Sudan. He remained a member of that party and worked to advance its interests until his departure from Sudan in 2003. The un-contradicted evidence is that before August 25, 2003, Mr. Sharif's political activities included inviting others to join the DUP in opposition to the Bashir regime, the distribution of flyers in support of the DUP and inviting others to join a street protest against the Bashir regime. On or about August 25, 2003, Mr. Sharif was arrested at which time he claims violence was used against him. Following his release, he was arrested for a second time on September 2, 2003, at which time he claims he was tortured and forced to sign a document by which he undertook to cease any political activity. Failure to respect the terms of his release, namely the cessation of all political activity, could result in a sentence up to and including his execution or imprisonment for life.

[3] Following his second arrest, Mr. Sharif fled to Chad, obtained a fraudulent passport and in 2004 arrived in the United States where he immediately made an asylum claim. After the rejection of his asylum claim, he remained in the United States until 2017. I would note that Mr. Sharif did make one attempt to enter Canada in 2008 for purposes of making an asylum claim. That effort was unsuccessful due to the Safe Third Country Agreement (*Immigration and Refugee Protection Act*, S.C. 2001, c. 27, s. 102 [IRPA]; *Canadian Council for Refugees v. Canada*, [2009] 3 FCR 136, 2008 FCA 229).

[4] Given what he perceived as deteriorating conditions for illegal immigrants in the United States, Mr. Sharif entered Canada unlawfully in September 2017. He was arrested and was provided with the opportunity to complete a request for a Pre-Removal Risk Assessment [PRRA] as permitted pursuant to section 112 of IRPA. On April 12, 2018, the PRRA Officer rejected Mr. Sharif's application [decision] and ordered his removal from Canada. It is from that decision that Mr. Sharif now seeks judicial review pursuant to subsection 72(1) of the IRPA.

II. Decision under review

[5] The PRRA Officer concluded that Mr. Sharif would not be subject to risk of persecution, or face a risk to his life or a risk of cruel and unusual treatment or punishment if returned to Sudan.

[6] The Officer correctly summarized Mr. Sharif's contentions on the first page of the decision. He states:

Even though the applicant has left Sudan, he states that he remains committed to his political beliefs which oppose the current regime. The applicant declares that he is applying for PRRA because the authorities of Sudan will kill him if he returns there due to his previous political involvement. He alleges that he is a potential target of the regime in Sudan because of his prolonged stay in the USA and his political activist past. Furthermore, he left Sudan without an exit visa, and would have to explain how he did so and how he spent his time abroad.

The applicant also notes that the economic situation in his country of origin has worsened since his departure, and he does not have a social net upon which he can rely. He states that he would have a difficult time finding employment in Sudan.

[7] The Officer refers to the “objective documentation” which demonstrates the “near absolute political authority” held by the Bashir regime for in excess of 26 years. The Officer concludes this objective evidence depicts arbitrary arrests, arbitrary detention, ill-treatment by government forces, and the “arrest and temporary detention of opposition party members.” The Officer also observes that some opposition leaders live in exile, leaders of opposition parties have been questioned at airport security and that “important members of an opposition party had their passports seized.”

[8] In response to Mr. Sharif’s concerns about having left Sudan without an exit visa, the Officer states that there is no evidence that those who return without an exit visa are subject to treatment that would amount to persecution, torture, or cruel and unusual treatment or punishment.

[9] In response to Mr. Sharif’s concerns about his past membership in the DUP, the Officer notes that the documentation demonstrates that high-ranking opposition members could be exposed to arbitrary arrest and detention but that Mr. Sharif’s profile does not fit that of a “key figure” of the DUP. The Officer further opines that Mr. Sharif has been outside of Sudan for 15 years. The RPD concluded there is no evidence of subversive activity or other activities by Mr. Sharif such that he would be known to the Bashir regime and “could be a potential target as a member of the political opposition”.

[10] The Officer concludes his analysis of relevant factors by stating that while the Bashir regime has a history of failing to respect political and civil liberties and that freedom of

expression remains a human rights issue in Sudan, these simply demonstrate the political climate within which all Sudanese live and are not particular to Mr. Sharif.

[11] In his PRRA application, Mr. Sharif expressed concern about being unable to find employment in Sudan. The Officer quite properly concludes that issue is not a proper consideration on a PRRA application. Nothing more will be said on that topic in these reasons.

III. Relevant Statutory Provisions

[12] The relevant provisions of the *IRPA* are sections 112 to 114, and sections 96 to 98 are also important. These provisions are set out in the Appendix attached to these Reasons.

IV. Analysis

A. *Standard of review*

[13] The Supreme Court, in *Dunsmuir v. New Brunswick*, 2008 SCC 9, [2008] 1 S.C.R. 190) [*Dunsmuir*], held that it is not necessary to conduct a review analysis where the standard of review has been established in the jurisprudence. The appropriate standard of review of a PRRA Officer's decision is reasonableness (*Selduz v. Canada (Citizenship and Immigration)*, 2009 FC 361, at para. 9-10; *Balogh v. Canada (Citizenship and Immigration)*, 2017 FC 654, at para. 23).

[14] When reviewing a decision on a reasonableness standard, the reviewing Court must show deference to the decision maker while ensuring there was justification, transparency and intelligibility within the decision-making process and satisfying itself that the decision falls

within a range of possible, acceptable outcomes which are defensible in respect of the facts and law (Dunsmuir at para 47).

B. *Was the PRRA Officer's decision reasonable in the circumstances?*

[15] While fully cognizant of the deference I owe to the Officer, I find the decision-making process lacks justification and intelligibility. In reaching this conclusion I make every effort not to re-weigh the evidence, but simply to demonstrate where I consider the reasoning flawed or inadequate such that the decision is rendered unintelligible.

[16] First, the Officer quite properly notes that the objective documentary evidence demonstrates that political opponents of the Bashir regime are subject to arbitrary arrest and detention. However, following that accurate statement, the Officer then concludes that Mr. Sharif is not a sufficiently important or a sufficiently high-ranking member of the opposition to be considered a “target” of the Bashir regime. The difficulty with the approach taken by the Officer is that he ignores his own conclusion that political opponents are targeted whether or not they are high-ranking or important.

[17] Second, in concluding that Mr. Sharif would not be targeted or that he is no more at risk than anyone else in Sudan, the Officer ignores the uncontested evidence accepted by him. The Officer accepts that Mr. Sharif was arrested twice and was forced to sign an undertaking not to engage in political activity on fear of death or imprisonment for life. The fact of those arrests and the signed undertaking form no part of his analysis regarding Mr. Sharif's risk of being targeted by the Bashir regime, presuming his eventual return to Sudan. Whether Mr. Sharif's profile puts

him at greater risk than other members of the general public in Sudan is, with respect, something the Officer should have considered.

[18] Third, the uncontested evidence before the Officer was that an exit visa was required to leave Sudan in 2003 and an exit visa is still required. The documentary evidence demonstrates that the purpose of the exit visa is, among other things, to monitor the movement of those with criminal records and the movement of political opponents. The Officer addresses the issue of the exit visa by observing that there is no evidence that those who return without such a visa are subjected to treatment that would amount to persecution, torture, or cruel and unusual treatment or punishment. I question whether that is the issue.

[19] The issue, in my view, is whether someone who left without a valid passport, without an exit visa, after having been arrested on two occasions and after having signed an undertaking to cease political activities and who entered the United States on a fraudulent Chadian passport would be subject to persecution, torture or cruel and unusual treatment. Even if there is no direct evidence regarding a person with a profile similar to Mr. Sharif, it was incumbent upon the PRRA Officer to make his inferences and draw his conclusions based upon the profile of someone akin to Mr. Sharif. The result may have been the same; however, the failure to distinguish between Mr. Sharif's profile and, for example, a returning tourist who failed to obtain an exit visa is significant. In my view the approach adopted by the Officer leads to speculation rather than sound inference based decision-making.

[20] In my view these three (3) observations, without challenging the weight afforded by the Officer to any of the evidence, demonstrate the decision is unjustifiable and lacking intelligibility. Mr. Sharif is not a normal citizen returning without an exit visa. Mr. Sharif may not be a high-profile opposition leader but he is clearly an opponent of the Bashir regime, a profile identified by the Officer as being at risk of arbitrary arrest and detention.

[21] I would close with one further observation. The Officer quite properly points out that normally an absence of 15 years reduces the chances that a person would still be sought by those seeking to do him harm. Counsel for the Respondent cites the cases (*Balci v. Canada (Immigration, Refugees and Citizenship)*, 2017 FC 681; *Alam v. Canada (Minister of Citizenship and Immigration)*, 2005 FC 1439) holding that the longer the absence the less the risk of harm upon return. I question the utility of the approach that “time heals” in circumstances where the same repressive authoritarian regime spans those 15 years of absence, the laws on the books 15 years ago remain the same and the country condition evidence is largely the same.

V. Conclusion

[22] For the foregoing reasons, I grant Mr. Sharif’s application for judicial review. The decision of the PRRA Officer dated April 12, 2018, is quashed and the matter is remitted to a different officer for redetermination. No question having been proposed for certification, none is certified for consideration by the Federal Court of Appeal.

JUDGMENT in IMM-3165-18

THIS COURT'S JUDGMENT is that:

1. The Application for Judicial Review is granted;
2. The decision of the PRRA Officer dated April 12, 2018, is quashed. The matter shall be remitted to a different officer for redetermination; and
3. No question is certified for consideration by the Federal Court of Appeal.

“B. Richard Bell”

Judge

ANNEX A

Immigration and Refugee Protection Act, S.C. 2001, c. 27

Loi sur l'immigration et la protection des réfugiés, L.C. 2001, ch. 27

Convention Refugee

Définition de réfugié

96 A Convention refugee is a person who, by reason of a well-founded fear of persecution for reasons of race, religion, nationality, membership in a particular social group or political opinion,

96 A qualité de réfugié au sens de la Convention — le réfugié — la personne qui, craignant avec raison d'être persécutée du fait de sa race, de sa religion, de sa nationalité, de son appartenance à un groupe social ou de ses opinions politiques :

(a) is outside each of their countries of nationality and is unable or, by reason of that fear, unwilling to avail themselves of the protection of each of those countries; or

a) soit se trouve hors de tout pays dont elle a la nationalité et ne peut ou, du fait de cette crainte, ne veut se réclamer de la protection de chacun de ces pays;

(b) not having a country of nationality, is outside the country of their former habitual residence and is unable or, by reason of that fear, unwilling to return to that country

b) soit, si elle n'a pas de nationalité et se trouve hors du pays dans lequel elle avait sa résidence habituelle, ne peut ni, du fait de cette crainte, ne veut y retourner

Person in need of protection

Personne à protéger

97(1) A person in need of protection is a person in Canada whose removal to their country or countries of nationality or, if they do not have a country of nationality, their country of former habitual residence, would subject them personally

97(1) A qualité de personne à protéger la personne qui se trouve au Canada et serait personnellement, par son renvoi vers tout pays dont elle a la nationalité ou, si elle n'a pas de nationalité, dans lequel elle avait sa résidence habituelle, exposée :

(a) to a danger, believed on

a) soit au risque, s'il y a des

substantial grounds to exist, of torture within the meaning of Article 1 of the Convention Against Torture; or

(b) to a risk to their life or to a risk of cruel and unusual treatment or punishment if

(i) the person is unable or, because of that risk, unwilling to avail themselves of the protection of that country,

(ii) the risk would be faced by the person in every part of that country and is not faced generally by other individuals in or from that country,

(iii) the risk is not inherent or incidental to lawful sanctions, unless imposed in disregard of accepted international standards, and

(iv) the risk is not caused by the inability of that country to provide adequate health or medical care.

Person in need of protection

(2) A person in Canada who is a member of a class of persons

motifs sérieux de le croire, d'être soumise à la torture au sens de l'article premier de la Convention contre la torture;

b) soit à une menace à sa vie ou au risque de traitements ou peines cruels et inusités dans le cas suivant :

(i) elle ne peut ou, de ce fait, ne veut se réclamer de la protection de ce pays

(ii) elle y est exposée en tout lieu de ce pays alors que d'autres personnes originaires de ce pays ou qui s'y trouvent ne le sont généralement pas,

(iii) la menace ou le risque ne résulte pas de sanctions légitimes — sauf celles infligées au mépris des normes internationales — et inhérents à celles-ci ou occasionnés par elles,

(iv) la menace ou le risque ne résulte pas de l'incapacité du pays de fournir des soins médicaux ou de santé adéquats

Personne à protéger

(2) A également qualifié de personne à protéger la

prescribed by the regulations as being in need of protection is also a person in need of protection.

personne qui se trouve au Canada et fait partie d'une catégorie de personnes auxquelles est reconnu par règlement le besoin de protection.

Exclusion – Refugee Convention

Exclusion par application de la Convention sur les réfugiés

98 A person referred to in section E or F of Article 1 of the Refugee Convention is not a Convention refugee or a person in need of protection.

98 La personne visée aux sections E ou F de l'article premier de la Convention sur les réfugiés ne peut avoir la qualité de réfugié ni de personne à protéger.

Requirement to report

Obligation de se rapporter à un agent

98.1(1) A designated foreign national on whom refugee protection is conferred under paragraph 95(1)(b) or (c) must report to an officer in accordance with the regulations.

98.1 (1) L'étranger désigné à qui la protection est conférée conformément aux alinéas 95(1)b) ou c) est tenu de se rapporter à un agent conformément aux règlements.

Obligation when reporting

Obligation subsidiaire

(2) A designated foreign national who is required to report to an officer must answer truthfully all questions put to him or her and must provide any information and documents that the officer requests.

(2) Il est tenu de répondre véridiquement à ses questions et de lui donner les renseignements et documents qui lui sont demandés

Regulations

Règlements

98.2 The regulations may provide for any matter relating to the application of section 98.1 and may include provisions respecting the requirement to report to an

98.2 Les règlements régissent l'application de l'article 98.1 et portent notamment sur l'obligation de se rapporter à un agent.

officer.

**Pre-removal Risk
Assessment**

Protection

Application for protection

112(1) A person in Canada, other than a person referred to in subsection 115(1), may, in accordance with the regulations, apply to the Minister for protection if they are subject to a removal order that is in force or are named in a certificate described in subsection 77(1).

Exception

(2) Despite subsection (1), a person may not apply for protection if

(a) they are the subject of an authority to proceed issued under section 15 of the *Extradition Act*;

(b) they have made a claim to refugee protection that has been determined under paragraph 101(1)(e) to be ineligible;

(b.1) subject to subsection (2.1), less than 12 months, or, in the case of a person who is a national of a country that is designated under subsection 109.1(1), less than 36 months, have passed since their claim for refugee protection was last rejected — unless it was deemed to be rejected under subsection 109(3) or was rejected on the basis of

**Examen des risques avant
renvoi**

Protection

Demande de protection

112(1) La personne se trouvant au Canada et qui n'est pas visée au paragraphe 115(1) peut, conformément aux règlements, demander la protection au ministre si elle est visée par une mesure de renvoi ayant pris effet ou nommée au certificat visé au paragraphe 77(1).

Exception

(2) Elle n'est pas admise à demander la protection dans les cas suivants :

a) elle est visée par un arrêté introductif d'instance pris au titre de l'article 15 de la *Loi sur l'extradition*.

b) sa demande d'asile a été jugée irrecevable au titre de l'alinéa 101(1)e);

b.1) sous réserve du paragraphe (2.1), moins de douze mois ou, dans le cas d'un ressortissant d'un pays qui fait l'objet de la désignation visée au paragraphe 109.1(1), moins de trente-six mois se sont écoulés depuis le dernier rejet de sa demande d'asile — sauf s'il s'agit d'un rejet prévu au paragraphe 109(3) ou d'un rejet pour un motif

section E or F of Article 1 of the Refugee Convention — or determined to be withdrawn or abandoned by the Refugee Protection Division or the Refugee Appeal Division;

(c) subject to subsection (2.1), less than 12 months, or, in the case of a person who is a national of a country that is designated under subsection 109.1(1), less than 36 months, have passed since their last application for protection was rejected or determined to be withdrawn or abandoned by the Refugee Protection Division or the Minister.

(d) [Repealed, 2012, c. 17, s. 38].

Exemption

(2.1) The Minister may exempt from the application of paragraph (2)(b.1) or (c)

(a) the nationals — or, in the case of persons who do not have a country of nationality, the former habitual residents — of a country;

(b) the nationals or former habitual residents of a country who, before they left the country, lived in a given part of that country;

prévu à la section E ou F de l'article premier de la Convention — ou le dernier prononcé du désistement ou du retrait de la demande par la Section de la protection des réfugiés ou la Section d'appel des réfugiés ;

c) sous réserve du paragraphe (2.1), moins de douze mois ou, dans le cas d'un ressortissant d'un pays qui fait l'objet de la désignation visée au paragraphe 109.1(1), moins de 36 mois se sont écoulés depuis le rejet de sa dernière demande de protection ou le prononcé du retrait ou du désistement de cette demande par la Section de la protection des réfugiés ou le ministre.

d) [Abrogé, 2012, ch. 17, art. 38].

Exemption

(2.1) Le ministre peut exempter de l'application des alinéas (2)b.1) ou c) :

a) les ressortissants d'un pays ou, dans le cas de personnes qui n'ont pas de nationalité, celles qui y avaient leur résidence habituelle;

b) ceux de tels ressortissants ou personnes qui, avant leur départ du pays, en habitaient une partie donnée

and

(c) a class of nationals or former habitual residents of a country.

c) toute catégorie de ressortissants ou de personnes visés à l'alinéa a).

Application

(2.2) However, an exemption made under subsection (2.1) does not apply to persons in respect of whom, after the day on which the exemption comes into force, a decision is made respecting their claim for refugee protection by the Refugee Protection Division or, if an appeal is made, by the Refugee Appeal Division.

Application

(2.2) Toutefois, l'exemption ne s'applique pas aux personnes dont la demande d'asile a fait l'objet d'une décision par la Section de la protection des réfugiées ou, en cas d'appel, par la Section d'appel des réfugiés après l'entrée en vigueur de l'exemption.

Regulations

(2.3) The regulations may govern any matter relating to the application of subsection (2.1) or (2.2) and may include provisions establishing the criteria to be considered when an exemption is made.

Règlements

(2.3) Les règlements régissent l'application des paragraphes (2.1) et (2.2) et prévoient notamment les critères à prendre en compte en vue de l'exemption.

Restriction

(3) Refugee protection may not be conferred on an applicant who

(a) is determined to be inadmissible on grounds of security, violating human or international rights or organized criminality;

(b) is determined to be inadmissible on grounds of serious criminality with respect to a conviction in Canada of an offence under

Restriction

(3) L'asile ne peut être conféré au demandeur dans les cas suivants

a) il est interdit de territoire pour raison de sécurité ou pour atteinte aux droits humains ou internationaux ou criminalité organisée ;

b) il est interdit de territoire pour grande criminalité pour déclaration de culpabilité au Canada pour une infraction à une loi

an Act of Parliament punishable by a maximum term of imprisonment of at least 10 years or with respect to a conviction outside Canada for an offence that, if committed in Canada, would constitute an offence under an Act of Parliament punishable by a maximum term of imprisonment of at least 10 years;

(c) made a claim to refugee protection that was rejected on the basis of section F of Article 1 of the Refugee Convention; or

(d) is named in a certificate referred to in subsection 77(1).

fédérale punissable d'un emprisonnement maximal d'au moins dix ans ou pour toute déclaration de culpabilité à l'extérieur du Canada pour une infraction qui, commise au Canada, constituerait une infraction à une loi fédérale punissable d'un emprisonnement maximal d'au moins dix ans ;

c) il a été débouté de sa demande d'asile au titre de la section F de l'article premier de la Convention sur les réfugiés ;

d) il est nommé au certificat visé au paragraphe 77(1).

Consideration of application

113 Consideration of an application for protection shall be as follows:

(a) an applicant whose claim to refugee protection has been rejected may present only new evidence that arose after the rejection or was not reasonably available, or that the applicant could not reasonably have been expected in the circumstances to have presented, at the time of the rejection;

(b) a hearing may be held if the Minister, on the basis of prescribed factors, is of the

Examen de la demande

113 Il est disposé de la demande comme il suit :

a) le demandeur d'asile débouté ne peut présenter que des éléments de preuve survenus depuis le rejet ou qui n'étaient alors pas normalement accessibles ou, s'ils l'étaient, qu'il n'était pas raisonnable, dans les circonstances, de s'attendre à ce qu'il les ait présentés au moment du rejet;

b) une audience peut être tenue si le ministre l'estime requis compte tenu des

opinion that a hearing is required;

facteurs réglementaires

(c) in the case of an applicant not described in subsection 112(3), consideration shall be on the basis of sections 96 to 98;

c) s'agissant du demandeur non visé au paragraphe 112(3), sur la base des articles 96 à 98

(d) in the case of an applicant described in subsection 112(3) — other than one described in subparagraph (e)(i) or (ii) — consideration shall be on the basis of the factors set out in section 97 and

d) s'agissant du demandeur visé au paragraphe 112(3) — sauf celui visé au sous-alinéa e)(i) ou (ii) —, sur la base des éléments mentionnés à l'article 97 et, d'autre part

(i) in the case of an applicant for protection who is inadmissible on grounds of serious criminality, whether they are a danger to the public in Canada, or

(i) soit du fait que le demandeur interdit de territoire pour grande criminalité constitue un danger pour le public au Canada

(ii) in the case of any other applicant, whether the application should be refused because of the nature and severity of acts committed by the applicant or because of the danger that the applicant constitutes to the security of Canada; and

(ii) soit, dans le cas de tout autre demandeur, du fait que la demande devrait être rejetée en raison de la nature et de la gravité de ses actes passés ou du danger qu'il constitue pour la sécurité du Canada

(e) in the case of the following applicants, consideration shall be on the basis of sections 96 to 98 and subparagraph (d)(i) or (ii), as the case may be:

e) s'agissant des demandeurs ci-après, sur la base des articles 96 à 98 et, selon le cas, du sous-alinéa d)(i) ou (ii) :

(i) an applicant who is

(i) celui qui est interdit

determined to be inadmissible on grounds of serious criminality with respect to a conviction in Canada punishable by a maximum term of imprisonment of at least 10 years for which a term of imprisonment of less than two years — or no term of imprisonment — was imposed, and

(ii) an applicant who is determined to be inadmissible on grounds of serious criminality with respect to a conviction of an offence outside Canada that, if committed in Canada, would constitute an offence under an Act of Parliament punishable by a maximum term of imprisonment of at least 10 years, unless they are found to be a person referred to in section F of Article 1 of the Refugee Convention.

Effect of decision

114 (1) A decision to allow the application for protection has

de territoire pour grande criminalité pour déclaration de culpabilité au Canada pour une infraction à une loi fédérale punissable d'un emprisonnement maximal d'au moins dix ans et pour laquelle soit un emprisonnement de moins de deux ans a été infligé, soit aucune peine d'emprisonnement n'a été imposée;

(ii) celui qui est interdit de territoire pour grande criminalité pour déclaration de culpabilité à l'extérieur du Canada pour une infraction qui, commise au Canada, constituerait une infraction à une loi fédérale punissable d'un emprisonnement maximal d'au moins dix ans, sauf s'il a été conclu qu'il est visé à la section F de l'article premier de la Convention sur les réfugiés.

Effet de la décision

114 (1) La décision accordant la demande de protection a pour effet de conférer l'asile au demandeur; toutefois, elle a pour effet, s'agissant de celui visé au paragraphe 112(3), de surseoir, pour le pays ou le lieu en cause, à la mesure de

renvoi le visant

(a) in the case of an applicant not described in subsection 112(3), the effect of conferring refugee protection; and

(b) in the case of an applicant described in subsection 112(3), the effect of staying the removal order with respect to a country or place in respect of which the applicant was determined to be in need of protection.

Cancellation of stay

(2) If the Minister is of the opinion that the circumstances surrounding a stay of the enforcement of a removal order have changed, the Minister may re-examine, in accordance with paragraph 113(d) and the regulations, the grounds on which the application was allowed and may cancel the stay

Vacation of determination

(3) If the Minister is of the opinion that a decision to allow an application for protection was obtained as a result of directly or indirectly misrepresenting or withholding material facts on a relevant matter, the Minister may vacate the decision.

Effect of vacation

(4) If a decision is vacated under subsection (3), it is

Révocation de sursis

(2) Le ministre peut révoquer le sursis s'il estime, après examen, sur la base de l'alinéa 113d) et conformément aux règlements, des motifs qui l'ont justifié, que les circonstances l'ayant amené ont changé.

Annulation de la décision

(3) Le ministre peut annuler la décision ayant accordé la demande de protection s'il estime qu'elle découle de présentations erronées sur un fait important quant à un objet pertinent, ou de réticence sur ce fait.

Effet de l'annulation

(4) La décision portant annulation emporte nullité de

nullified and the application
for protection is deemed to
have been rejected.

la décision initiale et la
demande de protection est
réputée avoir été rejetée.

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-3165-18

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MINISTER OF CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: TORONTO, ONTARIO

DATE OF HEARING: FEBRUARY 6, 2019

**REASONS FOR JUDGMENT
AND JUDGMENT:** BELL J.

DATED: MARCH 21, 2019

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