

Federal Court



Cour fédérale

Date: 20250109

Docket: IMM-24382-24

Citation: 2025 FC 57

Toronto, Ontario, January 9, 2025

PRESENT: The Honourable Mr. Justice Ahmed

BETWEEN:

YINUSA ODUTOLA KAZEEM

Applicant

and

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

Respondent

ORDER AND REASONS

[1] The Applicant, Yinusa Odutola Kazeem, seeks an Order staying his removal from Canada to Nigeria scheduled for January 14, 2025. He requested a deferral of his removal but an enforcement officer denied his request. The Applicant seeks to stay his removal pending the disposition of his application for leave and judicial review of the officer's decision.

[2] I have reviewed the submissions of the parties and have considered their representations delivered by videoconference on January 9, 2025. I do not find that a stay of removal is warranted in this case.

[3] A stay of removal is an equitable remedy where “[t]he fundamental question is whether the granting of an injunction is just and equitable in all of the circumstances” (*Google Inc v Equustek Solutions Inc*, 2017 SCC 34 at para 25). As determined by this Court in *Gracia v Canada (Citizenship and Immigration)*, 2021 FC 158 (“*Gracia*”), “a reviewing court may dismiss [a stay motion] without proceeding to determine the merits” if it is “satisfied that an applicant has lied, or is otherwise guilty of misconduct” (at para 20, citing *Canada (Minister of Citizenship and Immigration) v Thanabalasingham*, 2006 FCA 14 at para 9 [emphasis in original]).

[4] The Applicant in this case does not come to the Court with “clean hands.” Unlike in *Oladipupo v Canada (Public Safety and Emergency Preparedness)*, 2024 FC 921, the Applicant in this proceeding has entirely failed to be “forthright about his criminal history and history of non-compliance with immigration laws” (at para 29). The Applicant failed to acknowledge his criminal convictions and immigration history in his initial submissions. He did not disclose that he had been charged with a criminal offence in the US or that he claimed refugee protection in Canada under a false name, fled from an Immigration, Refugees and Citizenship Canada office upon being confronted about his criminal charge, and subsequently evaded arrest for 10 years. These are “very serious omission[s] which could have misled the Court on a material point” (*Gracia* at para 31). This ground alone is sufficient to dismiss the Applicant’s motion for a stay.

[5] Moreover, I find the Applicant has failed to meet the tripartite test for the granting of a stay (*Toth v Canada (Minister of Employment and Immigration)*, 1988 CanLII 1420 (FCA)).

[6] No serious issue arises from the deferral decision. The officer reasonably concluded that a decision on the Applicant's underlying spousal application was not imminent, based on deficiencies in the application materials and the Applicant's complex immigration history. There is no basis for disturbing the officer's assessment of the best interests of the three Canadian-born children of the Applicant's spouse, as the Applicant brought only "[v]ague references to financial concerns" and "unsubstantiated submissions of the lack of alternative caregivers" (*John v Canada (Minister of Citizenship and Immigration)*, 2003 FCT 420 at para 24, cited in *Petrovych v Canada (Public Safety and Emergency Preparedness)*, 2009 FC 110 at para 28). Similarly, I do not find the officer misrepresented the evidence of the Applicant's criminal charges in a prejudicial manner, as the officer's errors are minor and the decision turned on the Applicant's lengthy and troublesome non-compliance with immigration laws in Canada, rather than his criminal charge in the US.

[7] Since the Applicant submits that irreparable harm flows from the serious issue in this case, I find that irreparable harm has not been established.

[8] Furthermore, I find the balance of convenience lies with the Respondent, as the Respondent's interest in removing the Applicant expeditiously pursuant to section 48(2) of the

Immigration and Refugee Protection Act, SC 2001, c 27 outweighs the Applicant's interests in this motion.

[9] For these reasons, the Applicant's request for a stay of removal is dismissed.

ORDER in IMM-24382-24

THIS COURT ORDERS that the request for a stay of the Applicant's removal, scheduled for January 14, 2024, is dismissed.

"Shirzad A."

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-24382-24

STYLE OF CAUSE: YINUSA ODUTOLA KAZEEM v THE MINISTER OF
PUBLIC SAFETY AND EMERGENCY
PREPAREDNESS

PLACE OF HEARING: BY VIDEOCONFERENCE

DATE OF HEARING: JANUARY 9, 2025

ORDER AND REASONS: AHMED J.

DATED: JANUARY 9, 2025

APPEARANCES:

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Saudia Samad	FOR THE RESPONDENT

SOLICITORS OF RECORD:

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