

Date: 20070925

Docket: IMM-3942-06

Citation: 2007 FC 960

Ottawa, Ontario, September 25, 2007

PRESENT: The Honourable Madam Justice Heneghan

BETWEEN:

**LESLEY JUDE ANTONY
THANGANAYAGAM**

Applicant

and

**THE MINISTER OF CITIZENSHIP
AND IMMIGRATION**

Respondent

REASONS FOR ORDER AND ORDER

[1] Mr. Lesley Jude Antony Thanganayagam (the “Applicant”) seeks judicial review of the decision, dated June 12, 2006, by the Immigration and Refugee Board, Refugee Protection Division (the “Board”). In its decision, the Board determined that the Applicant is not a Convention refugee or a person in need of protection as defined in the *Immigration and Refugee Protection Act*, S.C. 2001, c. 27 (the “Act”), sections 96 and 97, respectively.

[2] The Applicant is a citizen of Sri Lanka. He is a Tamil from the North. He based his claim for protection in Canada upon his fear of the Sri Lankan security forces and forced recruitment by the Liberation Tigers of Tamil Eeelan (“LTTE”).

[3] The Applicant first came to Canada in March 2002, as a student. He returned to Sri Lanka in November 2004 and married. He said that during this visit, the LTTE asked him to join as a communication technician. He said he would do so after completing one more semester of studies in Canada.

[4] The Applicant returned to Canada in January 2005. He was informed that after his departure from Sri Lanka, the LTTE approached his wife and told her that the LTTE were expecting her husband to join them and that he would face problems if he refused. The Applicant claimed refugee protection in Canada in April 2005.

[5] The Board accepted the Applicant’s identity as a citizen of Sri Lanka but found that his evidence of fear and risk to his life or to a risk of cruel and unusual treatment or punishment lacked credibility. It concluded that neither the Sri Lankan security forces or the LTTE would be interested in the Applicant and further, that neither the Applicant or his family would face a possibility of persecution or be subjected to danger of torture or to risk of cruel and unusual punishment in Sri Lanka.

[6] The dispositive issue in this application is whether the Board committed a reviewable error in assessing the Applicant's evidence and in making negative credibility findings.

[7] In the decision of *Umba v. Canada (Minister of Citizenship and Immigration)* (2004), 257 F.T.R. 169, the Court conducted a pragmatic and functional analysis and concluded that the appropriate standard of review was patent unreasonableness in respect of credibility findings. I adopt that case here.

[8] Upon reviewing the reasons, including the Applicant's Personal Information Form and testimony before the Board, I am not persuaded that the Board erred in reaching its credibility findings or in any other way committed a reviewable error. The application for judicial review is dismissed. There is no question for certification arising.

ORDER

The application for judicial review is dismissed. There is no question for certification arising.

“E. Heneghan”

Judge

FEDERAL COURT

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET: IMM-3942-06

STYLE OF CAUSE: Lesley Jude Antony Thanganayagam and the Minister of
Citizenship and Immigration

PLACE OF HEARING: Toronto, Ontario

DATE OF HEARING: September 18, 2007

**REASONS FOR ORDER
AND ORDER:** HENEGHAN J.

DATED: September 25, 2007

APPEARANCES:

Mr. John Grice FOR THE APPLICANT

Mr. John Provart FOR THE RESPONDENT

SOLICITORS OF RECORD:

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