

Date: 20071116

Docket: IMM-4642-07

Citation: 2007 FC 1204

Toronto, Ontario, November 16, 2007

PRESENT: The Honourable Mr. Justice Hughes

BETWEEN:

FRANCISCO LARA PEREZ

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

REASONS FOR ORDER AND ORDER

[1] This is a motion by the Applicant to stay a removal order, due for execution now on November 17, 2006, whereby he would be deported to Guatemala. The basis for the stay is an underlying application for leave to seek judicial review of a refusal of the Applicant's application for permanent residence dated November 20, 2006.

[2] The application for permanent residence was denied because the Applicant stated in his Personal Information Form (PIF) that he had been involved in an act of genocide, a war crime or in the commission of a crime against humanity. The Applicant did not seek to appeal the decision of November 20, 2006 nor seek any type of judicial review.

[3] The Applicant's position, now that he faces removal, is that the acknowledgement in his PIF that he was involved in genocide etc. was all a mistake and he was confused. He admits to being in the Guatemalan army for several months but he says he was forced into it and escaped when it became possible to do so. These assertions are accurate only to the degree when viewed in the context of the CAIPS notes and amended PIF narrative of the Applicant put in evidence by the Respondent. That evidence shows that the Applicant admitted to personally killing approximately 60 persons and torturing countless others. He says he did so under duress of torture himself.

[4] The Applicant has offered no evidence as to why he did not appeal or seek review of the decision of November 20, 2006 except to say that the government should have advised him clearly as to what courses of action might be available to him. This smacks of wilful blindness and is consistent with the evidence of the Respondent's enforcement officer who has carriage of the Applicant's removal that "The Applicant also advised me that his lawyer told him to not purchase an airline ticket and to "play dumb"". This evidence has not been rebutted.

[5] There has been shown no serious issue therefore that could arise in respect of the Applicant's underlying application.

[6] The Applicant has advanced no evidence of irreparable harm.

[7] The balance of convenience clearly favours the Respondent.

ORDER

For the Reasons given:

1. The motion is dismissed;
2. No Order as to costs.

“Roger T. Hughes”

Judge

FEDERAL COURT

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET: IMM-4642-07

STYLE OF CAUSE: FRANCISCO LARA PEREZ v. THE MINISTER OF
CITIZENSHIP AND IMMIGRATION

**CONSIDERED AT TORONTO, ONTARIO, MOTION DEALT BY TELECONFERENCE
WITHOUT APPEARANCE OF PARTIES**

**REASONS FOR ORDER
AND ORDER BY:** HUGHES J.

DATED: November 16, 2007

WRITTEN REPRESENTATIONS BY:

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