Ottawa, Ontario, March 5, 2008

PRESENT: The Honourable Mr. Justice O'Reilly

BETWEEN:

HUSNAH MOHAMMED AL MASHTOULI, AHMAD MAHMOUD JABALLAH AND ASH-SHAYMAA ES-SAYJID JABALLAH, AL-MUNZIR ES-SAYJID JABALLAH AND AFNAN MAHMOUD ES-SAYJID JABALLAH, by their Litigation Guardian HUSNAH MOHAMMED AL MASHTOULI

Applicants

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

REASONS FOR ORDER AND ORDER

[1]   The applicants appeared before me on an application for judicial review in December 2005. They asked for a reconsideration of their applications for permanent residence and an order of mandamus requiring the Minister of Citizenship and Immigration to process those applications within a particular time frame. I allowed the application for judicial review, but adjourned the request for mandamus given the Minister's willingness to process the applications for permanent

residence diligently. I remained seized of the matter and have received periodic reports from counsel on the progress of the applications.

[2]   Counsel jointly requested that the case be brought before me again to determine whether a fixed deadline should now be imposed. Only two remaining applications for permanent residence remain in issue - those of Ahmad Mahmoud Jaballah and Ash-Shaymaa Es-Sayjid Jaballah. Both have been determined to be Convention refugees. Ahmad is currently twenty-one years old and has been in Canada since he was nine. Ash-Shaymaa is twenty years old and has been in Canada since she was eight.

[3]   According to the Minister, all the necessary steps have been completed for granting permanent residence to Ash-Shaymaa. For Ahmad, the only remaining step is clearance from the Canadian Security Intelligence Service (CSIS). CSIS interviewed Ahmad in October 2007. The Minister urged me not to impose a particular deadline for the processing of Ahmad's application because the Minister has no control over CSIS. As the Minister responsible for CSIS (*i.e.* the Minister of Public Safety and Emergency Preparedness) is not a party to this proceeding, I have no basis for determining whether CSIS has been dilatory or if there is a legitimate reason for the delay.

[4]   The Minister concedes that Ash-Shaymaa's application can be processed promptly. In the circumstances, out of caution, I will impose a deadline of 60 days for the processing of Ash-Shaymaa's application for permanent residence. In respect of Ahmad, I am concerned about imposing an order on the Minister that may either be ineffective or inappropriate, given that the

delay appears at this point not to be within the Minister's control. Therefore, in Ahmad's case, I would order a further adjournment of the request for mandamus for an additional six months. Given Ahmad's youth and the fact that he has spent most of his life in Canada, I would have expected that a security assessment could be completed in relatively short order. If not complete within six months, the matter should be brought before me again for hearing. I leave it to counsel to determine whether it would be advisable to add the responsible Minister as a respondent.

ORDER

THIS COURT'S ORDER is that:

1.	The application for mandamus is granted in relation to Ash-Sahymaa es-Sayjid Jaballah. The Minister of Citizenship and Immigration is ordered to process her application for permanent residence within 60 days.

2.	The application for mandamus in relation to Ahmad Mahmoud Jaballah is adjourned for six months.

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James W. O'Reilly

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Judge

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FEDERAL COURT

NAME OF COUNSEL AND SOLICITORS OF RECORD

DOCKET: IMM-1433-05

STYLE OF CAUSE: HUSNAH MOHAMMED AL MASHTOULI, et al v. MCI

PLACE OF HEARING: Toronto, Ontario

DATE OF HEARING: February 26, 2008

REASONS FOR ORDER AND ORDER: O'Reilly J.

DATED: March 5, 2006

APPEARANCES:

Ms. Barbara Jackman   FOR THE APPLICANTS

Mr. Lorne McClenaghan   FOR THE RESPONDENT

SOLICITORS OF RECORD:

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