

Federal Court



Cour fédérale

Date: 20101231

Docket: IMM-7710-10

Citation: 2010 FC 1341

Ottawa, Ontario, December 31, 2010

PRESENT: The Honourable Madam Justice Tremblay-Lamer

BETWEEN:

DANIEL CASTORENA GARCIA

Applicant

and

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

Respondent

REASONS FOR ORDER AND ORDER

[1] First, regardless of the merits of the applicant's motion, the Court is not inclined to exercise its discretion favourably in order to grant this equitable remedy for someone who does not come with clean hands.

[2] The applicant failed to appear for removal in April 2010; and despite being given the benefit of the doubt for this failure to appear and being advised of the importance of respecting the

conditions of his release, he failed to report his change of address when he moved out in October 2010 and failed to appear in November 2010, which lead to a warrant for his arrest.

[3] The applicant's behaviour shows complete disregard for Canada's immigration laws. Further, I would add that had I decided this matter on its merits, I would have found that the applicant has failed to demonstrate any irreparable harm. His own evidence shows that even if he stays in Canada to complete his school year, he may have to repeat his school year in Mexico, regardless.

[4] As stated by Justice Marc Nadon in *Mahadeo v. Canada (Minister of Citizenship and Immigration)*, (1999), 166 F.T.R. 315, 86 A.C.W.S. (3d) 773 (Fed. T.D.) at para. 5:

Leaving school before the completion of the school year will no doubt be highly inconvenient and will most likely necessitate the redoing of their school year. However, this does not constitute irreparable harm.

[5] For these reasons, the motion for a stay is dismissed.

ORDER

THIS COURT ORDERS that the motion be dismissed.

“Danièle Tremblay-Lamer”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-7710-10

STYLE OF CAUSE: DANIEL CASTORENAGARCIA
Applicant
and
THE MINISTER OF PUBLIC SAFETY AND
EMERGENCY PREPAREDNESS

PLACE OF HEARING: Ottawa, Ontario

DATE OF HEARING: December 31, 2010

REASONS FOR ORDER: TREMBLAY-LAMER J.

DATED: December 31, 2010

APPEARANCES:

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Suran Bhattacharyya FOR THE RESPONDENT

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