

Federal Court



Cour fédérale

**Date: 20120106**

**Docket: IMM-56-12**

**Citation: 2012 FC 24**

**Ottawa, Ontario, January 6, 2012**

**PRESENT: The Honourable Mr. Justice Shore**

**BETWEEN:**

**JENNIFER LYNN HILL**

**Applicant**

**and**

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

**Respondent**

**REASONS FOR JUDGMENT AND JUDGMENT**

**I. Introduction**

[1] The Applicant is required to leave Canada on Monday, January 9, 2012, through the Detroit-Windsor border between Canada and the United States. Through counsel, she requested a deferral of removal on December 8, 2011.

## II. Background

[2] The Applicant, Ms. Jennifer Lynn Hill, is a citizen of the United States. She attempted to enter Canada a number of times between August 1997 and April 1998; however, she was refused entry to Canada after being reported as inadmissible.

[3] The Applicant had been charged in New York for intent to commit fraud and a warrant had been issued for her arrest in that district after she failed to appear for a proceeding relating to that matter.

[4] On April 2, 2002, the Applicant was reported as inadmissible for entering Canada for the purposes of immigration and failing to hold an immigrant visa as well as engaging in continuing employment and failing to obtain a valid employment authorization. The Applicant had provided a false name to officers of the Toronto Police Service as well as the Canada Border Services Agency [CBSA] officers when arrested.

[5] In December 2002, the Applicant was given an Allowed to Leave pursuant to paragraph 4(a) of the *Immigration and Refugee Protection Regulations*, SOR/2002-227, but was given a Temporary Resident Permit [TRP] until January 2003 to attend Court in Toronto.

[6] In May 2003, the Applicant was reported as inadmissible pursuant to paragraph 36(1)(a) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [IRPA], as she had been convicted in March 2003 of theft under \$5000.

[7] The Applicant filed a Pre-Removal Risk Assessment [PRRA] in June 2003. A negative PRRA decision was rendered in September of that year and she was notified of the decision three weeks later.

[8] In October 2003, the Applicant submitted a Humanitarian and Compassionate [H&C] application to the Case Processing Centre [CPC] in Vegreville, Alberta.

[9] Between October 2003 and July 2004, the Applicant's removal from Canada was deferred a number of times in order that she could attend Criminal Court and receive a decision on her H&C application.

[10] In August 2005, the Applicant's H&C application was refused due to criminality.

[11] After receiving a negative H&C application, the Applicant's counsel requested a Temporary Resident Permit [TRP] until she became eligible to apply for a pardon. The Applicant was issued three TRPs between 2006 and 2010.

[12] The Applicant attended an interview at the Greater Toronto Enforcement Centre [GTEC] on December 1, 2011 and was advised that she was out of status and that her removal would be scheduled.

[13] On December 15, 2011, the Applicant attended another removal interview at GTEC during which her removal was scheduled for January 9, 2012.

### III. Analysis

[14] The Court is in agreement with the position of the Respondent as it recognizes, that in this matter, a review of the enforcement officer's Notes to File indicates that he considered all of the relevant facts that were before him. The officer addressed the issues raised by the Applicant with respect to her daughter and, after noting that the Applicant's daughter was not under a removal order, he discussed the availability of special education programs in Michigan and the assessment process for ensuring that adequate services are provided to each student who needs them. The enforcement officer also considered and commented in detail about the availability of aid provided by Children's Protective Services in Michigan.

[15] The enforcement officer then conducted an analysis of the Applicant's drug addiction and noted that there are drug rehabilitation programs available throughout the state of Michigan.

[16] The Notes to File prepared by the enforcement officer are thorough, clear and he has provided reasonable and detailed explanations for the conclusions he has made. The Applicant is simply disagreeing with the enforcement officer's decision which does not constitute a serious issue in this case.

[17] The Applicant has not fulfilled any of the criteria of the tripartite conjunctive *Toth v Canada (Minister of Employment and Immigration)* (1988), 86 NR 302 (FCA) test.

[18] The Applicant has been in Canada since 2002. Contrary to the Applicant's assertion, the documents before this Court reveal that she was aware of her eligibility for pardon and the

consequences of failing to apply for an extension of her Temporary Resident Permit [TRP]. Since receiving a negative decision on her PRRA application in October 2003, the Applicant has also been aware that she could be removed from Canada; however, she has failed to make arrangements for this possibility. The public interest in maintaining a process clearly specified by statute outweighs the inconveniences and the difficulties to the Applicant as a result of her removal from Canada.

#### IV. Conclusion

[19] For all of the above reasons, the Applicant's motion for a stay of the removal order is denied.

**JUDGMENT**

**THIS COURT ORDERS that** the Applicant's motion for a stay of the removal order be denied.

"Michel M.J. Shore"

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Judge

**FEDERAL COURT**

**SOLICITORS OF RECORD**

**DOCKET:** IMM-56-12

**STYLE OF CAUSE:** JENNIFER LYNN HILL v  
THE MINISTER OF PUBLIC SAFETY AND  
EMERGENCY PREPAREDNESS

**MOTION HELD VIA TELECONFERENCE ON JANUARY 6, 2012 FROM OTTAWA,  
ONTARIO AND TORONTO, ONTARIO**

**REASONS FOR JUDGMENT  
AND JUDGMENT:** SHORE J.

**DATED:** January 6, 2012

**ORAL AND WRITTEN REPRESENTATIONS BY:**

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Ladan Shahrooz FOR THE RESPONDENT

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