

Federal Court



Cour fédérale

**Date: 20120628**

**Docket: IMM-5902-12**

**Citation: 2012 FC 834**

[UNREVISED CERTIFIED ENGLISH TRANSLATION]

**Ottawa, Ontario, June 28, 2012**

**Present: The Honourable Justice Shore**

**BETWEEN:**

**STANLEY ALEXANDRE**

**applicant**

**and**

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

**respondent**

**REASONS FOR ORDER AND ORDER**

[1] The applicant does not come before the Court with clean hands. An application before the Court for a remedy in "equity" after violating criminal laws is a challenge for the Court that it must confront directly.

[2] The loss of status is due to serious criminal acts committed in Canada.

[3] The applicant's conduct bars the application to stay the removal, knowing this remedy is exceptional.

[4] The Federal Court of Appeal restated this in *Moore v Canada (Minister of Citizenship and Immigration)*, 2001 FC 803:

[1] An applicant for an equitable remedy must come before the Court with clean hands.

The well-established principle "he is who has committed Iniquity...shall not have Equity" *Jones v. Lenthall* (1669), 1 Ch. Ca. 154, needs to be applied in this case. I see no reason to extend equity to the Applicant in light of his deeds. It follows as a logic corollary that where the Applicant does not come with clean hands, the balance of convenience does not tilt his way.

[5] For the reasons noted, the application in "equity" shall not be considered. Before this Court and its jurisdiction, this decision is based on immigration law and not criminal law; this means in accordance with the Canadian immigration legislation, the *Immigration and Refugee Protection Act*, SC 2001, c. 27 [IRPA], in particular, paragraphs 3.(1)(h) and 3.(1)(i). These paragraphs make up the manner in which immigration law is to be interpreted, according to basic rules found in the introductory sections of the immigration legislation, showing parliament's intention to ensure as high a level of public safety as possible, in accordance with the immigration legislation measures themselves.

3. (1) ...

...

(h) to protect the health and safety of Canadians and to

3. (1) [...]

[...]

h) de protéger la santé des Canadiens et de garantir leur

maintain the security of  
Canadian society;

sécurité;

(i) to promote international  
justice and security by  
fostering respect for human  
rights and by denying  
access to Canadian territory  
to persons who are  
criminals or security risks;  
...

i) de promouvoir, à l'échelle  
internationale, la justice et la  
sécurité par le respect des  
droits de la personne et  
l'interdiction de territoire  
aux personnes qui sont des  
criminels ou constituent un  
danger pour la sécurité;

...

[...]

[6] This Court can only interpret the legislation with each case, knowing the Court is one branch among three branches of government and that, according to its jurisdiction, it does not legislate or enforce the law. Its only duty is to interpret the law.

[7] For all these reasons, the applicant's application will not be considered.

**ORDER**

**THE COURT ORDERS** that the application to stay the applicant's removal will not be considered, given the fact that the applicant does not come before the Court with clean hands.

"Michel M.J. Shore"

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Judge

Certified true translation

Elizabeth Tan, Translator

**FEDERAL COURT**

**SOLICITORS OF RECORD**

**DOCKET:** IMM-5902-12

**STYLE OF CAUSE:** STANLEY ALEXANDRE v THE MINISTER OF  
PUBLIC SAFETY AND EMERGENCY  
PREPAREDNESS AND THE MINISTER OF  
CITIZENSHIP AND IMMIGRATION

**MOTION CONSIDERED BY TELECONFERENCE ON JUNE 28, 2012 BETWEEN  
OTTAWA, ONTARIO AND MONTRÉAL, QUEBEC**

**REASONS FOR ORDER:** SHORE J.

**DATE OF REASONS  
AND REASONS:** June 28, 2012

**APPEARANCES:**

Réginal Victorin FOR THE APPLICANT

Catherine Brisebois FOR THE RESPONDENT

**SOLICITORS OF RECORD:**

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