

Federal Court



Cour fédérale

Date: 20120820

Docket: IMM-6589-12

Citation: 2012 FC 1006

Ottawa, Ontario, August 20, 2012

PRESENT: The Honourable Mr. Justice Shore

BETWEEN:

**CHANG WOO LIM, KYUNGSUN BAE,
HYELOK JUN LIM**

Applicants

and

**THE MINISTER OF CITIZENSHIP
AND IMMIGRATION**

Respondent

REASONS FOR ORDER AND ORDER

[1] The Applicants seek a stay of removal scheduled for Wednesday, August 29, 2012. Their stay application is linked to their leave application in respect of a negative Pre-Removal Risk Assessment [PRRA].

[2] The Applicants, a couple with their son, are in Canada since 2005. The Refugee Protection Division of the Immigration and Refugee Board [IRB] denied their claim. It found that state

protection is available to them in their country of origin. The Federal Court denied leave on the basis of the IRB decision, itself.

[3] The Federal Court of Appeal in a recent 2011 decision has specified that the mootness of a PRRA application cannot serve as a basis for irreparable harm (*Canada (Minister of Public Safety and Emergency Preparedness) v Shpati*, 2011 FCA 286).

[4] As is recognized, the conjunctive tripartite test of the *Toth v Canada (Minister of Employment and Immigration)* (1988), 86 NR 302 (FCA) decision must be fully satisfied for a stay to be granted. If only one of the three criteria is unmet, no stay is to be granted. In this case, all three criteria have not been met. As a result, the stay of removal, on the basis of the PRRA application, is dismissed.

ORDER

THIS COURT ORDERS that the Applicants' stay removal application be dismissed.

“Michel M.J. Shore”

Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET: IMM-6589-12

STYLE OF CAUSE: CHANG WOO LIM, KYUNGSUN BAE, HYEOK JUN
LIM v THE MINISTER OF CITIZENSHIP AND
IMMIGRATION

**MOTION HELD VIA TELECONFERENCE ON AUGUST 20, 2012 FROM OTTAWA,
ONTARIO AND TORONTO, ONTARIO**

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

DATED: August 20, 2012

APPEARANCES:

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Amy King FOR THE RESPONDENT

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