

Federal Court  
of Appeal



CANADA

Cour d'appel  
fédérale

**Date: 20100210**

**Docket: A-164-09**

**Citation: 2010 FCA 41**

**CORAM: NOËL J.A.  
PELLETIER J.A.  
LAYDEN-STEVENSON J.A.**

**BETWEEN:**

**JAMES WAJARAS**

**Appellant**

**and**

**THE MINISTER OF CITIZENSHIP AND IMMIGRATION**

**Respondent**

Heard at Winnipeg, Manitoba, on February 10, 2010.

Judgment delivered from the Bench at Winnipeg, Manitoba, on February 10, 2010.

**REASONS FOR JUDGMENT OF THE COURT BY:**

**NOËL J.A.**

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**REASONS FOR JUDGMENT OF THE COURT**

**(Delivered from the Bench at Winnipeg, Manitoba, on February 10, 2010)**

**NOËL J.A.**

[1] The Federal Court Judge certified the following question:

Does the Minister of Citizenship and Immigration engage in an abuse of process in continuing to seek a removal order where the affected individual has been determined not to be a danger to the public and if so, can the Immigration Division decline to make an inadmissibility determination under section 45 of the Immigration and Refugee Protection Act, S.C. 2001, c.27 on that basis?

[2] For the reasons set out by the Federal Court Judge at paragraph 13 and 14 of his reasons, the answer to the first question is no, and there is no need to answer the second.

[3] In particular, we are of the view that it is not improper for the Minister to seek a deportation order for the purpose of depriving a permanent resident of this status as a result of serious criminality, even where there are impediments to removal.

[4] The appeal is accordingly dismissed. As no costs were sought none are awarded.

"Marc Noël"

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J.A.

**FEDERAL COURT OF APPEAL**

**NAMES OF COUNSEL AND SOLICITORS OF RECORD**

**DOCKET:** A-164-09

**APPEAL FROM A JUDGMENT OF THE FEDERAL COURT DATED FEBRUARY 25, 2009 AND MARCH 10, 2009, IMM-2200-08 (2009 FC 200 AND 2009 FC 252).**

**STYLE OF CAUSE:** James Wajaras v. The Minister of  
Citizenship and Immigration

**PLACE OF HEARING:** Winnipeg, Manitoba

**DATE OF HEARING:** February 10, 2010

**REASONS FOR JUDGMENT OF THE COURT BY:** NOËL, J.A.

**DELIVERED FROM THE BENCH BY:** NOËL, J.A.

**APPEARANCES:**

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Nalini Reddy FOR THE RESPONDENT

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