

Federal Court
of Appeal



CANADA

Cour d'appel
fédérale

Date: 20101019

Docket: A-481-09

Citation: 2010 FCA 274

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

BETWEEN:

BEKELE MENGISTU GEBREAB

Appellant

and

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

Respondent

Heard at Vancouver, British Columbia, on October 19, 2010.

Judgment delivered from the Bench at Vancouver, British Columbia, on October 19, 2010.

REASONS FOR JUDGMENT OF THE COURT BY:

LAYDEN-STEVENSON J.A.

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REASONS FOR JUDGMENT OF THE COURT

(Delivered from the Bench at Vancouver, British Columbia, on October 19, 2010)

LAYDEN-STEVENSON J.A.

[1] The appellant is appealing the judgment of Justice Snider (2009 FC 1213) in which she dismissed his application for judicial review under the provisions of the *Immigration and Refugee Protection Act*, S.C. 2001, c. 27 (IRPA) and certified the following question:

Is a foreign national inadmissible to Canada, pursuant to s. 34(1)(f) of IRPA, where there is clear and convincing evidence that the organization disavowed and ceased its engagement in

acts of subversion or terrorism as contemplated by s. 34(1)(b) and (c) prior to the foreign national's membership in the organization?

[2] The appellant's membership in the Ethiopian Peoples' Revolutionary Party (EPRP) was conceded. Justice Snider concluded that the Immigration Division of the Immigration and Refugee Board (the Board) correctly identified and applied the test for determining whether the EPRP of the 1970s was an organization within the meaning of subsection 34(1) of the IRPA. Once the Board had established that the EPRP of the 1970s was such an organization, the question whether the EPRP of the 1980s was the same organization, a highly factual determination, was subject to review on a standard of review of reasonableness. Justice Snider found the Board's decision that the "EPRP was a single, continuously-existent political organization from the [1970s] through the time of [the appellant's] membership and beyond" to be reasonable. We are in agreement with that conclusion for substantially the reasons given by her.

[3] Consequently, the appeal will be dismissed and the certified question will be answered as follows:

It is not a requirement for inadmissibility under s. 34(1)(f) of the IRPA that the dates of an individual's membership in the organization correspond with the dates on which that organization committed acts of terrorism or subversion by force.

"Carolyn Layden-Stevenson"

J.A.

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET: A-481-09

STYLE OF CAUSE: BEKELE MENGISTU GEBREAB V. MPSEP

PLACE OF HEARING: Vancouver, British Columbia

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DELIVERED FROM THE BENCH BY: LAYDEN-STEVENSON J.A.

APPEARANCES:

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Keith Reimer FOR THE RESPONDENT

SOLICITORS OF RECORD:

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