

Federal Court



Cour fédérale

**Date: 20170112**

**Docket: IMM-2065-16**

**Citation: 2017 FC 44**

**Toronto, Ontario, January 12, 2017**

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

**BETWEEN:**

**PANAGIOTIS GEORGIU**

**Applicant**

**and**

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

**Respondent**

**JUDGMENT AND REASONS**

[1] Upon an application for judicial review in which the background chronology of facts is not in dispute;

[2] Acknowledging that the Memoranda of Fact and Law of both respective parties have been duly read and taken into consideration, as have the respective parties oral pleadings, subsequent to having taken into account all respective written materials submitted therewith;

[3] Recognizing that remaining in Canada is not an option for individuals who have no legal basis for such. The act of being parents of Canadian-born children is not enough, in and of itself, to establish a reason for remaining in Canada;

[4] Acknowledging that the Applicant's spouse had not met the requisite residency requirements in respect of physical presence in Canada;

[5] Understanding that the removal order on which this judicial review is based does not prevent the Applicant to be re-admitted subsequent to an immigration application that would consequently, under met conditions, accord re-entry into Canada;

[6] Nevertheless, a valid matter remains that has not been accorded adequate consideration; that is, as specified in paragraphs 36-39 of the Applicant's Memorandum of Fact and Law, as to the failure to having adequately considered; and this, addressed as per *Kanhasamy v Canada (Citizenship and Immigration)*, 2015 SCC 61 [*Kanhasamy*], the best interests of the children on the basis of clear, significant evidence provided by the Applicant;

[7] Recognizing that was also the very underlying basis for which the stay of removal was granted by Justice Anne-Marie McDonald in respect of the removal order that had not demonstrated an adequate consideration of the "best interests of the children";

[8] Acknowledging that all else as stated by the Respondent is accepted by the Court, except that the “best interests of the children” have not yet been properly assessed on the criteria as set out in the above specified *Kanhasamy* judgment of the Supreme Court of Canada;

[9] Therefore, the judicial review is granted; and, the entire matter is to be remitted thereon to another officer for consideration anew on the basis of the above.

**JUDGMENT**

**THIS COURT'S JUDGMENT is that** the judicial review be granted and, that another officer consider the matter anew. No question of general importance for certification is submitted.

“Michel M.J. Shore”

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Judge

**FEDERAL COURT**  
**SOLICITORS OF RECORD**

**DOCKET:** IMM-2065-16

**STYLE OF CAUSE:** PANAGIOTIS GEORGIU v THE MINISTER OF  
PUBLIC SAFETY AND EMERGENCY  
PREPAREDNESS

**PLACE OF HEARING:** TORONTO, ONTARIO

**DATE OF HEARING:** JANUARY 12, 2017

**JUDGMENT AND REASONS:** SHORE J.

**DATED:** JANUARY 12, 2017

**APPEARANCES:**

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