

Federal Court



Cour fédérale

**Date: 20180525**

**Docket: IMM-2249-18**

**Citation: 2018 FC 541**

**Ottawa, Ontario, May 25, 2018**

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

**BETWEEN:**

**RUTH MOSES ODAUDU  
FAVOUR OJOMA ODAUDU  
ONECHOJO DIVINE ODAUDU  
OMOJO ABRIANA ODAUDU  
OJOCHEGBE ABRAHAM ODAUDU**

**Applicants**

**and**

**THE MINISTER OF PUBLIC SAFETY AND  
EMERGENCY PREPAREDNESS and  
THE MINISTER OF IMMIGRATION,  
REFUGEES AND CITIZENSHIP**

**Respondents**

**ORDER AND REASONS**

[1] At the outset, please note that part of the Order is a required modification in the style of cause to reflect the designation of the parties concerned.

[2] These Reasons and Order are subsequent to a careful reading of the submissions of both parties and the evidence in regard to the motion for a stay of removal.

[3] The Court heard both parties and has contemplated and understood the reasons for a certain tardiness based on the fact that the Applicants (as per their counsel) had not received a complete set of reasons for the Immigration Officer's decision in respect of their PRRA.

[4] An Order for the removal of the Applicants has been scheduled for Saturday, May 26, 2018.

[5] Due to the alleged grave risk situation of the Applicants as per uncontradicted, corroborative evidence, the underlying reason for the motion for a stay of removal is for the stay to be in effect until the full culmination of the merits of recourse ensues, pursuant to section 72(1) of the *Immigration and Refugee Protection Act*, SC 2001, c 27, will have had an opportunity of final disposition.

[6] Recognizing the need for scrutiny by the administrative and legal systems in regard to past physical and sexual abuse in addition to threats of genital mutilation as is corroboratively uncontradictedly by submitted evidence in this file (that is in addition to an uncontradicted church assistance from the country of origin to ensure the departure of the Principal Applicant and her children due to her situation) and as clearly put forward in the desire "to be listened to" and, thus, expose to ensure recognition, acknowledgement, understanding and redress in such situations, as is the very serious basis of this file. In the present case, before the Court, the Pre-

Removal Risk Assessment [PRRA] Officer does imply a lack of credibility, even if such may not be specified. The PRRA Officer never heard the narrative of the Applicants, not having convened them for a hearing. (The reason the Applicants were never entitled to a Refugee Determination Hearing is due to their history of arrival in Canada; their only possible access in procedure was to a PRRA determination.)

[7] In addition to the above most serious factors to which the uncontradicted evidence points (including uncontradicted bodily scars of the Principal Applicant), three of the minor children of the four respectively, have medically documented sickle cell anaemia for which they are being treated by a well-known children's hospital.

[8] Should the Applicants be returned to their country of origin, it would very clearly appear on the basis of corroborative evidence, submitted that a serious risk of peril to the Principal Applicant and minor children would ensue.

[9] The uncontradicted, corroborative evidence calls out, as do the legal and administrative systems in Canada; a desire to ensure the message of "Listen to me" which has not been the case in regard to the PRRA decision, which implied a lack of credibility, in respect of uncontradicted, corroborative evidence brought forward by the Applicants. (This includes the uncontradicted scars of beatings borne by the Principal Applicant and further central supporting evidence which is wholly undisputed but implied to lack credibility. This reference is made to *Ullah v Canada (Citizenship and Immigration)*, 2011 FC 221; *Zokai v Canada (Minister of Citizenship and*

*Immigration*), 2005 FC 1103; *Adeoye v Canada (Citizenship and Immigration)*, 2012 FC 680 and *Matute Andrade v Canada (Citizenship and Immigration)*, 2010 FC 1074 at paragraph 30.)

[10] Credibility determinations must be made, as per the jurisprudence, in clear and unmistakable terms, by allowing applicants to refute concerns, if such exist, with an interview, a hearing before a PRRA officer in such situations. [In this vein, internationally reference is also made to the U.N. General Assembly *Declaration on the Elimination of Violence against Women*, 20 December 1993, A/RES/40/34; in addition, with regard to how seriously such allegations are examined, reference is also made to the public report proffering advice in regard to missing and murdered aboriginal women as per the RCMP document, “Working Together to End Violence against Indigenous Women and National Scan of RCMP Initiatives” May 2017.]

[11] The order for removal of the Applicants is based on the PRRA decision that goes against the very grain of both natural justice and fairness, in addition to the reasonableness of a decision, not having adequately considered the uncontradicted, corroborative, supporting evidence of the Applicants.

[12] The Applicants have satisfied the tripartite criteria of the *Toth v Canada (Minister of Employment and Immigration)* (1988), NR 302 (FCA) decision test.

[13] Therefore, the motion for a stay of removal is granted on the very basis of its request by counsel of the Applicants.

**ORDER in IMM-2249-18**

**THIS COURT ORDERS** that the Applicants' motion for a stay of removal be granted on the very basis of the request as specified by counsel of the Applicants, until the merits of recourse pursuant to section 72(1) of the *Immigration and Refugee Protection Act* will have fully culminated in a conclusive decision in regard to the Applicants. This includes a stay for the 4 year old male child, born outside of the country of origin of the Principal Applicant, so that he will not be separated from his mother, the Principal Applicant.

**THIS COURT ALSO ORDERS** the changes as specified above in respect of the style of cause.

"Michel M.J. Shore"

---

Judge

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

**DOCKET:** IMM-2249-18

**STYLE OF CAUSE:** RUTH MOSES ODAUDU, FAVOUR OJOMA  
ODAUDU, ONECHOJO DIVINE ODAUDU, OMOJO  
ABRIANA ODAUDU, OJOCHEGBE ABRAHAM  
ODAUDU v THE MINISTER OF PUBLIC SAFETY  
AND EMERGENCY PREPAREDNESS and THE  
MINISTER OF IMMIGRATION, REFUGEES AND  
CITIZENSHIP

**MOTION HELD VIA TELECONFERENCE ON MAY 24, 2018, FROM OTTAWA,  
ONTARIO AND MONTRÉAL, QUÉBEC**

**ORDER AND REASONS:** SHORE J.

**DATED:** MAY 25, 2018

**ORAL AND WRITTEN REPRESENTATIONS BY:**

Mitchell J. Goldberg

FOR THE APPLICANTS

Mario Blanchard

FOR THE RESPONDENTS

**SOLICITORS OF RECORD:**

Goldberg Berger  
Barristers and Solicitors  
Montréal, Québec

FOR THE APPLICANTS

Attorney General of Canada  
Montréal, Québec

FOR THE RESPONDENTS