

**Date: 20070828**

**Docket: IMM-3415-07**

**Citation: 2007 FC 859**

**Toronto, Ontario, August 28, 2007**

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

**BETWEEN:**

**RABECA DIA**

Applicant

**and**

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

Respondent

**REASONS FOR ORDER AND ORDER**

[1] Ms. Dia left Zambia for Canada in 2003 to escape her drunken abusive polygamist husband.

Polygamy is legal in Zambia.

[2] Her claim was rejected. She was found not to be credible.

[3] More recently she requested a Pre-Removal Risk Assessment (PRRA). That assessment was negative. She has filed an application for leave and judicial review. In the meantime, she has

been ordered to leave Canada later this week. These reasons are given in dismissing her motion for a stay of that removal order.

[4] She asserts that she is HIV positive and that she recently participated in a movie which was highly critical of Islamic polygamy in Zambia. Since she did not hide her identity she believes this movie would come to the attention of both her husband and the Zambian authorities.

[5] The officer did not specifically deal with HIV. However, under section 97 of the *Immigration and Refugee Protection Act*, a risk caused by an inability of a country to provide adequate health or medical care does not constitute a risk to life or a risk of cruel and unusual treatment or punishment. Furthermore, the record shows that HIV treatment is available in Zambia, particularly in urban areas. She would be returning to Lusaka.

[6] As to the movie, the officer gave it short shrift. He was entitled to do so. Although the movie was new, the facts were not. There is no evidence that she would be subject to risk of persecution by the authorities for speaking out against polygamy.

### **ORDER**

**THIS COURT ORDERS that** the motion for a stay of removal scheduled for the 31<sup>st</sup> of August 2007 pending the application for leave and for judicial review of a negative risk assessment issued the 11<sup>th</sup> of July 2007 is dismissed.

“Sean Harrington”

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Judge

**FEDERAL COURT**

**NAMES OF COUNSEL AND SOLICITORS OF RECORD**

**DOCKET:** IMM-3415-07

**STYLE OF CAUSE:** RABECA DIA v. THE MINISTER OF PUBLIC SAFETY  
AND EMERGENCY PREPAREDNESS

**PLACE OF HEARING:** Toronto, Ontario

**DATE OF HEARING:** August 27, 2007

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

**DATED:** AUGUST 28, 2007

**APPEARANCES:**

Inna Kogan FOR THE APPLICANT

Leanne Briscoe FOR THE RESPONDENT

**SOLICITORS OF RECORD:**

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