Date: 20090428

Docket: IMM-1570-09

Citation: 2009 FC 424

Ottawa, Ontario, April 28, 2009

PRESENT: The Honourable Mr. Justice Shore

BETWEEN:

JORGE FABIAN Rafael Domingo

applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION
and
THE MINISTER OF PUBLIC SAFETY AND EMERGENCY PREPAREDNESS

respondents

REASONS FOR JUDGMENT AND JUDGMENT

I. Overview

[1] In his Personal Information Form (PIF), the applicant alleges that a police officer had attempted to abuse his spouse. The applicant was struck by the police officer and detained. Following interventions by several people, including two journalists, the applicant was released. He filed a complaint against the police officer, who was relocated to another neighbourhood. The applicant alleges that he received threatening calls.

[2] The PIF also states that the applicant's children live in the Dominican Republic.

[3] The hearing into the claim for refugee protection by the Refugee Protection Division (RPD) was held on April 1, 2008, when the applicant was represented by a lawyer.

[4] The RPD denied the claim for refugee protection, based on its determination of a total lack of credibility on the part of the applicant. In a detailed and thorough decision, the RPD identified a number of contradictions, omissions, additions and inconsistencies in basic elements in the account given by the applicant.

[5] The RPD also noted that the applicant entered Canada based on false information, that the reason for his coming to Canada was economic, and that the very long period before he claimed Canada's protection revealed no fear of persecution.

[6] Alternatively, the RPD also found that the applicant had not rebutted the presumption that the Dominican Republic was able to provide him with adequate protection. This finding was based on the content of the objective documentary evidence. In addition, the RPD found that when the applicant filed his complaint following the assault, the authorities acted, and he never filed a complaint concerning the threats he claimed to have later received.

[7] The applicant filed an ALJR against this decision, which was dismissed on October 14, 2008 by Chief Justice Allan Lutfy.

[8] The applicant must demonstrate that his application is neither frivolous nor vexatious. For this, it is necessary to first review the grounds for the case to determine the merits of a question to be reviewed:

> [TRANSLATION]
>
> [9] The meaning of the term "serious issue" is drawn from the Supreme Court's decisions in *Manitoba (Attorney General) v. Metropolitan Stores (MTS) Ltd.*, [1987] 1 S.C.R. 110 and *RJR-MacDonald Inc. v. Canada (Attorney General)*, [1994] 1 S.C.R. 311. Subject to two exceptions that do not apply in this case, the expression "serious issue" means that the application is neither frivolous nor vexatious ...

(*Jaziri c. Canada (Ministre de la Citoyenneté et de l'Immigration*), 2007 CF 1086, [2007] A.C.F. n° 1417 (QL)).

[9] None of the questions raised by the applicant in his claims constitutes a serious issue.

II. Introduction

[10] On March 31, 2009, the applicant filed an Application for Leave and for Judicial Review (ALJR) against the decision by the pre-removal risk assessment officer, dated February 18, 2009.

[11] In this decision, the officer dismissed the application for a pre-removal risk assessment (PRRA) filed by the applicant.

[12] In conjunction with this ALJR, on April 15, 2009, the applicant filed an application for a stay of his removal to the Dominican Republic.

[13] The applicant did not demonstrate any serious issues in connection with the officer's decision.

[14] Moreover, no irreparable harm is caused by his removal to the Dominican Republic, and the balance of convenience favours the public interest when it comes to having the process provided under the *Immigration and Refugee Protection Act*, S.C. 2001, c. 27 (IRPA) follow its course.

III. Preliminary remark – amendment of the style of cause

[15] Given the coming into force of the *Department of Public Safety and Emergency Preparedness Act*, S.C. 2005, c. 10, the Minister of Public Safety and Emergency Preparedness should be designated as a respondent in addition to the Minister of Citizenship and Immigration, in accordance with the order issued on April 4, 2005 (P.C. 2005-0482).

[16] The style of cause is amended to add the Minister of Public Safety and Emergency Preparedness as a respondent, in addition to the Minister of Citizenship and Immigration.

IV. Facts

[17] The applicant, Rafael Domingo Jorge Fabian, is a citizen of the Dominican Republic.

[18] In 2005, the applicant filed a visa application in Port-au-Prince for Canada, which was approved on August 1, 2005.

[19] On September 11, 2005, the applicant arrived in Canada, in Toronto, falsely indicating that he had come to take part in a sports meet.

[20] On February 3, 2006, the applicant filed an application to extend his stay in Canada. In this application, he indicated that he wanted to remain in Canada because he liked his job. This application for extension was approved.

[21] A sworn statement was attached to this application, indicating that he was extending his stay in Canada only as a temporary worker, with no further intention.

[22] On September 13, 2006, the applicant filed a claim for refugee protection. In the document entitled “Information on Individuals Seeking Refugee Protection”, the applicant mentioned that his two children lived in the Dominican Republic. He indicated that he was afraid of some police officers and government officials.

[23] On October 10, 2006, the applicant said, during an interview with an immigration officer, that he had learned that he could seek refuge to obtain a work visa.

[24] On January 27, 2001, the applicant met with an immigration officer, who gave him the opportunity to apply for a pre-removal risk assessment (PRRA) by February 11, 2009. The

applicant mentioned to the officer that a sponsorship application had been submitted on January 23, 2009.

[25] The PRRA was received late, on February 13, 2009. It indicated that the applicant's children lived in the Dominican Republic.

[26] In support of his application, the applicant alleged that a police officer had attempted to abuse his spouse. The applicant allegedly was struck by the police officer and detained. Following interventions by several people, including two journalists, the applicant was released. He filed a complaint against the police officer, who was relocated to another neighbourhood. The applicant alleged that he had received threatening phone calls. He mentioned that this police officer was still after him.

[27] The only evidence presented by the applicant in support of his PRRA application is a marriage certificate.

[28] On March 17, 2009, the applicant was told that his PRRA had been denied because the PRRA officer had found that the applicant had not demonstrated any risks from his returning to the Dominican Republic.

[29] That decision was the subject of the ALJR underlying this application for a stay.

[30] On March 31, 2009, during a meeting with a removal officer, the applicant presented a ticket dated April 30, 2009, after having been told that his ticket was to be dated April 17, 2009.

[31] The applicant asked that his removal be postponed, which the removal officer refused. The removal is scheduled for April 30, 2009.

V. Issue

[32] Has the applicant demonstrated the three elements needed to obtain a stay of a removal order?

VI. Analysis

[33] In order to obtain a stay of a removal order, an applicant must meet all three parts of the following test, stated in *Toth v. Canada (Minister of Employment and Immigration)* (1988), 86 N.R. 302, 11 A.C.W.S. (3d) 440, and continuously used thereafter:

a. that he raised a serious issue to be decided;

b. that he could suffer irreparable harm if the order were not granted; **and**

c. that the balance of convenience favours the issuance of the order based on the overall situation of the parties.

(For example, see *Castillo v. Canada (Public Safety and Emergency Preparedness*), 2008 FC 172, [2008] F.C.J. No. 216 (QL), at paragraph 10).

A. Serious issue

[34] The applicant must show that his application is neither frivolous nor vexatious. To this end, it is necessary to conduct a preliminary review of the grounds for the case to determine the merit of an issue to be reviewed:

> [TRANSLATION]
>
> [9] The meaning of the term "serious issue" is drawn from the Supreme Court's decisions in *Manitoba (Attorney General) v. Metropolitan Stores (MTS) Ltd.*, [1987] 1 S.C.R. 110 and *RJR-MacDonald Inc. v. Canada (Attorney General)*, [1994] 1 S.C.R. 311. Subject to two exceptions that do not apply in this case, the expression "serious issue" means that the application is neither frivolous nor vexatious ...

(*Jaziri, supra*).

[35] None of the issues raised by the applicant in his submissions constitutes a serious issue.

[36] For a PRRA application, the officer must analyze the evidence and the applicant's situation to determine whether he risks being tortured or persecuted, to suffer cruel or unusual treatment or punishment, or to find his life threatened in the event of removal (*Cen v. Canada (Minister of Citizenship and Immigration*), 2008 FC 337, 167 A.C.W.S. (3d) 138, at paragraph 4).

[37] It is settled law that the applicant bears the burden of submitting evidence in support of his allegations:

> [12] Generally, the Federal Court of Appeal and this Court have stated on many occasions that the onus is on the applicant to submit evidence on all the elements of his or her application. Specifically, on a PRRA application, it is settled law that the applicant bears the burden of providing the PRRA officer will all the evidence

> necessary for the officer to make a decision (*Cirahan v. Canada (Solicitor General)*, 2004 FC 1603, [2004] A.C.F. No. 1943 (QL) at par. 13). (Emphasis added.)

(*Lupsa v. Canada (Minister of Citizenship and Immigration*), 2007 FC 311, 159 A.C.W.S. (3d) 419).

[38] In his PRRA application, the applicant alleged that a police officer had attempted to abuse his spouse. The applicant was allegedly struck by the police officer and detained. Following interventions by several people, including two journalists, the applicant was released. He filed a complaint against the police officer, who was relocated to another neighbourhood. The applicant alleged that he had received threatening phone calls. He said that this police officer was still after him.

[39] The officer correctly notes that these are **exactly the same risks** as the ones cited and dismissed before the RPD.

[40] The officer then points out that the only document submitted by the applicant in support of his PRRA was a marriage certificate.

[41] Given that the applicant raised exactly the same risks in his PRRA application before the RPD, which had deemed that the account was not credible, it was entirely reasonable for the officer to conclude that the risk had not been demonstrated. In fact, as established in *Mikiani v. Canada (Minister of Citizenship and Immigration*), 2007 FC 810, 560 A.C.W.S. (3d) 534:

> [14] First of all, the PRRA Officer first considered the RPD decision and, during the PRRA, found that the PRRA application was based on the same risks and facts as those presented by the applicant to the RPD. In such a case, a PRRA Officer may reach the same conclusions as the RPD:
>
> > ¶ 14 PRRA officers are not bound by the conclusions reached by the RPD. However, when the evidence before the PRRA officer is essentially the same as that before the RPD, it is reasonable for the PRRA officer to reach the same conclusions (see *Klais v. Minister of Citizenship and Immigration)*, [2004] FC 783 at paragraph 11). In addition, PRRA officers do not sit on appeal or judicial review and therefore may rely on conclusions reached by the RPD when there is no new evidence (see *Jacques v. Canada (Solicitor General)*, [2004] F.C. 1481).
> > (See *Isomi v. Canada (Minister of Citizenship and Immigration)*, [2006] F.C.J. No. 1753 (QL)).
>
> [15] In my opinion, the applicants submitted the same risks and facts as those presented to the RPD. Therefore, the Officer did not err in this respect. (Emphasis added.)

[42] The only new element in the applicant's account was that the alleged persecuting police officer was still after him. However, the RPD had established that the account of persecution by the alleged persecuting police officer was not credible, and the applicant did not present **any evidence** to the officer to corroborate his allegation.

[43] Absent any evidence, it was reasonable for the officer to conclude that the applicant had not demonstrated any risk:

> [56] The PRRA officer could only exercise the jurisdiction granted to him, no more, no less. With no evidence submitted to him, no submissions made and no details adduced about the possible risk, he had no other choice but to reject Mr. Bayavuge's application for protection.
>
> [57] In this case, the PRRA officer properly considered Mr. Bayavuge's PRRA application. He is blameless in this. The application was rejected because Mr.

> Bayavuge failed to file evidence in support of his PRRA application. (Emphasis added.)

(*Bayavuge v. Canada (Minister of Citizenship and Immigration*), 2007 FC 65, 308 F.T.R. 126).

[44] With regard to the general situation in the Dominican Republic, the officer assessed the documentary evidence and considered that no significant change had occurred since the RPD's analysis a year earlier. In that analysis, the RPD found that the Dominican Republic was a working democracy and was able to protect its citizens.

[45] After weighing the evidence, the officer found that the RPD's comments still applied. Thus, the officer rightly rejected the applicant's PRRA application.

[46] The officer did not err in his analysis. It was up to the applicant to show that he risked torture or persecution, or cruel or unusual treatment, or seeing his life threatened. This he did not do. As this Court has pointed out:

> [34] A PRRA application is still an exceptional measure that should not be allowed unless there is new evidence that was not available at the time of the RPD's decision and then only insofar as this new evidence establishes a risk for the applicant if he were to return to his country of origin.

(*Sani v. Canada (Minister of Citizenship and Immigration*), 2008 FC 913, [2008] F.C.J. No. 1144 (QL)).

[47] The applicant claims that the alleged persecuting police officer is still after him, and that the officer erred in overlooking this fact. This allegation referred to an element that was not deemed

reliable by the RPD and was not corroborated by **any evidence**. Thus, there was no error on the part of the officer.

[48] Regarding the assessment of the general situation in the Dominican Republic, it is presumed that the officer considered all of the evidence, without any need to mention each individual element (*El Ghazaly v. Canada (Minister of Citizenship and Immigration*), 2007 FC 1329, 168 A.C.W.S. (3d) 376, at paragraph 15).

[49] In this case, the officer indicated that nothing had changed. In conclusion, the officer considered the evidence, as specified at the end of the decision.

[50] The applicant did not indicate what problems he would face if he returned, or what evidence should have been considered by the officer, and did not connect the general situation in the Dominican Republic with his personal situation. Yet it is settled law that general evidence about a country cannot be used to determine risk:

> [57] With regard to general conditions in Guinea, Mr. Doumbouya had to prove a connection between conditions in his country and his personal situation, which he failed to do. It will be recalled that his lack of credibility with regard to his involvement in the RPG, as found by the RPD, did not have to be questioned.
>
> [58] As Mr. Justice Michel Beaudry noted in *Ould*, *supra*, citing with approval the following passage from *Jarada v. Canada (Minister of Citizenship and Immigration)*, 2005 FC 409, [2005] F.C.J. No. 506 (QL):
>
> > [28] That said, the assessment of the applicant's potential risk of being persecuted if he were sent back to his country must be individualized. The fact that the documentary evidence shows that the human rights situation in a country is problematic does not necessarily mean there is risk to a given individual...

(Emphasis added.)

(*Doumbouya v. Canada (Minister of Citizenship and Immigration*), 2007 FC 1187, 325 F.T.R. 143).

[51] The applicant also alleges that the officer did not take common considerations into account. This does not demonstrate any error in the officer's decision.

[52] In fact, this is a clear and detailed decision. The decision respects the standards established by this Court in such matters:

> [33] The adequacy of the reasons must be examined against all the circumstances. While the Applicants are critical that certain findings are conclusionary without adequate explanation, there is no suggestion that (except for Horbay) the Committee did not consider the important issues raised nor that the Applicants could not understand the basis for the decision. Therefore, I cannot agree that there were inadequate reasons. (Emphasis added.)

(*Adamidis v. Canada (Treasury Board*), 2006 FC 243, 146 A.C.W.S. (3d) 278).

[53] The fact that the officer did not check the common considerations boxes has no relevance since all of the relevant information was contained in section 4 of the decision, to which the officer referred. The decision is clear and justified, and the officer made no error in this regard.

[54] In light of the preceding, the applicant did not discharge his burden of showing the existence of a serious issue.

[55] For the Court to allow the application for a stay, the applicant had to show that he had a reasonable chance of success in his main proceeding, namely the ALJR against the PRRA (*Duran c. Canada (Ministre de la Sécurité publique et de la Protection civile*), 2007 CF 738, [2007] A.C.F. n° 988 (QL)). This was not done.

[56] Consequently, the application should be dismissed for this reason alone:

> [36] I am not persuaded that Mr. Cardoza Quinteros has raised any serious issue that would warrant the grant of a stay of the removal order. Having failed to meet one of the branches of the tripartite test, this application for a stay will be dismissed. It is not necessary that I examine whether the Applicant has met the other two branches of the Toth tripartite test. (Emphasis added.)

(*Cardoza Quinteros v. Canada (Minister of Citizenship and Immigration*), 2008 FC 643, [2008] A.C.F. n° 812 (QL)).

B. Irreparable harm

[57] The notion of irreparable harm was defined by the Court in *Kerrutt v. Canada (Minister of Employment and Immigration)* (1992), 53 F.T.R. 93, 32 A.C.W.S. (3d) 621, as removing a person to a country where there is a danger to his life and safety. In the same decision, the Court also found that it cannot be a matter of personal inconvenience or family separation.

[58] This decision has since been cited many times, including by Justice Sandra Simpson in *Calderon v. Canada (Minister of Citizenship and Immigration)* (1995), 92 F.T.R. 107, [1995] F.C.J. No. 393 (QL), where she stated the following regarding the definition of irreparable harm established in *Kerrutt*, *supra*:

> [22] In *Kerrutt v. MEI* (1992), 53 F.T.R. 93 (F.C.T.D.), Mr. Justice MacKay concluded that, for the purposes of a stay application, irreparable harm implies the serious likelihood of jeopardy to an applicant's life or safety. This is a very strict test and I accept its premise that irreparable harm must be very grave and more than the unfortunate hardship associated with the breakup or relocation of a family. (Emphasis added.)

(Also, *Lewis v. Canada (Minister of Citizenship and Immigration)*, 2003 FC 1271, 126 A.C.W.S. (3d) 842, at paragraph 9).

[59] The applicant bears the burden of providing clear evidence of the harm that he alleges:

> [23] The evidence in support of harm must be clear and non-speculative. (*John c. Canada (Minister of Citizenship and Immigration)*, [1999] F.C.J. No. 915 (QL); *Wade v. Canada (Minister of Citizenship and Immigration)*, [1995] F.C.J. No. 579 (QL).)
>
> ...
>
> [25] Moreover, to demonstrate irreparable harm, the Applicants must demonstrate that if removed from Canada, they would suffer irreparable harm between now and the time at which any positive decision is made on their application for leave and for judicial review. The Applicants have not done so. (*Reddy v. Canada (Minister of Citizenship andImmigration)*, [1999] F.C.J. No. 644 (QL); *Bandzar v. Canada (Minister of Citizenship and Immigration)*, [2000] F.C.J. No. 772 (QL); *Ramirez-Perez v. Canada (Minister of Citizenship and Immigration)*, [2000] F.C.J. No. 724 (QL).)

(*Adams v. Canada (Minister of Citizenship and Immigration)*, 2008 FC 256, [2008] F.C.J. No. 422 (QL)).

[60] The applicant has not demonstrated that his removal to the Dominican Republic would cause him irreparable harm.

[61] None of the arguments based on pregnancy, children, sponsoring and family separation is relevant in assessing irreparable harm in a stay application in connection with an ALJR against a PRRA decision. Instead, these elements are dealt with in the context of the stay application connected with the ALJR against the decision to deny a postponement of the removal (case **IMM-1623-09**).

[62] In his brief, the applicant alleges that (1) he will have to face his attacker if he returns to the Dominican Republic, (2) his ALJR against the PRRA decision is pending, and (3) his removal contravenes section 7 of the *Canadian Charter of Rights and Freedoms,* Part I, Schedule B of the *Canada Act 1982* (U.K.), 1982, c. 11 (*Charter*).

[63] None of these arguments constitutes irreparable harm.

[64] This Court has established and repeated that removal does not constitute a breach of the Charter:

> [52] Moreover, the Supreme Court of Canada has recently held that deportation does not as such deprive a non-citizen of his right to life, liberty or security of the person. (*Medovarski v. Canada* (*Minister of Citizenship and Immigration*), 2005 SCC 51, [2005] S.C.J. No. 31, paragraph 46; *Romans v. Canada* (*Minister of Citizenship and Immigration*), 2001 FCA 272, [2001] F.C.J. No. 1416 (QL).) (Emphasis added).

(*Gonzalez v. Canada (Minister of Citizenship and Immigration*), 2006 FC 1274, 302 F.T.R. 81).

[65] Thus, this argument must be set aside.

[66] With regard to the applicant's allegation that he will have to face his alleged persecutor upon his return to the Dominican Republic, this allegation is not credible and there is no evidence to support it.

[67] The applicant had to present clear evidence to demonstrate the irreparable harm that would befall him, but he did not (*Zabala* v. *Canada (Minister of Citizenship and Immigration*), 2008 FC 415, 166 A.C.W.S. (3d) 301). The harm must not be based on conjecture: there must be a strong likelihood of a threat to life or safety:

> [23] The evidence in support of harm must be clear and non-speculative. (*John v. Canada (Minister of Citizenship and Immigration)*, [1999] F.C.J. No. 915 (QL); *Wade v. Canada (Minister of Citizenship and Immigration)*, [1995] F.C.J. No. 579 (QL).)
>
> [24] As noted in *Gray v. Canada (Minister of Citizenship and Immigration)*, 2004 FC 42, at paragraph 14, this Court will be reluctant to overturn, on an interlocutory motion, the findings of decision-makers, on evidence that had been before the decision-makers, who have considered the risk, and to substitute its evaluation of risk without clear and convincing evidence that the decision-makers were in error. (Reference is also made to *Raza v. Canada (Minister of Citizenship and Immigration)*, 2004 FC 42, [2004] F.C.J. No. 31 (QL).) (Emphasis added).

(*Adams*, *supra*).

[68] The risks were assessed and dismissed by the RPD, as well as by the officer in the PRRA decision. The account of persecution was not credible. The same account presented to this Court without any evidence cannot demonstrate irreparable harm:

> [45] The following comments by this Court are relevant:

> [55] The risks of return were already assessed in two administrative proceedings, by the panel and by the officer, and both made the same findings. Further, this Court confirmed the reasonableness of the Board's decision refusing the ALJR against the Board's decision. Since the order of this Court, the situation has not changed, as the PRRA confirmed.
>
> [56] This Court has often held that allegations of risk determined to be unfounded by both the Board and the PRRA cannot serve as a basis for establishing irreparable harm in the context of an application to stay (*Singh v. Canada (Minister of Citizenship and Immigration)*, 2005 FC 145, 137 A.C.W.S. (3d) 156). This principle in regard to credibility is adaptable in the context of the failure to reverse the presumption of state protection.

(*Malagon, supra*; see also, *Javier, supra*, at paragraphs 15-16).

(Tchoumbou v. Canada (Public Safety and Emergency Preparedness), 2008 FC 1399)

[69] Regarding the ALJR against the PRRA, the Court will always have the power to hear the case despite the fact that the applicant has left Canada.

[70] The fact that the applicant has been removed from Canada while he has an ALJR pending does not demonstrate that his life or safety will be at risk in the Dominican Republic.

[71] The applicant has not discharged his burden of demonstrating that he will suffer irreparable harm by being removed to the Dominican Republic. The application for a stay must therefore be dismissed:

> [TRANSLATION]
>
> [38] The applicants have adduced no evidence of personal risk should they return to Mexico.

> [39] The absence of evidence as to the existence of irreparable harm **is sufficient in and of itself to dismiss the stay application.**

(*Alba c. Canada (Ministre de la Citoyenneté et de l'Immigration*), 2007 CF 1116, [2007] A.C.F. n° 1447 (QL)).

C. Balance of convenience

[72] In the absence of a serious issue and irreparable harm, the balance of convenience favours the public interest in ensuring compliance with the immigration process established under the IRPA *(Mobley v. Canada (Minister of Citizenship and Immigration)*, [1995] F.C.J. No. 65), as recently restated by this Court in *Patterson v. Canada (Minister of Citizenship and Immigration*), 2008 CF 406, 166 A.C.W.S. (3d) 300:

> [33] The Federal Court of Appeal has confirmed that the Minister's obligation is "not simply a question of administrative convenience, but implicates the integrity and fairness of, and public confidence in, Canada's system of immigration control." (*Selliah*, supra, para. 22.)
>
> [34] In the present case, the Applicant seeks extraordinary equitable relief. It is trite law that the public interest must be taken into consideration when evaluating this last criterion. In order to demonstrate that the balance of convenience favours the Applicant, the latter should demonstrate that there is a public interest not to remove him as scheduled. (*RJR-MacDonald*, *supra*; *Blum v. Canada (Minister of Citizenship and Immigration)* (1994), 90 F.T.R. 54, [1994] F.C.J. No. 1990 (QL), per Justice Paul Rouleau.) (Emphasis added).

[73] In this case, the applicant arrived in Canada in 2005, with a visitor's visa obtained based on false information. He asked to have his visa renewed so he could continue to work. More than a year after his arrival in Canada, he chose to apply for refugee protection. His application was denied in light of his total lack of credibility and, in addition, in consideration of the fact that the applicant could obtain state protection in his home country.

[74] The applicant challenged this decision in the Federal Court, but was unsuccessful. He then applied for a PRRA, but the application was refused in view of the absence of any evidence. The applicant also submitted a sponsorship application in January 2009, which was returned because the undertaking was not signed.

[75] The applicant used every recourse to which he was entitled in Canada and all of his applications to date have been denied. In this case, the balance of convenience favours the Minister.

VII. Conclusion

[76] The applicant has not demonstrated that he meets the tests for a stay of removal, therefore this stay application cannot be allowed.

[77] For all of these reasons, the stay application is dismissed.

JUDGMENT

THE COURT ORDERS the dismissal of the application for a stay.

"Michel M.J. Shore"
Judge

Certified true translation
Brian McCordick, Translator

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	IMM-1570-09
STYLE OF CAUSE:	JORGE FABIAN Rafael Domingo v. THE MINISTER OF CITIZENSHIP AND IMMIGRATION AND THE MINISTER OF PUBLIC SAFETY AND EMERGENCY PREPAREDNESS
PLACE OF HEARING:	Montréal, Quebec
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