

Federal Court



Cour fédérale

**Date: 20090609**

**Docket: IMM-282-09**

**Citation: 2009 FC 622**

**Toronto, Ontario, June 9, 2009**

**PRESENT: THE CHIEF JUSTICE**

**BETWEEN:**

**RICHARD MARSHALL**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP AND IMMIGRATION**

**Respondent**

**REASONS FOR JUDGMENT AND JUDGMENT**

[1] In the narrow, particular circumstances of this proceeding, it was a reviewable error for the pre-removal risk assessment (PRRA) officer to “assign [...] little weight” to the letter of the police officer who wrote in support of the applicant’s fear of the ongoing danger and risk should he be

returned to Trinidad and Tobago. The PRRA officer questioned the form of the letter without dealing with its substance.

[2] If the PRRA officer was not satisfied that the letter was authentic because it was a photocopy, it was not on police letterhead and had no return address, it would have been open to him to discard the document completely, not to afford it “little” probative value.

[3] On the other hand, if the PRRA officer accepted that the letter was genuine but was not satisfied with its substantive information, he was required to explain why he assigned little weight to its contents.

[4] The record discloses a second error. The PRRA officer considered the 2008 D.O.S. report covering 2007 which he reviewed during his “independent assessment of the current country conditions”. In fact, the report had been submitted by the applicant, together with several other reports subsequent in time and more relevant to calendar year 2008. An objective review of the PRRA decision does not disclose that the officer read, let alone took into account, the country evidence put forward by the applicant. In conducting his own independent research, the officer could not ignore the totality of the materials put forward by the applicant.

[5] Neither one of these two errors is negligible. Both errors make this negative PRRA decision one which is unreasonable. For these reasons, this application for judicial review will be granted. In the circumstances, neither party suggested the certification of a serious question.

**JUDGMENT**

**THIS COURT ORDERS AND ADJUDGES that:**

1. This application for judicial review is granted.
2. The pre-removal risk assessment, dated November 28, 2008, is set aside and the matter is referred for re-determination by a different officer.

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"Allan Lutfy"  
Chief Justice

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

**DOCKET:** IMM-282-09

**STYLE OF CAUSE:** RICHARD MARSHALL v.  
THE MINISTER OF CITIZENSHIP AND  
IMMIGRATION

**PLACE OF HEARING:** TORONTO, ONTARIO

**DATE OF HEARING:** JUNE 5, 2009

**REASONS FOR JUDGMENT  
AND JUDGMENT BY:** LUTFY C.J.

**DATED:** JUNE 9, 2009

**APPEARANCES:**

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Leanne Briscoe FOR THE RESPONDENT

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