

Federal Court



Cour fédérale

Date: 20120421

Docket: IMM-3691-12

Citation: 2012 FC 473

[UNREVISED ENGLISH CERTIFIED TRANSLATION]

Ottawa, Ontario, April 21, 2012

PRESENT: The Honourable Mr. Justice Harrington

BETWEEN:

**OUSMANE MANSARE
NENE KOYA MANSARE
ZENAB MANSARE
ALHASSANE MANSARE
ABRAHAME MANSARE
KANKOU KÉITA**

Applicants

and

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

Respondent

ORDER

UPON the notice of motion by the principal applicant and her children for a stay of the removal order to Guinea pending the outcome of an application for leave and judicial review of a decision of an enforcement officer;

UPON REVIEWING the record and considering the oral and written submissions of the parties;

UPON NOTING that, strictly speaking, the underlying application for leave and judicial review is directed against a notice to appear that is not a decision of an administrative tribunal subject to judicial review;

WHEREAS even if the application for leave and judicial review had been against the decision of the enforcement officer, dated March 28, 2012, that decision is reasonable;

WHEREAS it appears that the applicants had accepted the decision when they showed up at the airport for their removal which, however, did not occur due to administrative difficulties;

CONSIDERING that the actual complaint centres on the manner in which the officer enforced the removal order, which is not a reviewable decision, and that if the applicants had suffered prejudice as a result, the appropriate recourse would have been to take legal action;

CONSIDERING that this is the third motion filed by the applicants seeking an order to stay their removal from Canada;

CONSIDERING that by direction dated March 29, 2012, in docket IMM-2408-12, Madam Justice Tremblay-Lamer refused to hear a second motion for a stay of removal filed by the

applicants on the ground that, following the Court's refusal to hear their first motion for a stay, the applicants failed to appear for their removal. According to the direction:

[TRANSLATION]

It is clear that the applicants do not come here with clean hands. The applicants' conduct shows that they do not respect the *Immigration laws*, and in this case granting another hearing cannot be in the interests of justice, since it would encourage and reward the applicants for thumbing their noses at the *Immigration laws*.

THE COURT ORDERS that:

1. The motion for a stay of removal is dismissed.

“Sean Harrington”

Judge

Certified true translation

Sebastian Desbarats, Translator