

Federal Court  
of Appeal



Cour d'appel  
fédérale

**Date: 20120110**

**Docket: A-181-11**

**Citation: 2012 FCA 5**

**CORAM: EVANS J.A.  
SHARLOW J.A.  
STRATAS J.A.**

**BETWEEN:**

**ADRIEN DAMBANA SUNGU**

**Appellant**

**and**

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

**Respondent**

Heard at Toronto, Ontario, on January 10, 2012.

Judgment delivered from the Bench at Toronto, Ontario, on January 10, 2012.

REASONS FOR JUDGMENT OF THE COURT BY:

STRATAS J.A.

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**REASONS FOR JUDGMENT OF THE COURT**  
**(Delivered from the Bench at Toronto, Ontario, on January 10, 2012)**

**STRATAS J.A.**

[1] In this appeal, the appellant seeks the setting aside of an order made by the Federal Court (*per* Phelan J.) on April 26, 2011.

[2] The appellant entered into Canada and claimed refugee status. He was detained on the ground that he would be unlikely to appear for later proceedings.

[3] Several detention reviews took place. On the last detention review, on March 24, 2011, the Immigration Division ordered the appellant to be released. The Minister brought an application for judicial review of that decision and also sought a stay of the appellant's release from detention.

[4] The Federal Court judge granted the stay. He also ordered that the appellant is to have his detention reviewed every 30 days and added that only the Federal Court could make a release order.

[5] In his memorandum of fact and law, the appellant contends that the Federal Court judge did not have the power to usurp the jurisdiction of the Immigration Division to engage in detention reviews or to eliminate the appellant's right to regular and meaningful reviews of his detention in accordance with the *Immigration and Refugee Protection Act*, S.C. 2001, c. 27.

[6] The Minister does not dispute this. However, at the outset of this appeal, the Minister brought a motion quashing the appeal for mootness. Some time after the Federal Court made its order, the appellant requested that he be removed from Canada. That request was granted and the appellant is no longer in Canada.

[7] At the outset of the hearing of this appeal, we queried whether this Court has jurisdiction: the appeal is arguably interlocutory and there is no certified question (see subsections 72(e) and 74(d) of the Act). However, we need not determine this. We agree with the Minister that this appeal is moot and that we should not exercise our discretion in favour of hearing it. No purpose would be served by hearing and deciding it, and there is no adversarial context.

[8] Therefore, the motion to quash the appeal shall be granted and the appeal shall be dismissed.

"David Stratas"

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J.A.

**FEDERAL COURT OF APPEAL**

**NAMES OF COUNSEL AND SOLICITORS OF RECORD**

**DOCKET:** A-181-11

**(APPEAL FROM AN ORDER OF THE HONOURABLE MR. JUSTICE PHELAN DATED  
APRIL 26, 2011, DOCKET NO. IMM-1982-11)**

**STYLE OF CAUSE:** ADRIEN DAMBANA SUNGU v  
THE MINISTER OF PUBLIC  
SAFETY AND EMERGENCY  
PREPAREDNESS

**PLACE OF HEARING:** Toronto, Ontario

**DATE OF HEARING:** January 10, 2012

**REASONS FOR JUDGMENT OF THE COURT BY:** (EVANS, SHARLOW & STRATAS  
J.J.A.)

**DELIVERED FROM THE BENCH BY:** STRATAS J.A.

**APPEARANCES:**

Carole Simone Dahan FOR THE APPELLANT

Sharon Stewart Guthrie FOR THE RESPONDENT  
Samantha Reynolds

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