

Federal Court



Cour fédérale

Date: 20160607

Docket: IMM-5051-15

Citation: 2016 FC 633

Ottawa, Ontario, June 7, 2016

PRESENT: The Honourable Mr. Justice Shore

BETWEEN:

**AYRES, VANESSIAH
AYRES, REBECCA
DURGANS, ANTHONY**

Applicants

and

**THE MINISTER OF CITIZENSHIP
AND IMMIGRATION**

Respondent

ORDER

UPON MOTION in writing dated March 23, 2016, from the Applicants pursuant to Rule 369 of the *Federal Courts Rules* requesting an order that a judge of this Court manage the Applicants' Canada Border Services Agency [CBSA] case file instead of the CBSA;

UPON reading the motion record filed by the Applicants and the motion record in response filed on behalf of the Respondent;

UPON CONSIDERING that the Federal Court is a court established by an Act of Parliament under section 101 of the *Constitution Act*, 1867 (UK), 30 & 31 Vict, c 3; thus, as a statutory court, the Federal Court of Canada has no jurisdiction except that assigned to it by statute (*Ordon Estate v Grail*, [1998] 3 SCR 437 at p 474);

UPON CONSIDERING that paragraph 4(2)(b) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [IRPA], specifically grants to the Minister of Public Safety and Emergency Preparedness the enforcement of the IRPA, including arrest, detention and removal;

UPON CONSIDERING that it is essential for the judicial branch to show proper deference to the executive and legislative branches:

Our democratic government consists of several branches: the Crown, as represented by the Governor General and the provincial counterparts of that office; the legislative body; the executive; and the courts. It is fundamental to the working of government as a whole that all these parts play their proper role. It is equally fundamental that no one of them overstep its bounds, that each show proper deference for the legitimate sphere of activity of the other.

(New Brunswick Broadcasting Co. v. Nova Scotia (Speaker of the House of Assembly), [1993] 1 SCR 319, at p. 389)

THIS COURT ORDERS that the motion be dismissed. While the Respondent has requested costs, the Court will exercise its discretion not to award them in the circumstances.

(Reference is made to a second order bearing the same file number).

“Michel M.J. Shore”

Judge