

Federal Court



Cour fédérale

Date: 20170228

Docket: IMM-868-17

Citation: 2017 FC 249

Vancouver, British Columbia, February 28, 2017

PRESENT: THE CHIEF JUSTICE

BETWEEN:

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

Applicant

and

AITIZAZ-UD-DIN SYED

Respondent

ORDER AND REASONS

[1] In this Motion, the Minister seeks a stay of Mr. Syed's release from detention. That release was ordered by Member Rempel of the Immigration Division of the Immigration and Refugee Board of Canada [the Board], on February 23, 2017.

[2] Later that day, Justice Simon Noël ordered an interim stay of that release from detention, until this Court could consider the Minister's motion on the basis of a more fulsome record today.

[3] Among other things, Justice Noël ordered that a transcript of the hearing before Member Rempel and his decision be delivered to the Court and to the parties before today's hearing.

[4] However, that transcript did not arrive in time for it to be fully reviewed by the parties or the Court prior to the hearing.

[5] Accordingly, counsel to Mr. Syed was not in a position to file his Motion Record prior to the hearing, as ordered by Justice Noël.

[6] Mr. Syed's counsel also informed the Court that Mr. Syed is more concerned about the possibility of remaining in detention if his removal from Canada, which is scheduled to occur at approximately 10:00 a.m. on Thursday, March 2, 2017, does not take place, than he is about remaining in detention until that scheduled removal.

[7] The Court was therefore informed that Mr. Syed is prepared to consent to an extension of the interim stay until the earlier of his scheduled removal or a hearing of this Motion, which will occur on Friday, March 3, 2017, if that removal does not occur.

[8] Given the foregoing, the Court will extend the interim stay of Mr. Syed's release from detention on the terms to which he has consented.

ORDER

THIS COURT ORDERS that:

1. The Order of the Board, dated February 23, 2017, releasing Mr. Syed from detention is stayed until the earlier of his scheduled removal from Canada on Thursday, March 2, 2017, or the hearing of this Motion, which will occur on Friday, March 3, 2017, if that removal does not occur.
2. If Mr. Syed is not removed from Canada before 3:00 p.m. on Thursday, March 2, 2017, his counsel shall file a motion record no later than 4:30 p.m. that day.
3. If Mr. Syed has not been removed from Canada on Thursday, March 2, 2017, the hearing of this Motion shall take place at 9:30 a.m. on Friday, March 3, 2017.
4. For greater certainty, if Mr. Syed is not removed from Canada on Thursday, March 2, 2017, he shall remain in detention until the hearing of this Motion, as set forth immediately above.
5. The Court recognizes that the flight upon which Mr. Syed is currently scheduled to be removed may be delayed to a later time on Thursday, March 2, 2017. Any such delay shall not have any impact on the operation of this Order.

“Paul S. Crampton”

Chief Justice

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET: IMM-868-17

STYLE OF CAUSE: THE MINISTER OF PUBLIC SAFETY AND
EMERGENCY PREPAREDNESS v AITIZAZ-UD-DIN
SYED

PLACE OF HEARING: VANCOUVER, BRITISH COLUMBIA

DATE OF HEARING: FEBRUARY 28, 2017

ORDER AND REASONS: CRAMPTON C.J.

DATED: FEBRUARY 28, 2017

APPEARANCES:

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