

Federal Court



Cour fédérale

Date: 20170207

Docket: IMM-5357-16

Citation: 2017 FC 150

Vancouver, British Columbia, February 7, 2017

PRESENT: The Honourable Mr. Justice Shore

BETWEEN:

ANDREW NACIONALES

Applicant

and

**THE MINISTER OF CITIZENSHIP
AND IMMIGRATION**

Respondent

ORDER AND REASONS

(Delivered orally from the Bench on February 7, 2017)

[1] **UPON** the Court having received a Motion from the Applicant for a stay of removal order in regard to a removal order set for February 9, 2017;

[2] **AND UPON** having read the material on file;

[3] **AND UPON** having heard counsel for the respective parties at a hearing at General Sittings this day;

[4] **RECOGNIZING** that the Applicant has a history of criminal convictions in Canada;

[5] **UNDERSTANDING** that the criminal convictions history has culminated in the Applicant having been issued a deportation order as far back as September of 2009;

[6] **UNDERSTANDING** as per the history of the Applicant in Canada, that he did have continuing criminal conviction activity for which his stay of deportation was thus set aside;

[7] **UPON** the Applicant's criminal activities subjecting the public to risk;

[8] **FURTHERMORE** recognizing that no pertinent evidence demonstrates alleged mistreatment when the Applicant resided in the Philippines for a four year period after the said diagnosis of mental illness due to bipolar disorder;

[9] **RECOGNIZING** that the evidence and submissions before the PRRA officer did not demonstrate cumulative discrimination which could be considered persecution to his person;

[10] As per *Ponniah v Canada (MCI)* 2013 FC 386, country condition evidence of a general nature, in and of itself, cannot point to a personal threat to circumstances of an applicant;

[11] Furthermore, without corroborative evidence of a personal risk in respect of allegations, the PRRA officer cannot be faulted for the lack of specific evidence on the part of the Applicant; the Applicant's mental health history demonstrates that the bipolar disorder began when the Applicant was 15 years of age, and living in the Philippines;

[12] **UNDERSTANDING**, that even without treatment, no manic or depressive symptoms were evident;

[13] **RECOGNIZING** that according to the Applicant's family, he was doing well and was mainly subject to sleep pattern abnormalities; the Applicant's family in Canada preferred together with the Applicant that he not take the medication for his bipolar disorder due to skepticism of the medication regime;

[14] As the tripartite test criteria of the *Toth v Canada (MEI)*, (1988) 86 NR 302 (FCA) test have not been met by the Applicant for any one of the criteria, the stay of removal motion is dismissed (Direct reference is also made to the Judgment in *Beaumont v Canada (MPSEP)*, 2007 FC 787 of Mr. Justice Michael Phelan);

ORDER

THIS COURT'S JUDGMENT is that that the stay of removal motion is dismissed.

“Michel M.J. Shore”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-5357-16

STYLE OF CAUSE: ANDREW NACIONALES v THE MINISTER OF
CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: VANCOUVER, BRITISH COLUMBIA

DATE OF HEARING: FEBRUARY 7, 2017

ORDER AND REASONS: SHORE J.

DATED: FEBRUARY 7, 2017

APPEARANCES:

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