

Federal Court



Cour fédérale

Date: 20190924

Docket: IMM-5671-19

Citation: 2019 FC 1223

[UNREVISED CERTIFIED ENGLISH TRANSLATION]

Ottawa, Ontario, September 24, 2019

PRESENT: The Honourable Mr. Justice Shore

BETWEEN:

PATRICK NGOYI KONGOLO

Applicant

and

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

Respondent

ORDER

FOLLOWING a reading of the record, this matter involving an application for a stay of removal from Canada, set for tomorrow, Wednesday, September 25, 2019, will not be heard, given that the applicant does not come before the Court with “clean hands”.

RECOGNIZING that a stay is an injunction, an exceptional discretionary remedy for which an applicant must have “clean hands” to have the application considered by the Court.

KNOWING that the applicant is the subject of several inadmissibility reports for criminality and serious criminality, including a conviction for uttering death threats, accompanied by a danger opinion that has been upheld by a judgment of the Federal Court.

FINDING that “those who seek equity must do equity”, as per *Wright v Canada (Minister of Citizenship and Immigration)*, 2002 FCTD 113 at para 26. Also worth noting is *Manohararaj v Canada (Public Safety and Emergency Preparedness)*:

[13] It is important to note that the Applicants chose to disobey a valid deportation order, and a warrant was issued for their arrest. The Applicants were represented by counsel at the time. The Applicants did not approach this Court for relief until after their arrest.

[14] This Court has held that the equitable remedy of a stay can be denied to those who do not come to the Court with clean hands, including those who deliberately choose to disobey deportation orders. (*Araujo v. Canada (Minister of Citizenship and Immigration)*, (27 August 1997), IMM-3660-97 (F.C.T.D.) *Ilyas v. Canada (Minister of Citizenship and Immigration)* (1 December 2000), IMM-6126-00 (F.C.T.D.))

[15] In the case at bar, the Applicants have ignored a validly issued removal order. As such, they have purposely violated Canada’s immigration laws and have undermined the integrity of the system. The Respondent submits that this reason alone justifies the dismissal of his application. (*Homex Reality and Development Co. v. Wyoming (Village)*, [1980] 2 S.C.R. 1011 see also *Basu v. Canada*, [1992] 2 F.C. 38 (F.C.T.D.))

THE COURT ORDERS that, for all these reasons, the applicant's application not be considered and that the motion be dismissed.

“Michel M.J. Shore”

Judge

Certified true translation
This 25th day of September, 2019.

Michael Palles, Reviser