

Federal Court



Cour fédérale

**Date: 20210729**

**Docket: IMM-4458-21**

**Citation: 2021 FC 805**

**Ottawa, Ontario, July 29, 2021**

**PRESENT: The Honourable Mr. Justice Shore**

**BETWEEN:**

**EMILIE OWIE  
NELSON OWIE  
IVAN OWIE  
KELLY OWIE  
WHITNEY OWIE**

**Applicants**

**and**

**THE MINISTER OF CITIZENSHIP  
AND IMMIGRATION**

**Respondent**

**ORDER AND REASONS**  
**(Delivered after the hearing on the Bench on July 29, 2021)**

[1] Upon the Applicants' motion for a stay of removal, scheduled for August 3, 2021;

[2] And, upon considering the underlying decision;

[3] And, upon reviewing all the documentation filed and hearing the submissions of both respective counsel by videoconference using the Zoom platform;

[4] And, upon determining the conjunctive tripartite criteria, as specified in *Toth v Canada (Minister of Employment and Immigration)*, (1988) 6 Imm LR (2d) 123, 86 NR 302 (FCA), have been satisfied due to grave danger to the principal Applicant as per the point-specific, clear, detailed, most substantial, uncontradicted evidence on file in respect of previous and attempted kidnappings to her person and danger to her children to have their mother abducted, in addition to individual danger to her children, themselves;

[5] Recognizing that the police and judiciary were wholly ineffective in treating the matter of the abductions (due to the prevailing country condition information, also, on file) in anything but a cosmetic manner, even though the case had reached the highest of instances in such circumstances;

[6] Recognizing that in addition, to the clear, personal, specific, unequivocal, principal Applicant's objective evidence on file, the country condition evidence demonstrates that the process, prior to and subsequent to the principal Applicant's abductions, is, nothing, but an attempt in nature, yet, nevertheless, amounting to a whitewash to set aside matters, without any evident substantial treatment for even a modicum of protection, as clearly set in evidence in this specific case of the Applicants;

[7] And, upon determining that every branch of the *Toth* test has been met by the principal Applicant and her children;

[8] Recognizing that grave, imminent risk awaits all the Applicants should they be returned to their country of origin due to the principal Applicant's unresolved existing issues of peril upon return as per the uncontradicted evidence;

[9] The Court orders that the stay of removal remain in place until final disposition of the underlying application for judicial review of the Pre-Removal Risk Assessment.

**ORDER in IMM-4458-21**

**THIS COURT ORDERS** that the stay of removal remain in place until final disposition of the underlying application for judicial review of the Pre-Removal Risk Assessment.

"Michel M.J. Shore"

---

Judge

**FEDERAL COURT**  
**SOLICITORS OF RECORD**

**DOCKET:** IMM-4458-21

**STYLE OF CAUSE:** EMILIE OWIE ET AL v THE MINISTER OF  
CITIZENSHIP AND IMMIGRATION

**PLACE OF HEARING:** HELD BY VIDEOCONFERENCE

**DATE OF HEARING:** JULY 29, 2021

**ORDER AND REASONS:** SHORE J.

**DATED:** JULY 29, 2021

**APPEARANCES:**

Laurence Cohen FOR THE APPLICANTS

Madeline Macdonald FOR THE RESPONDENT

**SOLICITORS OF RECORD:**

Laurence Cohen FOR THE APPLICANTS  
Barrister and Solicitor  
Toronto, Ontario

Attorney General of Canada FOR THE RESPONDENT  
Toronto, Ontario