

**Date: 20090310**

**Docket: IMM-2200-08**

**Citation: 2009 FC 252**

**Ottawa, Ontario, March 10, 2009**

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

**BETWEEN:**

**JAMES WAJARAS**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP  
AND IMMIGRATION**

**Respondent**

**SUPPLEMENTAL REASONS FOR JUDGMENT AND JUDGMENT**

[1] Having reviewed the further submissions from the parties, I am prepared to certify a question in this proceeding but in a slightly modified form from those presented by Mr. Matas. I will certify the following question:

Does the Minister of Citizenship and Immigration engage in an abuse of process in continuing to seek a removal order where the affected individual has been determined not to be a danger to the public and, if so, can the Immigration Division decline to make an inadmissibility determination under section 45 of the *Immigration and Refugee Protection Act*, S.C. 2001, c.27 on that basis?

**JUDGMENT**

**THIS COURT ADJUDGES that** the following question is certified:

Does the Minister of Citizenship and Immigration engage in an abuse of process in continuing to seek a removal order where the affected individual has been determined not to be a danger to the public and, if so, can the Immigration Division decline to make an inadmissibility determination under section 45 of the *Immigration and Refugee Protection Act*, S.C. 2001, c.27 on that basis?

“ R. L. Barnes ”

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Judge

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

**DOCKET:** IMM-2200-08

**STYLE OF CAUSE:** Wajaras  
v.  
MCI

**PLACE OF HEARING:** Winnipeg, MB

**DATE OF HEARING:** January 12, 2009

**REASONS FOR JUDGMENT  
AND JUDGMENT BY:** Mr. Justice Barnes

**DATED:** March 10, 2009

**APPEARANCES:**

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FOR THE RESPONDENT