

**Date: 20090918**

**Docket: IMM-938-09**

**Citation: 2009 FC 931**

**Montréal, Quebec, September 18, 2009**

**PRESENT: The Honourable Maurice E. Lagacé**

**BETWEEN:**

**WILLIAM RAMA**

**Applicant**

**and**

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

**and**

**THE MINISTER OF CITIZENSHIP  
AND IMMIGRATION**

**Respondents**

**REASONS FOR JUDGMENT AND JUDGMENT**

I. Introduction

[1] The applicant is seeking under subsection 72(1) of the *Immigration and Refugee Protection Act*, S.C. 2001, c. 27 (Act), the judicial review of the decision dated February 19, 2009, by the Immigration Division of the Immigration and Refugee Board (the panel), continuing his detention for identity verification purposes.

[2] He is seeking to quash the detention order and to obtain a declaratory judgment from the Court clarifying the Act, the *Immigration and Refugee Protection Regulations* (Regulations), and the *Immigration Division Rules* (Rules of Practice).

## II. Facts

[3] The applicant's illegal entry into Canada was discovered on December 26, 2008, when the ship on which he had travelled, the *Vega Eternity*, arrived in the Port of Montréal.

[4] After having searched the applicant on board the ship, on December 29, 2008, officers concluded that he had no identity documents in his possession. During the interview with the officers, the applicant claimed refugee status, prompting them to order his immediate detention at the Immigration Prevention Centre for identity verification.

[5] At hearings held on December 31, 2008, January 7, 2009, and January 30, 2009, concerning the review of the applicant's detention, the panel recognized that the Minister had made reasonable efforts to establish the applicant's identity, but that these were unfortunately unsuccessful. The panel then ordered that the applicant be kept in preventive detention, which was not contested at the time.

[6] At the fourth hearing looking into the same matter on February 19, 2009, the panel once again recognized that the Minister had, since the previous review, made reasonable efforts to establish the applicant's identity, but had unfortunately still been unsuccessful. As a result, the panel

ordered the applicant be kept in detention, but this time he decided to challenge the decision and, on February 26, 2009, to apply to the Court for a judicial review seeking to quash the order and obtain a stay pending a decision of the Court on the merits.

[7] The stay application was heard and dismissed by the Court on March 18, 2009, while the application on the merits, which the Court is asked to rule on, was finally heard on August 25, 2009. However, at the fifth hearing on March 19, 2009, during which the detention order was reviewed, the panel finally decided to order the applicant's conditional release, although his identity had still not been established.

[8] In spite of his release, the applicant is still seeking to quash his detention order and is asking the Court for a declaratory judgment clarifying the Act, the Regulations and the Rules of Practice.

### III. Issue

[9] The applicant agrees that his application to quash the preventive detention order is moot since the panel ordered his release on March 19, 2009.

[10] The Court is therefore called upon only to rule on the application for a declaratory judgment interpreting the Act, the Regulations and the Rules of Practice.

### IV. Analysis

[11] The Court notes that this application does not specify in any way what kind of clarification is sought, nor which provisions or sections are to be clarified. The task that the applicant is asking the Court to take on is enormous and undefined.

[12] The applicant's conclusions are inadequate and too general; that, in and of itself, is reason enough to reject them. In addition, the applicant in no way contests the legality of the legislative and regulatory provisions. He is asking the Court to interpret the Act, the Regulations and the Rules of Practice in an abstract way and without having provided evidence on the application and interpretation of the texts by the panel. He does not even indicate precisely which provisions of the Act, the Regulations or the Rules of Practice he would like interpreted.

[13] It is not the role of the Court to rule in the abstract on the procedure applicable to hearings held by the panel. The vagueness of the application alone calls for its dismissal.

[14] In other respects and aside from the way the application was formulated, the Court seems to understand from the applicant's allegations and arguments that he is taking issue with the panel for not granting him a fair and equitable hearing since the Minister's representative apparently did not submit any of the documents on which he was relying to the panel, nor did he call any of the immigration officers as witnesses to corroborate the facts cited before the panel at hearings on the review of his continued detention. He complains that the Minister's representative acted as both witness and litigant, and that in doing so deprived him of his right to cross-examine witnesses. He

also claims having been deprived of his defences, since prior to the hearings he allegedly did not have access to the documents relied on to support his continued detention.

[15] We note, however, that the applicant did not challenge the procedure followed by the panel at the hearings on December 31, 2008, January 7, 2009, and January 30, 2009. It was only after the decision rendered on February 19, 2009, when his identity had still not been established, that he suddenly decided to launch a challenge.

[16] It must be remembered that the application to quash the detention order is moot since the applicant's release on March 19, 2009. At this stage, only the application for a declaratory judgment is relevant.

[17] Furthermore, given his release, the applicant no longer has standing to ask the Court to rule on a right or an obligation pursuant to the Act, its Regulations and the Rules of Practice regarding the complaints against the Minister's representative.

[18] The Court is not called upon to rule, since its decision would have no effect on the rights of the parties (*Borowski v. Canada (Attorney General)*, [1989] 1 S.C.R. 342).

[19] In principle, the Court will not render a declaratory judgment when the matter is, as in this case, moot (*Lena v. The Kent Institution*, 2004 FC 192).

V. Conclusion

[20] For these reasons, the Court finds that the application to quash the preventive detention order is now moot, that the applicant no longer has standing to seek a declaratory judgment and that, furthermore, this application is inadmissible in its present form.

[21] Both applications will therefore be dismissed. And since no question of general importance was proposed or merits being proposed, no question will be certified.

**JUDGMENT**

**FOR THESE REASONS, THE COURT:**

**DISMISSES** the application for judicial review as well as the application for a declaratory judgment.

“Maurice E. Lagacé”

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Deputy Judge

Certified true translation

Sebastian Desbarats, Translator

**FEDERAL COURT**

**SOLICITORS OF RECORD**

**DOCKET:** IMM-938-09

**STYLE OF CAUSE:** WILLIAM RAMA v. THE MINISTER OF  
PUBLIC SAFETY AND EMERGENCY  
PREPAREDNESS ET AL.

**PLACE OF HEARING:** Montréal, Quebec

**DATE OF HEARING:** August 25, 2009

**REASONS FOR JUDGMENT  
AND JUDGMENT:** LAGACÉ D.J.

**DATED:** September 18, 2009

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