

Federal Court



Cour fédérale

Date: 20100325

Docket: IMM-1547-10

Ottawa, Ontario, March 25, 2010

PRESENT: The Honourable Mr. Justice Shore

BETWEEN:

**MINISTER OF PUBLIC SAFETY AND
EMERGENCY PREPAREDNESS**

Applicant

and

MOHAMED SALL

Respondent

ORDER

FOLLOWING the application to this Court to stay the release of the respondent until the application for leave and judicial review of the Immigration Division order is determined;

BASED ON the documents read and the arguments heard by conference call, the Court agrees completely with the applicant's position;

AS A RESULT OF the risk of danger the respondent poses as shown by the history of his case in the Court of Québec decision dated June 19, 2009 (considered on the basis of sections 244 and 246 of the *Immigration and Refugee Protection Regulations*, SOR/2002-227 (IRPR) and the

jurisprudence, for example, Justice Richard Boivin’s decision in *Canada (Minister of Public Safety and Emergency Preparedness) v. Sankar*, 2009 FC 934 at paragraph 15), the stay requested by the applicant is granted;

HAVING identified the tripartite test set out in *Toth v. Canada (Minister of Employment and Immigration)* (1988), 86 N.R. 302, and having assessed and weighed each of the three parts, the Court has reached the conclusion that not granting the stay in favour of the applicant would be irresponsible, in light of the *Toth* test and the consequences of the Court’s assessment of the results of the test;

For all these reasons, the stay requested by the applicant is granted until the application for leave and judicial review is determined.

THE COURT ORDERS that the applicant’s motion is granted, and the Court orders that the respondent’s release is stayed until a decision is issued on the application for leave and judicial review of the Immigration Division order.

“Michel M.J. Shore”

Judge

Certified true translation
Mary Jo Egan, LLB