Date: 20100607

Docket: IMM-2739-10

Citation: 2010 FC 611

[UNREVISED ENGLISH CERTIFIED TRANSLATION]

Montréal, Quebec, June 7, 2010

PRESENT: The Honourable Mr. Justice Shore

BETWEEN:

FATIMA ZAHRA CHOUFANI

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION
and
THE MINISTER OF PUBLIC SAFETY AND EMERGENCY PREPAREDNESS

Respondents

REASONS FOR JUDGMENT AND JUDGMENT

I. Preliminary

[1] [6] Decisions of PRRA officers are to be given significant deference. Where there is nothing unreasonable in the PRRA decision, there will be no serious issue. In this case, the PRRA officer clearly considered Ms. Tharumarasan's [*sic*] submissions and supporting documentary evidence with respect to ongoing human rights abuses in Sri Lanka. What Ms. Tharumarasah is asking the Court to do is to re-weigh the evidence that was before the PRRA officer. While Ms. Tharumarasah may not agree with the PRRA decision, she has not demonstrated that it was arguably either unreasonable or perverse, and accordingly no serious issue arises here. [Emphasis added.]

(As stated in *Tharumarasah v. Canada (Minister of Citizenship and Immigration)*, 2004 FC 211, 129 A.C.W.S. (3d) 375, by Justice Anne Mactavish; see also *Figurado v. Canada (Solicitor General)*; 2004 FC 241, 129 A.C.W.S. (3d) 374 at paragraphs 5-7; *Lim v. Canada (Minister of Citizenship and Immigration)*, 2002 FCT 956, 116 A.C.W.S. (3d) 929).

II. Judicial proceedings

[2] This is a motion for a stay of enforcement of a removal order made against the applicant, which motion is attached to an application for leave and for judicial review of the Pre-removal Risk Assessment (PRRA) decision dated March 24, 2010. In that decision, the PRRA officer rejected the application. The applicant, a citizen of Morocco, is scheduled for removal on June 8, 2010.

III. Preliminary remarks

[3] Given that the *Department of Public Safety and Emergency Preparedness Act*, S.C. 2005, c. 10, has come into force, the Minister of Public Safety and Emergency Preparedness should be named as respondent, in addition to the Minister of Citizenship and Immigration, in accordance with the order in council made on April 4, 2005 (P.C. 2005-0482).

[4] Consequently, the style of cause is amended to add the Minister of Public Safety and Emergency Preparedness as respondent, in addition to the Minister of Citizenship and Immigration.

IV. Background

[5] On August 8, 2007, the applicant, Fatima Zahra Choufani, arrived in Canada as a temporary resident for six months. On October 28, 2007, Ms. Zahra Choufani married Tarik Lachheb.

[6] On January 9, 2008, Ms. Zahra Choufani applied for a temporary resident extension. The application package was returned to her for incorrect payment.

[7] Since February 8, 2008, Ms. Zahra Choufani has been without status in Canada.

[8] On April 3, 2008, she applied for restoration of temporary resident status as a visitor, which was refused for incorrect payment.

[9] On April 17, 2008, Ms. Zahra Choufani applied for permanent residence in the “spouse or common-law partner in Canada” class.

[10] On April 21, 2009, that application was refused because the sponsorship application for the applicant was withdrawn.

[11] On April 21, 2009, a section 44 report was prepared.

[12] On May 28, 2009, the Minister's delegate made, *in absentia*, an exclusion order against Ms. Zahra Choufani.

[13] On September 14, 2009, Ms. Zahra Choufani was notified that she could apply for a PRRA.

[14] On September 25, 2009, Ms. Zahra Choufani applied for a PRRA.

[15] In this case, the PRRA officer rejected the application on the basis of sections 96 and 97 of the *Immigration and Refugee Protection Act*, S.C. 2001, c. 27, (IRPA) in the following terms at page 3 of his notes:

> [TRANSLATION]
> **Personal risk**
>
> The applicant is alleging that because of her divorce, if she had to return to Morocco, she would be threatened by her own family and the family of her former spouse. She adds that she would be unable to avail herself of state protection or to go live in another city to escape the threats.
>
> To support her allegations, the applicant has submitted a copy of the affidavit she filed in the context of the divorce decree with her former spouse and her birth certificate. Although I acknowledge that the applicant is indeed divorced from her former spouse, she has not submitted evidence allowing her to show satisfactorily that she would be threatened by her family or the family of her former spouse.
>
> In this application, the burden of proof rests on the applicant's shoulders. She has the onus of demonstrating the alleged risks, which she failed to do.
>
> In short, after having reviewed the file, I conclude that the applicant has not discharged her burden of proof to show that she would face a personal risk. Therefore, in light of the above, the applicant's immigration file, the documentation consulted and the current situation in Morocco, I am of the

> opinion that she has failed to show that if she were to return to her country of origin, she would be personally persecuted (L-96) by either the army, the existing authorities or any other group whatsoever or that she would be subjected to torture, a risk to her life or a risk of cruel and unusual treatment or punishment, as defined by the IRPA (L-97). Consequently, the application is rejected. [Emphasis added.]

V. Analysis

[16] The Court agrees with the respondents' position.

Applicable tests on stay motions

[17] To assess the merits of the stay motion, this Court must determine if the applicant meets the tests established by the Federal Court of Appeal in *Toth v. Canada (Minister of Employment and Immigration)* (1988), 86 N.R. 302.

[18] The Court of Appeal adopted three tests which it borrowed from case law concerning injunctions, more specifically, from the judgment of the Supreme Court of Canada in *Manitoba (Attorney General) v. Metropolitan Stores (MTS) Ltd.*, [1987] 1 S.C.R. 10. These three tests are as follows:

A. a serious issue;

B. irreparable harm; and

C. an assessment of the balance of convenience.

[19] The three tests must be met for this Court to grant the requested stay. If even one of these tests is not met, this Court cannot grant the stay.

A. <u>Serious issue</u>

[20] In support of her motion, Ms. Zahra Choufani is arguing that there are the following serious issues to be tried by this Court:

1) Her former counsel failed to submit documentation to support her PRRA application; and
2) Her former counsel failed to file a claim for refugee protection.

[21] For the reasons that follow, Ms. Zahra Choufani has not established that there is a serious issue to be tried by this Court.

[22] The Federal Court of Appeal has decided that the standard of proof for the purposes of section 97 of the IRPA is the balance of probabilities, just as is the case for section 96 of the IRPA (*Li v. Canada (Minister of Citizenship and Immigration)*, 2005 FCA 1, [2005] 3 F.C.R. 239, at paragraphs 14, 36 and 39).

[23] The risk that Ms. Zahra Choufani had to demonstrate, which is set out at sections 96 and 97 of the IRPA, is a “personalized”, not generalized, risk, that is, a personal risk or a risk shared by members of a group who are in similar situations *(Rizkallah v. Canada (Minister of Employment and Immigration)* (1992), 156 N.R. 1, 33 A.C.W.S. (3d) 940 (F.C.A.) ; *Pour-Shariati v. Canada (Minister of Employment and Immigration)* (1997), 215 N.R. 174, 72 A.C.W.S. (3d) 552; *Salibian v. Canada (Minister of Employment and Immigration)*, [1990] 3 F.C. 250, 22 A.C.W.S. (3d) 837 (F.C.A.)).

[24] With regard to the general situation prevailing in Morocco, Ms. Zahra Choufani had to establish a connection between the conditions in her country and her personal circumstances, which she failed to do. Ms. Zahra Choufani had to establish a personal risk if she returned: *Jarada v. Canada (Minister of Citizenship and Immigration)*, 2005 FC 409, [2005] F.C.J. No. 506 (QL); *Navaratnam v. Canada (Minister of Citizenship and Immigration)*, 2001 FCT 218, 104 A.C.W.S. (3d) 556; *Sinnathurai* v. *Canada (Minister of Citizenship and Immigration)*, 2001 FCT 975, 108 A.C.W.S. (3d) 136 ; *Rizkallah v. Canada (Minister of Employment and Immigration)* (1992), 156 N.R. 1, 33 A.C.W.S. (3d) 940 (F.C.A.); *Mouissaoui v. Canada (Minister of Citizenship and Immigration)*, 2004 FC 133, 132 A.C.W.S. (3d) 756; *Sivagnanam v. Canada (Minister of Citizenship and Immigration)*, 2003 FC 1216, 126 A.C.W.S. (3d) 492; *Sheriff v. Canada (Minister of Citizenship and Immigration)*, 2002 FCT 8, 110 A.C.W.S. (3d) 1112; *Zilenko v. Canada (Minister of Citizenship and Immigration)*, 2003 FC 846, 124 A.C.W.S. (3d) 761; *Sanusi v. Canada (Minister of Citizenship and Immigration)*, 2004 FC 987, 132 A.C.W.S. (3d) 963).

[25] Establishing a risk of return is largely a question of fact: *Singh v. Canada (Minister of Citizenship and Immigration)*, 2005 FC 145, 137 A.C.W.S. (3d) 156; *Harb v. Canada (Minister of Citizenship and Immigration)*, 2003 FCA 39, 238 F.T.R. 194).

[26] In the context of a PRRA application, the applicant has the burden of proof. In that regard, this Court stated the following in *Lupsa v. Canada (Minister of Citizenship and Immigration)*, 2007 FC 311, 159 A.C.W.S. (3d) 419:

> [12] Generally, the Federal Court of Appeal and this Court have stated on many occasions that the onus is on the applicant to submit evidence on all the elements of his or her application. Specifically, on a PRRA application, it is settled law that the applicant bears the burden of providing the PRRA officer with all the evidence necessary for the officer to make a decision (*Cirahan v. Canada (Solicitor General)*, 2004 FC 1603, [2004] F.C.J. No. 1943 (QL) at paragraph 13).
>
> [13] The PRRA officer does not play a role in the submission of evidence. If the evidence is insufficient, the applicant must bear the consequences, and the officer has no obligation to inform the applicant of this (*Selliah*, above, at paragraph 22; see also *Youssef v. Canada (Minister of Citizenship and Immigration)*, 2006 FC 864, [2006] F.C.J. No. 1101 (QL) at paragraph 33).
>
> [14] It is not incumbent on the PRRA officer to alert the applicant to insufficiencies in the evidence (*Tuhin v. Canada (Minister of Citizenship and Immigration)*, 2006 FC 22, [2006] F.C.J. No. 36 (QL) at paragraph 4).
>
> . . .
>
> [24] As the above-noted case law indicates, the PRRA officer had to review the file and make a decision based on the evidence before him. He was not obliged to seek additional evidence. The documentary evidence regarding the charge against the applicant in Romania was not before the officer.
>
> . . .
>
> [27] In addition, as I indicated above, the case law is clear that the applicant bears the onus of providing evidence in support of his submissions in his PRRA application and that any deficiencies in this regard are at the applicant's risk.
>
> [28] In my view, the PRRA officer made no reviewable error in concluding that he did not have sufficient evidence before him to find that the applicant would face **personalized risks** if he were to return to his country. [Emphasis added.]

[27] The officer's role is to weigh the evidence filed and give such weight to each piece of evidence as the officer considers appropriate.

[28] As Justice Michel Beaudry indicated in *Ould v. Canada (Minister of Citizenship and Immigration)*, 2007 FC 83, 161 A.C.W.S. (3d) 960, at paragraph 21, when he quoted with approval the following passage from *Jarada v. Canada (Minister of Citizenship and Immigration)*, 2005 FC 409, [2005] F.C.J. No. 506 (QL), at paragraph 28:

> That said, the assessment of the applicant's potential risk of being persecuted if he were sent back to his country must be individualized. The fact that the documentary evidence shows that the human rights situation in a country is problematic does not necessarily mean there is a risk to a given individual (*Ahmad v. M.C.I.*, [2004] F.C.J. No. 995 (F.C.); *Gonulcan v. M.C.I.*, [2004] F.C.J. No. 486 (F.C.); *Rahim v. M.C.I.*, [2005] F.C.J. No. 18 (F.C.)). [Emphasis added.]

[29] The evidence in the record supports the conclusion that the officer analyzed and considered the evidence relied on by Ms. Zahra Choufani. His conclusions are squarely based on the evidence available to him.

[30] Ms. Zahra Choufani alleges that her counsel failed to file all of the arguments and evidence that he should have submitted in support of her PRRA application.

[31] However, nowhere in her record does Ms. Zahra Choufani specify which pieces of evidence or arguments she would have liked to have filed as part of her PRRA application, but which her former counsel allegedly omitted to file, or how those facts and arguments would have altered the PRRA officer's decision.

[32] In this case, Ms. Zahra Choufani has not provided any evidence of what was submitted in support of her PRRA application. As a result, it is impossible to assess the merits of her allegations. However, it is clear that the PRRA officer had Ms. Zahra Choufani's risk allegations properly before him, as can be seen from pages 2 and 3 of the PRRA officer's Notes to file (Record of stay motion at pages 7–8).

[33] In *Muotoh v. Canada (Minister of Citizenship and Immigration)*, 2005 FC 1599, 2005 A.C.W.S. (3d) 314, Mr. Muotoh's counsel completely failed to provide submissions in support of the PRRA application. Justice Pierre Blais refused to intervene, stating the following:

> 2. Did the lawyer's error in failing to provide submissions infringe the applicant's natural justice right to be heard?
>
> [16] The applicant submits that because of his lawyer's error in not providing additional proof or submissions for the PRRA application his natural justice right to be heard, *audi alteram partem*, was infringed. Further, he suggests that such an infringement warrants the intervention of this Court.
>
> . . .
>
> [20] The respondent submits that the applicant has not met the onus of establishing that there would be an actual prejudice, but for counsel's unprofessional errors. The respondent justifies this assertion by emphasising that in the applicant's lawyer's affidavit no indication as to the nature of what he wanted to file, as submissions at a later date, was provided. Further, the respondent claims that even if such information had been provided, there exists no reasonable probability that it would have made a difference on the outcome of the PRRA.
>
> [21] The applicant submits in his affidavit that he would be at risk of being harassed, insulted and attacked, if he were to return to Nigeria, because of his membership in the IYM (Tribunal record, page 15, paragraph 9). The PRRA process, as previously mentioned, is not an appeal of the Board's decision, but rather is intended to be an assessment based on new facts or evidence which

> demonstrates that the person at issue is now at risk. The Board was unconvinced that the applicant was a member of the IYM. Nowhere in the applicant's submissions for this judicial review was it mentioned that the applicant had any new evidence that would prove he was in fact a member of the IYM. Without any new evidence illustrating that the applicant was in fact a member of that organization, I do not see how the applicant could illustrate being at risk if returned to Nigeria.
>
> [22] I find that it was not enough for the applicant merely to say that his right to be heard was infringed simply because his counsel failed to make the proper submissions. The applicant had the onus of proving that an error occurred and that the chances of that error causing a significant prejudice were probable. The applicant succeeded in illustrating his former counsel's incompetence, but he failed to demonstrate the likelihood of that incompetence causing significant prejudice.
>
> [23] I find the officer's decision was not made in a perverse and capricious manner and without regard for the material before him. The officer's PRRA decision was reasonable and did not breach principles of natural justice or procedural fairness. [Emphasis added.]

[34] The onus was on the applicant to substantiate her argument, which she did not do in this case. Consequently, this argument does not raise a serious issue.

[35] The stay motion is attached to an application for leave and for judicial review of the negative PRRA decision. Ms. Zahra Choufani must therefore show that there is a serious issue to be tried regarding that PRRA decision.

[36] Yet, Ms. Zahra Choufani argues in her motion that her former counsel failed to file a refugee protection claim, which is of no relevance to establishing that there is a serious issue to be tried regarding the PRRA officer's decision.

[37] Consequently, Ms. Zahra Choufani has failed to show, by means of that argument, that there is a serious issue to be tried.

[38] On the matter of allegations of a lawyer's incompetence, Justice Johanne Gauthier made the following ruling in *Arora v. Solicitor General*, IMM-3629-04:

> As indicated in *Cirahan v. Canada (Minister of Citizenship and Immigration)* 2003 FC 1230, this Court has made it clear that the ever increasing practice of attempting to blame immigration consultants or previous lawyers is not acceptable. I am not satisfied by the evidence presented that this is an exceptional case which raises a denial of natural justice. [Emphasis added.]

[39] In *Dukuzumuremyi v. Canada (Minister of Citizenship and Immigration)*, 2006 FC 278, [2006] F.C.J. No. 349 (QL), Justice Luc Martineau noted as follows:

> [8] That being said, the applicant alleges that his former counsel failed to submit any documentation to the panel regarding:
>
> (a) the political, economic and social situation prevailing in Burundi;
>
> (b) the existence of a moratorium ordered by Citizenship and Immigration Canada on the enforcement of removal orders to Burundi; and
>
> (c) the applicant being diagnosed with post-traumatic stress disorder.
>
> By and large, the applicant is today arguing that these omissions, which incidentally involve the application of the sixth requirement referred to at paragraph 6 of these reasons, caused him serious prejudice and had the effect of depriving him of his right to a full hearing before the panel. Further, on December 9, 2005, a few weeks after he was given leave to file this application for judicial review, the applicant filed a complaint against his former counsel with the Syndic of the Barreau du Québec.
>
> [9] I find that the applicant did not meet his heavy burden of proof of establishing to the Court's satisfaction his former counsel's incompetence as well the prejudice that he alleges to have suffered in this case: see *R. v. G.D.B.*, [2000] 1 S.C.R. 520 at paragraphs 26–29, referring to the approach set out in *Strickland v. Washington* (1984), 466 U.S. 688; *Sheikh v. Canada (Minister of Employment*

and Immigration), [1990] 3 F.C. 238 at paragraphs 14–15 (F.C.A.); *Shirwa v. Canada (Minister of Employment and Immigration)*, [1994] 2 F.C. 51 at paragraphs 8–11 (F.C.T.D.); *Drummond v. Canada (Minister of Citizenship and Immigration)* (1996), 33 Imm. L.R. (2d) 258 at page 259 (F.C.T.D.); *Robles v. Canada (Minister of Citizenship and Immigration)*, [2003] F.C.J. No. 520 at paragraphs 31–39 (F.C.T.D.) (QL), 2003 FCT 374; *Jaouadi v. Canada (Minister of Citizenship and Immigration)*, [2003] F.C.J. No. 1714 at paragraph 30 (F.C.T.D.) (QL), 2003 FC 1347; *Hallat v. Canada*, [2004] F.C.J. No. 434 at paragraphs 20–22 (F.C.A.) (QL), 2004 FCA 104).

[10] The applicant's former counsel is a member in good standing of the Barreau du Québec. Even though a disciplinary complaint has been brought against her, she has not been held professionally liable. It would therefore be inappropriate for this Court to make any determination regarding the possible existence or absence of a professional fault in the context of this matter. Further, according to the evidence before me today, I cannot determine that the applicant's former counsel's judgment was unreasonable because she did not file before the panel documentary evidence corroborating the fact that the applicant suffers from post-traumatic stress disorder, that Burundi is struggling with a civil war with a backdrop of ethnic tensions between Hutus and Tutsis, that arbitrary arrests and abuse in detention occur frequently and that the respondent suspended removals to Burundi.

. . .

[19] The allegations made today by the applicant against his former counsel do not have that objective seriousness and bear only on the sufficiency of the evidence relating to the significance of the problems that the applicant could encounter if he were removed to Burundi. In the great majority of cases, we do not distinguish the facts and acts of counsel from those of the client. Counsel is his client's agent and, as severe as it may seem, if the client retains the services of mediocre counsel (which, in passing, was not established here by the applicant), he must suffer the consequences. However, in exceptional cases, counsel's incompetence may raise a question of natural justice. The incompetence and the alleged prejudice must therefore be clearly established. On that point, the wisdom of hindsight has no place in this assessment and it must be demonstrated to the Court that *inter alia*, the acts or omissions alleged against counsel did not result from exercising reasonable professional judgment. That is not the case here. [Emphasis added.]

[40] In *Delpeche v. M.P.S.E.P.*, IMM-1057-06, the applicant in that case alleged failures by his former counsel in a motion for a stay of enforcement of the removal order against him. Justice Carolyn Layden-Stevenson made the following remarks on the subject:

> In relation to the applicant's reliance on an immigration consultant who failed him, he must live with the consequences until such time as they are remedied. As I advised counsel during the hearing, the jurisprudence of this Court requires, in the face of such allegations, that: (a) the individual in question be served with the documentation containing the allegations; or (b) the individual provide evidence himself or herself with respect to his or her failings, or (c) the applicant provide some evidence that a complaint has been made to the appropriate governing professional body.

[41] The fact of the matter is that Ms. Zahra Choufani did not meet these three tests and that, following the rejection of her PRRA application, she is merely complaining after the fact, before this Court, about the services provided by her former counsel, despite the fact that her former counsel was not informed thereof and cannot reply to those grievances.

[42] In *Jaouadi*, this Court clarified that "it is for professional bodies and not the courts to intervene in the event of allegations of incompetence" (*Jaouadi v. Canada (Minister of Citizenship and Immigration)*, 2003 FC 1347, 257 F.T.R. 161 at paragraphs 29–30).

[43] Consequently, Ms. Zahra Choufani has failed to show, by means of this argument, that there is a serious issue to be tried.

B. Irreparable harm

[44] In the context of a stay motion, the notion of irreparable harm has been defined as the fact of removing the applicant to a country where his or her life or safety is in jeopardy. Therefore, it cannot merely be a matter of personal inconveniences or the division of a family (*Kerrutt v. Canada (Minister of Employment and Immigration)* (1992), 53 F.T.R. 93, 32 A.C.W.S. (3d) 621; *Calderon v. Canada (Minister of Citizenship and Immigration)* (1995), 92 F.T.R. 107, 54 A.C.W.S. (3d) 316).

[45] Moreover, evidence of irreparable harm must be clear, and not speculative (*Grant v. Canada (Minister of Citizenship and Immigration)*, 2002 FCT 141, [2002] F.C.J. No. 191, at paragraph 9 (T.D.) (QL); see also *Kim* v. *Canada (Minister of Citizenship and Immigration)*, 2002 FCT 397, [2002] F.C.J. No. 502, at paragraph 12 (T.D.) (QL)).

[46] In *Akyol v. Canada (Minister of Citizenship and Immigration)*, Justice Martineau stated that irreparable harm must not be speculative or based on possibilities:

> [7] . . . irreparable harm must not be speculative nor can it be based on a series of possibilities. The Court must be satisfied that the irreparable harm will occur if the relief sought is not granted: *Atakora*, *supra*, at para. 12; *Syntex Inc. v. Novopharm Inc.* (1991), 36 C.P.R. (3d) 129 at 135 (F.C.A.); and *Molnar v. Canada (Minister of Citizenship and Immigration)*, [2001] F.C.J. No. 559, 2001 FCT 325 at para. 15. [Emphasis added.]

(See also *John v. Canada (Minister of Citizenship and Immigration)*, [1999] F.C.J. No. 915, paragraph 13; *Kerrutt*, above; *Calderon*, above; *Blum v. Canada (Minister of Citizenship and Immigration)* (1994), 90 F.T.R. 54, 52 A.C.W.S. (3d) 1099 (F.C.T.D.); *Williams v. Canada*

(Minister of Employment and Immigration) (1994), 74 F.T.R. 34, 46 A.C.W.S. (3d) 1116 (F.C.T.D.)).

[47] The harm alleged by Ms. Zahra Choufani is purely speculative, and she has not submitted any evidence which supports her allegations.

[48] At pages 12 to 15 of her motion record, Ms. Zahra Choufani submitted a document from the Web site “forum.maroc-inge.coc”, which is a [TRANSLATION] “discussion forum” on the Internet, where anyone can express his or her personal opinions. It must be noted that Ms. Zahra Choufani has failed to establish that those opinions are from experts in the field or that the sources are credible or reliable. Moreover, the authors are unidentified. Ms. Zahra Choufani cannot rely on this document to show irreparable harm.

[49] At pages 16 to 37, Ms. Zahra Choufani submitted what appears to be an article by Hicham Raji. Yet, there is no evidence establishing the author’s identity or the nature of the Web site where the article is found. Furthermore, the article is incomplete, and Ms. Zahra Choufani has not made the connection between this article and her personal situation, as was required of her. Ms. Zahra Choufani has failed to establish that this article has a credible and reliable source and cannot rely on this article to show irreparable harm.

[50] The risks of return were assessed by a PRRA officer in the context of a PRRA application in light of the evidence, Ms. Zahra Choufani's circumstances and the objective situation in Morocco at that time.

[51] In her motion, Ms. Zahra Choufani alleges the same harm that she alleged in support of her PRRA. However, the PRRA officer has already considered those risks and rejected them.

[52] In her motion record, which she is seeking to file as part of her application for leave and for judicial review, Ms. Zahra Choufani does not submit any specific argument against the PRRA decision.

[53] In the same vein, the officer responsible for assessing Ms. Zahra Choufani's PRRA application had to consider her submissions regarding the risks of return and, manifestly, did not believe that she would face real risks if she were removed to Morocco.

[54] The PRRA officer examined Ms. Zahra Choufani's personal circumstances before issuing the negative decision.

[55] Ultimately, although Ms. Zahra Choufani will suffer the usual inconveniences associated with a removal, for all of the above reasons, she has clearly not established that there is irreparable harm as defined by the case law. Her stay motion must therefore be dismissed for that reason alone.

C. Balance of convenience

[56] According to subsection 48(2) of the IRPA, the Minister has the duty to enforce the removal order as soon as is reasonably practicable.

[57] The Federal Court of Appeal discussed the issue of the balance of convenience on stay motions and the public interest that must be considered:

> (iii) Balance of inconvenience
>
> [21] Counsel says that since the appellants have no criminal record, are not security concerns, and are financially established and socially integrated in Canada, the balance of convenience favours maintaining the status quo until their appeal is decided.
>
> [22] I do not agree. They have had three negative administrative decisions, which have all been upheld by the Federal Court. It is nearly four years since they first arrived here. In my view, the balance of convenience does not favour delaying further the discharge of either their duty, as persons subject to an enforceable removal order, to leave Canada immediately, or the Minister's duty to remove them as soon as reasonably practicable: IRPA, subsection 48(2). This is not simply a question of administrative convenience, but implicates the integrity and fairness of, and public confidence in, Canada's system of immigration control. [Emphasis added.]

(*Selliah v. Canada (Minister of Citizenship and Immigration)*, 2004 FCA 261, 132 A.C.W.S. (3d) 547 (F.C.A.); see also *Dasilao v. Canada (Solicitor General)*, 2004 FC 1168, 133 A.C.W.S. (3d) 501 (F.C.); *Membreno-Garcia v. Canada (Minister of Employment and Immigration)* (1992), 3 F.C. 306, 55 F.T.R. 104 (F.C.); *Jean v. Canada (Minister of Citizenship and Immigration)* (1996), 63 A.C.W.S. (3d) 1130, [1996] F.C.J. No. 473 (F.C.) (QL); *Kerrutt*, above).

[58] In this case, the balance of convenience favours the public interest in ensuring that the immigration process provided by the IRPA follows its course.

VI. Conclusion

[59] For all of these reasons, the motion for the stay of enforcement of a removal order is dismissed.

JUDGMENT

THE COURT ORDERS that the motion for the stay of execution of a removal order be dismissed.

"Michel M.J. Shore"
Judge

Certified true translation
Sarah Burns

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	IMM-2739-10
STYLE OF CAUSE:	FATIMA ZAHRA CHOUFANI v. THE MINISTER OF CITIZENSHIP AND IMMIGRATION AND THE MINISTER OF PUBLIC SAFETY AND EMERGENCY PREPAREDNESS
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