

Federal Court



Cour fédérale

Date: 20120206

Dockets: IMM-951-12  
IMM-821-12

Citation: 2012 FC 156

[UNREVISED CERTIFIED ENGLISH TRANSLATION]

Montréal, Quebec, February 6, 2012

PRESENT: The Honourable Mr. Justice Shore

BETWEEN:

IMM-951-12

HALAWI, YOUSSEF

Applicant

and

MINISTER OF PUBLIC SAFETY  
AND EMERGENCY PREPAREDNESS

Respondent

BETWEEN:

IMM-821-12

HALAWI, YOUSSEF

Applicant

and

MINISTER OF PUBLIC SAFETY  
AND EMERGENCY PREPAREDNESS

Respondent

**REASONS FOR JUDGMENT AND JUDGMENT**

(Delivered from the bench at Montréal, Quebec, February 6, 2012)

[1] On February 1, 2012, the applicant served and filed motions for a stay of enforcement of the removal order (scheduled for February 13, 2012); one motion relates to an application for leave and judicial review of a decision on a pre-removal risk assessment (PRRA), and the other is related to the enforcement officer's refusal to defer his removal.

[2] The applicant filed a claim for refugee status on August 17, 2008.

[3] The applicant voluntarily withdrew that claim for refugee status on May 4, 2010, and the applicant even explained in an affidavit why he withdrew his claim for refugee status.

[4] After the Refugee Protection Division (RPD) refused this application for reinstatement on October 8, 2010, the applicant did not challenge the RPD's decision.

[5] An enforcement officer should not defer a removal because of an application for leave and judicial review of a PRRA decision, as the Federal Court of Appeal stated recently in *Canada (Minister of Public Safety and Emergency Preparedness) v Shpati*, 2011 FCA 286 at paragraph 48.

[6] Also, knowing that the burden is higher for challenging an enforcement officer's decision refusing to defer a removal and the fact that the applicant did not submit a valid argument against the decision refusing to defer the removal (*Baron v Canada (Minister of Public Safety and*

*Emergency Preparedness*), 2009 FCA 81, [2010] 2 FCR 311, at paragraph 67, the Court finds that the applicant has not satisfied all three criteria of the *Toth* decision for the two decisions he is challenging.

[7] In fact, the applicant has not satisfied any of the three branches of the *Toth* test. The applicant's motion does not raise a serious issue, there is no irreparable harm, and the balance of convenience favours the respondents.

[8] Based on the Court's analysis, the Court orders that the motion for a stay of enforcement of the applicant's removal order is dismissed. There is no question of general importance to certify.

**JUDGMENT**

**THE COURT RULES that** the motions for a stay of enforcement of the removal order are dismissed. There is no question of general importance to certify.

“Michel M.J. Shore”

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Judge

Certified true translation  
Mary Jo Egan, LLB

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

**DOCKETS:** IMM-951-12 and IMM-821-12

**STYLE OF CAUSE:** HALAWI, YOUSSEF and MPSEP ET AL.

**PLACE OF HEARING:** Montréal, Quebec

**DATE OF HEARING:** February 6, 2012

**REASONS FOR JUDGMENT  
AND JUDGMENT:** SHORE J.

**DELIVERED FROM  
THE BENCH:** February 6, 2012

**APPEARANCES:**

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Patricia Nobl FOR THE RESPONDENT

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