

Federal Court



Cour fédérale

Date: 20120203

**Docket: IMM-679-12
IMM-959-12**

Citation: 2012 FC 149

Ottawa, Ontario, February 3, 2012

PRESENT: The Honourable Mr. Justice Shore

BETWEEN:

KAVOOS SOOFI SIAVOOSH

Applicant

and

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

Respondents

REASONS FOR ORDER AND ORDER

[1] Ideological diversity is not tolerated in Iran.

[2] The Applicant of Kurdish descent and a Sahaja Yoga practitioner is on a hunger strike due to an order for his imminent removal (scheduled for February 7, 2012) to Iran where he deems himself to be under peril to life and limb due to his ideological, religious beliefs and practice.

[3] In addition to a number of current internet postings on the Applicant's beliefs in protest of the Iranian regime, according to the *Toth* decision (*Toth v. Canada (Minister of Employment and Immigration)* (FCA), [1988] 86 NR 302) tripartite conjunctive test criteria, the present objective evidence presents:

1. A serious issue overwhelmingly in the Applicant's favour;
2. No margin permits error in the Applicant's regard as the irreparable harm to his person is in no doubt, if he is, now, who he alleges to profess;
3. The balance of convenience tilts in recognition of the Applicant's present evidence that points to the Applicant's plight should he be returned to Iran.

[4] In regard to those who oppose the Iranian regime, this file's evidence includes a *National Post* article of January 31, 2011, written by the Honourable Irwin Cotler, former Minister of Justice of Canada, Head of the Interparliamentary Group on Human Rights in Iran, wherein he states:

Human rights organizations report that in January 2011, Iran executed at least 65 people, while another 43 executions took place in the 10 days before the New Year, this is a rate of about one person every eight hours, an unprecedented "executive binge" even by Iranian standards.

CONCLUSION

[5] For all the above, the Court grants the Applicant a stay of removal, pending the CIC decision, regarding the Humanitarian and Compassionate application in addition to the second Pre-Removal Risk Assessment application; and this is to include the Court's determination of the Application for Leave and for Judicial Review of the decision, dated November 10, 2011, that is a

determination by this Court of the Applicant's Application for Leave and for Judicial Review of the Removal Officer's decision to deny a deferral of removal if it still remains at issue after the other proceedings will have been effected.

[6] Thus, the stay is to remain in effect until all the legal proceedings outlined above will have been fully conclusively determined.

ORDER

THIS COURT ORDERS that the application for the stay of removal be granted until all legal proceedings will have been fully conclusively determined as specified in the conclusion above. No question of general importance is certified.

“Michel M.J. Shore”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-679-12 and IMM-959-12

STYLE OF CAUSE: KAVOOS SOOFI SIAVOOSH

and

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

PLACE OF HEARING: Ottawa, Ontario
(by tele-conference)

DATE OF HEARING: February 3, 2012

**REASONS FOR ORDER
AND ORDER:** Shore J.

DATED: February 3, 2012

APPEARANCES:

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Mr. Michael Butterfield FOR THE RESPONDENTS

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