

Federal Court



Cour fédérale

**Date: 20120921**

**Docket: IMM-7561-12**

**Citation: 2012 FC 1104**

**[UNREVISED ENGLISH CERTIFIED TRANSLATION]**

**Ottawa, Ontario, September 21, 2012**

**PRESENT: The Honourable Mr. Justice Shore**

**BETWEEN:**

**NONA CEPEDA PEREZ**

**Applicant**

**and**

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

**Respondents**

**REASONS FOR ORDER AND ORDER**

[1] The Court has before it a motion for a stay of removal to the Dominican Republic issued against the applicant. The removal is scheduled for Friday, September 21, 2012 (the day after the hearing of the application). The applicant has been aware of this removal order for two months, since July 19, 2012; therefore, this is a last-minute application.

[2] After allegedly being the victim of conjugal violence, the applicant left her country in 2005 for the United States, where she lived and worked illegally until 2008.

[3] The motion before the Court is incidental to an application for leave and judicial review of a negative Pre-Removal Risk Assessment (PRRA).

[4] Previously, the Refugee Protection Division had determined that claim for refugee protection was not credible, given the omissions, contradictions and lack of corroborating evidence, combined with conduct that was inconsistent with a subjective fear.

[5] The Court is certainly aware of the fact that new evidence was submitted to it by the applicant to corroborate her story, which the RPD had previously found not to be credible. Nonetheless, with the passage of time, seven years, since the violent incidents that had been described to the RPD, the trajectory of the claimant's life places the applicant before a new reality.

[6] Her three boys, raised in her country by her brother, are now 14 (two twins) and 15 years old respectively. The Court further notes the fact that the abusive ex-husband is in a relationship with another woman and is in another home with other children he has had with this second spouse; and, all of this having occurred within the last seven years, it alters the applicant's circumstances. Therefore, even if this new evidence were to be taken into consideration, the applicant would still fail to satisfy any of the three conjunctive criteria of the test in *Toth v Canada (Minister of Employment and Immigration)* (1988), 86 NR 302 (FCA) for a stay to be granted.

[7] For all these reasons, the Court dismisses the applicant's application for a stay.

**ORDER**

**THE COURT ORDERS** the dismissal of the applicant's application for a stay.

« Michel M.J. Shore »

---

Judge

Certified true translation  
Sebastian Desbarats, Translator

**FEDERAL COURT**

**SOLICITORS OF RECORD**

**DOCKET:** IMM-7561-12

**STYLE OF CAUSE:** NONA CEPEDA PEREZ v THE MINISTER OF  
CITIZENSHIP AND IMMIGRATION AND THE  
MINISTER OF PUBLIC SAFETY AND EMERGENCY  
PREPAREDNESS

**MOTION HEARD BY CONFERENCE CALL ON SEPTEMBER 20, 2012, BETWEEN  
OTTAWA, ONTARIO, AND MONTRÉAL, QUEBEC:**

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

**DATED:** September 21, 2012

**WRITTEN AND ORAL SUBMISSIONS BY:**

Claude Brodeur FOR THE APPLICANT

Suzanne Trudel FOR THE RESPONDENTS

**SOLICITORS OF RECORD:**

Claude Brodeur FOR THE APPLICANT

Counsel

Montréal, Quebec

Myles J. Kirvan FOR THE RESPONDENTS

Deputy Attorney General of Canada

Montréal, Quebec