

Federal Court



Cour fédérale

**Date: 20130115**

**Docket: IMM-413-13**

**Citation: 2013 FC 37**

**Ottawa, Ontario, January 15, 2013**

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

**BETWEEN:**

**SHIMBI SINGH  
REETU GHOTRA**

**Applicants**

**and**

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

**Respondents**

**REASONS FOR ORDER AND ORDER**

[1] The matter before the Court is a request for a stay of execution of removal order scheduled for tomorrow, January 16, 2013.

[2] Both members of the couple are fully and gainfully employed (not a burden to Canadian society but rather in positions needed in the trades as per the evidence). Letters of reference on file demonstrate that the couple is composed of individuals who have dedicated and devoted themselves

to their children; and, are considered accomplished and motivated employees, contributing to their work environment; and, they attend to the needs of their family as a unit. One of their two children, both of whom are Canadian born, requires special care.

[3] The background evidence presents the following picture: a husband and wife, who have been in Canada for over a decade, married in a Hindu rather than Sikh ceremony, although both members of the couple are Sikh. The marriage relationship is allegedly rejected by family in the Punjab, family, which have become allegedly estranged and hostile to the couple.

[4] The couple's minor son is being successfully treated for a well-documented medical condition, which has allowed him to be able to function in his controlled school and family framework within a French language setting. Numerous letters from health care professionals and educators, including that of Dr. Abe Worenklein, an acclaimed academic and clinician, demonstrate that disruption of the life of the minor son of the couple would be most detrimental to the son's welfare, if, in fact, the family unit would be separated. The very well referenced and documented findings on file strongly support the request for a stay of removal.

[5] The Court recognizes most significant detrimental effects, specifically on the minor son of the couple, and the couple itself, as a unit, would ensue, if the removal would be effected.

[6] The *Toth v Canada (Minister of Employment and Immigration)* (1988), 86 NR 302 (FCA) decision tripartite criteria have been fully satisfied by the members of the couple. The letter on file, dated December 12, 2012, as signed by Mary Esposito, most significantly support the factual

evidence on file. The written pleadings of the actual counsel on file, although well intentioned, overstate both the national jurisprudential, constitutional Charter and international instrument framework, when, in fact, the factual evidence on file speaks for itself amply, without need for written overstatement.

[7] Therefore, the stay is granted until the merits of the recourse pursuant to section 72 of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [*IRPA*], as requested, will have been disposed.

**ORDER**

**THIS COURT ORDERS that** the stay be granted until the merits of the recourse pursuant to section 72 of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [IRPA], as requested, will have been disposed.

“Michel M.J. Shore”

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Judge

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

**DOCKET:** IMM-413-13

**STYLE OF CAUSE:** SHIMBI SINGH  
REETU GHOTRA  
v  
THE MINISTER OF CITIZENSHIP AND  
IMMIGRATION AND THE MINISTER OF PUBLIC  
SAFETY AND EMERGENCY PREPAREDNESS

**MOTION HELD VIA TELECONFERENCE ON JANUARY 15, 2013 FROM  
OTTAWA, ONTARIO AND MONTREAL, QUEBEC**

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

**DATED:** January 15, 2013

**ORAL AND WRITTEN REPRESENTATIONS BY:**

Stewart Istvanffy FOR THE APPLICANT

Simone Truong FOR THE RESPONDENT

**SOLICITORS OF RECORD:**

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