

Federal Court



Cour fédérale

Facsimile Transmittal Form / Formulaire d'acheminement par télécopieur**TO / DESTINATAIRE(S) :**

1. Name / Nom : Mr. Richard Odeleye

Address / Adresse :

Facsimile / Télécopieur : 416.603.9190

Telephone / Téléphone :

2. Name / Nom : Ms. Jelena Urosevic

Address / Adresse :

Facsimile / Télécopieur : 416.954.8982

Telephone / Téléphone :

3. Name / Nom :

Address / Adresse :

Facsimile / Télécopieur :

Telephone / Téléphone :

4. Name / Nom :

Address / Adresse :

Facsimile / Télécopieur :

Telephone / Téléphone :

FROM / EXPÉDITEUR : Ingrid Sherling

Telephone / Téléphone :

Facsimile / Télécopieur :

DATE : December 26, 2010

TIME / HEURE : 12:45 PM

Total number of pages (including this page) /
Nombre de pages (incluant cette page) : 4**SUBJECT / OBJET :** IMM-7497-10 and IMM-7592-10**COMMENTS / REMARQUES :** Decisions issued by Justice Lemieux today.

Federal Court



Cour fédérale

Date: 20101226

Docket: IMM-7497-10

OTTAWA, ONTARIO, Sunday, December 26, 2010

PRESENT: The Honourable Mr. Justice Lemieux

BETWEEN:

BERNEAL PROMESSE

Applicant

and

THE MINISTER OF PUBLIC SAFETY AND EMERGENCY PREPAREDNESS

Respondent

ORDER

UPON MOTION made to this Court by the Applicant for an Order to stay this removal pending determination of leave and judicial review from a negative PRRA decision dated December 13, 2010;

AND UPON reading the material filed;

AND UPON hearing counsel for the Applicant and Respondent by teleconference;

THIS COURT ORDERS that:

This stay application is granted pending the determination of his leave application and if leave is granted until his judicial review is decided.

The serious issues arising from the PRRA officer's decision is denial of an opportunity to provide evidence and the issuance of reasons which are totally inadequate. Irreparable harm flows from the serious issues and the nature of the risks alleged.

I had difficulty with the balance of convenience as seemingly lack of clean hands seemed to be established on a balance of probabilities but nevertheless do not outweigh a risk of sending him to a place where he would be subject to irreparable harm. But for this element I would have dismissed the stay application.

"François J. Lemiux"

Judge

COURT INDEX AND DOCKET

RECORDED ENTRY(IES) FOR IMM-7497-10

(Close)

**Court
Number :** IMM-7497-10

**Style of Cause
:** BERNEAL PROMESSE v. MCI

**Proceeding
Category :** Immigration Leave & Judicial Review **Nature :** Imm - Appl. for leave & jud. review - Pre-removal risk assessment

**Type of
Action :** Non-Action

(26 records found)

Doc	Date Filed	Office	Recorded Entry Summary
19	2011-08-09	Toronto	Solicitor's certificate of service on behalf of Richard Odeleye confirming service of doc. 18 upon Respondent by telecopier on 09-AUG-2011 filed on 09-AUG-2011
18	2011-08-09	Toronto	Notice of discontinuance on behalf of the applicant filed on 09-AUG-2011
-	2011-06-23	Toronto	Certified copy of the record sent by PRRA NIAGARA FALLS on 22-JUN-2011 pursuant to the order of the Court Received on 23-JUN-2011
-	2011-06-13	Ottawa	Acknowledgment of Receipt received from all parties (BY FAX) with respect to the Order of the Court dated 13-JUN-2011 placed on file on 13-JUN-2011
17	2011-06-13	Ottawa	Order rendered by The Honourable Mr. Justice Lemieux at Ottawa on 13-JUN-2011 granting the application for leave fixing the hearing at a Special Sitting at Toronto on 08-SEP-2011 to begin at 11:00 specifying documents to be produced and/or filed as follows: "1. The tribunal shall send copies

			<p>of its record to the parties and the Registry of the Court on or before Monday, July 4, 2011; 2. Further affidavits, if any, shall be served and filed by the Applicant on or before Thursday, July 14, 2011; 3. Further affidavits, if any, shall be served and filed by the Respondent on or before Thursday, July 21, 2011; 4. Cross-examinations, if any, on affidavits shall be completed on or before Tuesday, August 2, 2011; 5. The Applicant's further memorandum of argument, if any, shall be served and filed on or before Friday, August 12, 2011; 6. The Respondent's further memorandum of argument, if any, shall be served and filed on or before Monday, August 22, 2011; and 7. The transcript of cross-examinations, if any, shall be filed on or before Monday, August 22, 2011."</p> <p>Decision filed on 13-JUN-2011 Considered by the Court without personal appearance entered in J. & O. Book, volume 515 page(s) 377 - 379 Copy of the order sent to all parties Transmittal Letters placed on file.</p>
-	2011-04-15	Ottawa	Communication to the Court from the Registry dated 15-APR-2011 re: Sent to Court for final disposition of leave application.
16	2011-03-08	Toronto	Affidavit of Helen Medeiros on behalf of the respondent sworn on 08-MAR-2011 confirming service of Doc 15 on the applicant by telecopier on 08-MAR-2011 filed on 08-MAR-2011
15	2011-03-08	Toronto	Memorandum of argument on behalf of the respondent filed on 08-MAR-2011
14	2011-02-07	Toronto	Application Record Number of copies received/prepared: 2 on behalf of Applicant with proof of service upon Respondent on 07-FEB-2011 filed on 07-FEB-2011
-	2011-01-13	Ottawa	correction to page 2 of the Order of Justice Lemieux rendered on Dec. 26/10 as doc. #12, received on 13-JAN-2011
13	2010-12-29	Halifax	Notice of appearance on behalf of the respondent filed on 29-DEC-2010 with proof of service on the applicant the tribunal
12	2010-12-	Ottawa	Order rendered by The Honourable Mr. Justice

	26		Lemieux at Ottawa on 26-DEC-2010 granting the stay of execution Decision filed on 26-DEC-2010 Considered by the Court with personal appearance entered in J. & O. Book, volume 499 page(s) 332 - 333 Certified copy of the order sent to all parties Transmittal Letters placed on file.
-	2010-12-26	Ottawa	Ottawa 26-DEC-2010 BEFORE The Honourable Mr. Justice Lemieux Language: E Before the Court: Motion Doc. No. 3 on behalf of Applicant Result of Hearing: Matter granted held by way of Conference Call Duration per day: 26-DEC-2010 from 11:00 to 11:45 Courtroom : Judge's Chambers - Ottawa Court Registrar: Ingrid Sherling Total Duration: 45min Appearances: Mr. Richard Odeleye 416.603.9191 representing Applicant Ms. Jelena Urosevic 416.954.2088 representing Respondent Comments: Heard together with IMM-7592-10. Minutes taken on this file. Minutes of Hearing entered in Vol. 240 page(s) 392 - 394 Abstract of Hearing placed on file
11	2010-12-24	Ottawa	Solicitor's certificate of service on behalf of Jelena Urosevic confirming service of motion materials upon Applicant by telecopier on 24-DEC-2010 filed on 24-DEC-2010
10	2010-12-24	Ottawa	Motion Record in response to Motion Doc. No. 3 containing the following original document(s): 8 9 Number of copies received: 1 on behalf of Respondent filed on 24-DEC-2010
9	2010-12-24	Ottawa	Written representations contained within a Motion Record on behalf of the respondent in opposition to 3 filed on 24-DEC-2010
8	2010-12-24	Ottawa	Affidavit of David de Melo contained within a Motion Record on behalf of the respondent sworn on 24-DEC-2010 in opposition to motion for stay of removal, with attached exhibit(s) A, B, C filed on 24-DEC-2010
-	2010-12-23	Ottawa	Oral directions of the presiding judge dated 23-DEC-2010 directing that the motion in IMM-7497-10 will be heard on Sunday 26-Dec-2010 at 11h in chambers (teleconference). Respondent's materials are due Sunday at 9h. Called and faxed out, received on 23-DEC-2010 Confirmed in writing to

			the party(ies)
-	2010-12-23	Toronto	Letter from The applicant's counsel dated 23-DEC-2010 This letter requests an urgent stay of the removal order for 27-DEC-2010. received on 23-DEC-2010
7	2010-12-23	Toronto	Motion Record containing the following original document(s): 3 4 5 6 Number of copies received: 3 on behalf of Applicant filed on 23-DEC-2010 with proof of service on Respondent on 23-DEC-2010
6	2010-12-23	Toronto	Written representations contained within a Motion Record on behalf of the applicant in support of Doc 3 filed on 23-DEC-2010
5	2010-12-23	Toronto	Affidavit of Shonella Promesse contained within a Motion Record on behalf of the applicant sworn on 23-DEC-2010 in support of Doc 3 filed on 23-DEC-2010
4	2010-12-23	Toronto	Affidavit of Berneal Promesse contained within a Motion Record on behalf of the applicant sworn on 23-DEC-2010 in support of Doc 3 with attached exhibit(s) A-E filed on 23-DEC-2010
3	2010-12-23	Toronto	Notice of Motion contained within a Motion Record on behalf of Applicant returnable (but no hearing date indicated at this time) for a stay of execution of removal order filed on 23-DEC-2010
2	2010-12-21	Toronto	Copy of Doc. 1 with proof of service on the respondent on 21-DEC-2010 filed on 21-DEC-2010
1	2010-12-21	Toronto	Application for leave and judicial review against a decision CIC (PRRA); 13-DEC-2010; 5949-7958 filed on 21-DEC-2010 Written reasons received by the Applicant Tariff fee of \$50.00 received

The last database update occurred on 2013-08-22 19:12