

Federal Court



Cour fédérale

Date: 20250418

Docket: IMM-7973-25

Citation: 2025 FC 717

Ottawa, Ontario, April 18, 2025

PRESENT: The Honourable Mr. Justice Ahmed

BETWEEN:

PEDRO DAMIAN MERA LOPEZ

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

ORDER AND REASONS

[1] The Applicant seeks an Order staying his removal from Canada to Mexico on April 22, 2025. A senior immigration officer denied the Applicant’s application for a Pre-Removal Risk Assessment (“PRRA”) on March 24, 2025. The Applicant seeks to stay his removal pending the disposition of his application for leave and judicial review of the officer’s decision.

[2] I have reviewed the materials submitted by the parties and have considered their representations delivered by videoconference on April 18, 2025. I find the Applicant has met the

tripartite test for a stay of removal (*Toth v Canada (Minister of Employment and Immigration)*, 1988 CanLII 1420 (FCA) (“*Toth*”).

[3] A serious issue arises from the officer’s misapprehension of the Applicant’s alleged risk. The officer considered only the Applicant’s risk of being targeted by the Jalisco New Generation Cartel (the “Cartel”). However, the Applicant clearly indicated that he endured several years of domestic abuse by his former partner (“Former Partner”). As acknowledged by the officer, the Applicant only came to the attention of the Cartel due to the violence and accusations of his Former Partner. The officer’s determination that “information pertaining to the [A]pplicant’s relationship with [his Former Partner]...does not address the risk-related grounds submitted” and should “not [be] given weight in [the] PRRA assessment” is at odds with the evidentiary record before the officer.

[4] Moreover, I agree with the Applicant that the officer’s dismissal of his photographic evidence gives rise to a serious issue. The Applicant provided photographs of severe injuries he sustained at the hands of his Former Partner. Although the officer accepted that the photographs “identify the [A]pplicant,” the officer found that the pictures do not “demonstrate any risk for the [A]pplicant” and that “consideration is limited to evidence in written format” pursuant to subsection 161(1) of the *Immigration and Refugee Protection Regulations*, SOR/2002-227 (the “Regulations”). With respect, photographic evidence of severe injury may be sufficient to demonstrate risk. That the Applicant is a man alleging risk due to domestic abuse does not invalidate his evidence of harm. Furthermore, subsection 161(1) of the Regulations does not bar consideration of photographic evidence (*Joe-Edebe v Canada (Citizenship and Immigration)*,

2019 FC 684 at paras 12-16). In my view, the Applicant has demonstrated that “his claim is neither frivolous nor vexatious” (*Turbo Resources Ltd v Petro Canada Inc (CA)*, [1989] 2 FC 451 at 468, 1989 CanLII 9512 (FCA) (“*Turbo Resources Ltd*”). This is sufficient to demonstrate that “there is a serious issue to be tried” (*Turbo Resources Ltd* at 468).

[5] The Applicant has demonstrated that he would face irreparable harm in Mexico. As in *Roman v Canada (Citizenship and Immigration)*, 2021 CanLII 7915 (“*Roman*”), the “supporting statements submitted by the [Applicant]” in this case “establish a risk of harm...that, although not certain, is more than speculative” (at para 8). Moreover, the Applicant has demonstrated “a serious issue...with respect to a negative PRRA decision resulting in exposing [him] to a risk of persecution” (*Roman* at para 8). In my view, it follows that “irreparable harm will likely result” (*Roman* at para 8, cited in *Razon v Canada (Public Safety and Emergency Preparedness)*, 2022 CanLII 86925 (FC); see also *Farkas v Canada (Public Safety and Emergency Preparedness)*, 2018 FC 658 at para 17 and *Sallai v Canada (Citizenship and Immigration)*, 2018 CanLII 86645 at para 4). I further note that the Applicant’s alleged risk exceeds the inherent consequences of deportation and are not compensable in damages (*Singh v Canada (Public Safety and Emergency Preparedness)*, 2023 FC 523 at para 40; *Toth*). As a result, the Applicant has demonstrated that he would face irreparable harm upon removal to Mexico.

[6] The balance of convenience lies with the Applicant. The Applicant has demonstrated both a serious issue and irreparable harm. The Respondent’s obligation to enforce removals expeditiously pursuant to section 48 of the *Immigration and Refugee Protection Act*, SC 2001, c 27 does not outweigh the risks alleged by the Applicant in this matter.

[7] For these reasons, I find the Applicant has met the tripartite test for a stay of removal
(*Toth*).

ORDER in IMM-7973-25

THIS COURT ORDERS that the request for a stay is allowed, pending the disposition of the application for leave and judicial review of the negative PRRA decision.

“Shirzad A.”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-7973-25

STYLE OF CAUSE: PEDRO DAMIAN MERA LOPEZ v THE MINISTER
OF CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: BY VIDEOCONFERENCE

DATE OF HEARING: APRIL 18, 2025

ORDER AND REASONS: AHMED J.

DATED: APRIL 18, 2025

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