

Case Name:

Palmer v. Canada (Minister of Public Safety and Emergency Preparedness)

**Stanley Palmer, appellant, and
Minister of Public Safety and Emergency Preparedness,
respondent**

[2010] I.A.D.D. No. 899

[2010] D.S.A.I. no 899

No. TA5-03333

Immigration and Refugee Board of Canada
Immigration Appeal Division
Toronto, Ontario

Panel: Patricia E. DeGuire

Heard: May 5, 2010.

Oral Decision: May 5, 2010.

Reasons Dated: June 16, 2010.

(12 paras.)

Appearances:

Appellant's Counsel: Matthew Jeffery.

Minister's Counsel: Jay Miller.

Removal Order

Oral Reasons for Decision

- 1 These are the decision and oral reasons for the appeal of Stanley Palmer (the "Appellant").
- 2 The Appellant appealed from a removal order, dated February 23, 2005, issued against him by Member Y. Dumoulin of the Immigration Appeal Division (IAD) under section 36 (1)(a) of the *Immigration and Refugee Protection Act (IRPA)*.

3 At the conclusion of the hearing on March 28, 2006, the panel stayed the removal order for four years. There was no challenge to the legal validity of the removal order. The panel found that there was nothing in the evidence that would render the order legally invalid. The panel found that the removal order was valid in law.

4 The panel went on to find that, taking into consideration the best interest of the child directly affected by the decision, sufficient humanitarian and compassionate considerations existed to warrant special relief in light of all the circumstances of that case within the meaning of Section 67(1)(a) of *IRPA*. At that time, the panel imposed their statutory conditions and there were special conditions.

5 The matter is now up for an oral review, pursuant to Section 68(3) of *IRPA*. The IAD sent an inquiry to the Minister of Public Safety and Emergency Preparedness (the "Respondent"), to solicit written submissions about its position in this case.

6 The Respondent informed the IAD that based on the information in possession of the Minister, it was not prepared to grant consent to allow the appeal because in its view, the Appellant had not complied with certain conditions; to wit, the total payment of fines imposed under the Highway Traffic Act, Compulsory Auto Insurance and Government Property Traffic Act were outstanding.

7 The panel has reviewed the circumstances of this case and find that none of the *Ribic*¹ factors that were canvassed by the Member initially have deteriorated, so to speak. The only outstanding matter is the fines.

8 The Appellant's counsel and the Respondent's counsel have agreed to a proposal to deal with these outstanding fines; that is, the Appellant shall, over a period of 18 months, make full payment to the respective government bodies to satisfy these outstanding fines. According to Exhibit R-1, the total fines are \$13,430. Specifically, the compulsory Auto Insurance Act, \$12,040, the Government Property Traffic Act, \$1,000 and the Highway Traffic Act, \$390.

9 The proposal is that the Appellant pays \$4,500 within the first six months, another \$4,500 within the next 6 months, and \$4,430 in the last six months.

10 The Appellant's counsel has discussed this proposal with the Appellant and assures the panel, on the record, that the Appellant is willing to comply with such a plan for payment. Moreover, he assures the panel that the Appellant is capable of meeting those payments. The panel should add that it has canvassed the possibility or the likelihood of a default by the Appellant and was assured that he would be able to meet this financial commitment within the time allotted.

11 This proposal seemed a very practical one. Having heard from the Appellant and his counsel, as well as the Respondent's counsel, the panel accepts this recommendation.

12 Therefore, the Stay will be extended for a further 18 months with the statutory conditions and one extra condition that the Appellant must make full reimbursement of the fines according to the plan indicated in this judgement today.

[edited for syntax and grammar]

NOTICE OF DECISION

The Stay is extended.

CONDITIONS OF STAY OF REMOVAL ORDER

The stay in this appeal is extended. This stay is made on the following conditions - the appellant must:

Inform the Canada Border Services Agency (the "Department") and the Immigration Appeal Division in writing in advance of any change in your address.

The address of the Department is:

Canada Border Services Agency, The Greater Toronto
Enforcement Centre
6900 Airport Road, Entrance 2B, P.O. Box 290
Mississauga, Ontario, L4V 1E8.

The address of the Immigration Appeal Division is: 74 Victoria Street, Suite 400
Toronto, Ontario, M5C 3C7.

[1] Provide a copy of your passport or travel document to the Department or, if you do not have a passport or travel document, complete an application for a passport or a travel document and to provide the application to the Department.

[2] Apply for an extension of the validity period of any passport or travel document before it expires, and provide a copy of the extended passport or document to the Department.

[3] Not commit any criminal offences.

[4] If charged with a criminal offence, immediately report that fact in writing to the Department.

[5] If convicted of a criminal offence, immediately report that fact in writing to the Department and the Immigration Appeal Division.

[6] Provide all information, notices and documents (the "documents") required by the conditions of the stay by hand; by regular or registered mail; by courier or priority post to the Canada Border Services Agency, 6900 Airport Road, Entrance 2B, Mississauga, Ontario, L4V 1E8. It is the responsibility of the appellant that the documents are received by the Department within any time period required by a condition of the stay.

[7] Provide all information, notices and documents (the "documents") required by the conditions of the stay by hand; by regular or registered mail; by courier or priority post; or by fax to the Immigration Appeal Division at 416-954-1165. **Include your IAD file number.** It is the responsibility of the appellant that the documents are received by the Immigration Appeal Division within any time period required by a condition of the stay.

[8] Report to the Department **in person** at Canada Border Services Agency, The Greater Toronto Enforcement Centre, 6900 Airport Road, Entrance 2B, Mississauga, Ontario, L4V 1E8 on **Wednesday, November 3rd, 2010 from 7:30 a.m. to 16:00 p.m.**, and **every six (6) month(s)** after that date on the following dates:

Wednesday, November 3rd, 2010

Wednesday, May 4th, 2011

The Appellant shall report:

- **in person (with a written report)**

The reports are to contain details of the Appellant's:

- employment or efforts to obtain employment if unemployed;
- current living arrangements;
- marital status including common-law relationships;
- other relevant changes of personal circumstances;

[9] Make reasonable efforts to seek and maintain full time employment and IMMEDIATELY report any change in employment to the Department.

[10] Not knowingly associate with individuals who have a criminal record or who are engaged in criminal activity, except contact that might result while attending meetings of Alcoholics Anonymous, or any other drug or alcohol rehabilitation program.

[11] Not own or possess offensive weapons or imitations of offensive weapons.

[12] Respect all parole conditions and any court orders.

[13] Keep the peace and be of good behaviour.

[14] **Make full reimbursement of fines according to the plan indicated:** pay \$4,500 within the first six months, another \$4,500 within the next 6 months, and \$4,430 in the last six months.

FINAL RECONSIDERATION

Take notice that the Immigration Appeal Division will reconsider the case on or about the **2nd day of November, 2011**, or at such other date as it determines, at which time it may change or cancel any non-prescribed conditions imposed, or it may cancel the stay and then allow or dismiss the appeal.

"Patricia E. DeGuire"

16 June 2010

cp/e/qlspt

1 *Ribic, Marida v. M.E.I.* (I.A.B. T84-9623), D. Davey, Benedetti, Petryshyn, August 20, 1985.