Deportee May Remain in Canada to Complete Religious Conversion

In an order dated September 4, 2007, Justice Harrington of the Federal Court of Canada postponed the deportation of Diogo Cichaczewski to Brazil on the basis that he had yet to complete his conversion to Judaism.

The applicant, Mr. Cichaczewski first arrived in Canada in 2002, claiming refugee status.

Although his refugee claim was later abandoned, the applicant sought a pre-removal risk assessment and asked to remain in Canada on humanitarian and compassionate grounds while his application for permanent residency was being considered. The applicant put forth for consideration the fact that he would be continuing his conversion to Judaism at the time of his scheduled removal.

Both requests were denied. The applicant applied to the Federal Court of Canada for judicial review of these decisions; he also sought a stay of his removal from Canada, which was scheduled to take place on September 15, 2007.

Justice Harrington granted the stay, focusing on the applicant's ongoing conversion to Judaism and framing the issue before the court as follows:

[W]ould an interruption of [the applicant's] religious conversion as a consequences of his removal constitute a serious issue and result in irreparable harm? [i]

The Court answered both questions in the affirmative, finding that, although the applicant could likely continue his conversion if deported to Brazil, his conversion would be interrupted and delayed. Justice Harrington commented that, "the harm arising form [sic] a roadblock in Mr. Cichaczewski's right to celebrate the religion of his choice" was a transgression of a basic human right and could not be measured. [ii]

Justice Harrington's decision relied on section 2(a) of the Charter, which guarantees freedom of conscience and religion. Some members of the legal community have expressed disagreement with Justice Harrington's interpretation of section 2(a). Sergio Karas, a member of the Ontario bar, comments that "there is nothing in Canada's legislation or in the Charter that guarantees the completion of a private religious process or guarantees one can do that in a particular place." [iii]

Sources:

- Cichaczewski v Canada (Citizenship and Immigration), 2007 FC 882.
- Adrian Humphreys, Deportee Can Stay to Change Religion National Post (12 September 2007).

[i] Cichaczewski v Canada (Citizenship and Immigration), 2007 FC 882 at para 8.
[ii] Ibid at para 18.
[iii] As quoted in Adrian Humphreys, "Deportee Can Stay to Change Religion" *National Pos*t (12 September 2007).