

Date: 20051005
Docket: A-592-04
Citation: 2005 FCA 322

CORAM: LINDEN J.A.
NADON J.A.
SHARLOW J.A.

BETWEEN:

ERKAN ATES

Appellant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

Heard at Ottawa, Ontario, on October 5, 2005.
Judgment delivered from the Bench at Ottawa, Ontario, on October 5, 2005.

REASONS FOR JUDGMENT OF THE COURT BY: SHARLOW J.A.

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REASONS FOR JUDGMENT OF THE COURT

(Delivered from the Bench at Ottawa, Ontario, on October 5, 2005.)

SHARLOW J.A.

[1] Despite the able submissions of counsel for the appellant, we are not persuaded that the judgment of the Federal Court (2004 FC 1316) is based on an error of law or any other error that warrants the intervention of this Court. The certified question is:

In a country where military service is compulsory, and there is no alternative thereto, do repeated prosecutions and incarcerations of a conscientious objector for the offence of refusing to do his military service, constitute persecution based on a Convention refugee ground?

[2] We would answer this question in the negative. This appeal will be dismissed.

"K. Sharlow"

J.A.

FEDERAL COURT OF APPEAL
NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET:

A-592-04

APPEAL FROM A JUDGMENT OR AN ORDER FROM THE FEDERAL COURT OF CANADA DATED OCTOBER 12, 2004, FEDERAL COURT OF CANADA FILE NUMBER IMM-150-04

STYLE OF CAUSE:

ERKAN ATES and

**THE MINISTER OF
CITIZENSHIP AND
IMMIGRATION**

PLACE OF HEARING:

Ottawa, Ontario

DATE OF HEARING:

October 5, 2005

REASONS FOR JUDGMENT OF THE COURT:

LINDEN J.A.
NADON J.A.
SHARLOW J.A.
SHARLOW J.A.

DELIVERED FROM THE BENCH BY:

APPEARANCES:

Mike Bell

FOR THE APPELLANT

Catherine A. Lawrence

FOR THE RESPONDENT

SOLICITORS OF RECORD:

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FOR THE APPELLANT

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FOR THE RESPONDENT

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Ottawa, Ontario