

The Minister of Justice of Canada (respondent) v. Jozsef Pataki a.k.a. Mike Harrison
(applicant/appellant)
(C52020; C52935; 2012 ONCA 656)

Indexed As: Canada (Attorney General) v. Pataki et al.

Ontario Court of Appeal
Goudge, Watt and Hoy, JJ.A.
October 2, 2012.

Summary:

The Minister of Justice ordered that Pataki, a dual citizen of Canada and Hungary, be surrendered for extradition. Pataki did not come to Canada as a refugee and never had refugee status. Pataki applied for judicial review.

The Ontario Court of Appeal dismissed the application.

Extradition - Topic 3366

Surrender to demanding country - Considerations - Refugee status - The Minister of Justice ordered that Pataki, a dual citizen of Canada and Hungary, be surrendered for extradition - Pataki did not come to Canada as a refugee and never had refugee status - Pataki applied for judicial review, arguing that the Minister erred in failing to apply the principles in *Németh v. Canada* (SCC 2010) (i.e., with regard to the onus and standard of proof) - The Ontario Court of Appeal dismissed the application - *Németh* dealt only with a person with refugee status - It did not alter the burden that a non-refugee had to meet - The Minister correctly concluded that *Németh* did not change the onus of proof and standard of proof that he was to apply to a non refugee - See paragraphs 1 to 24.

Extradition - Topic 3387

Surrender to demanding country - Procedure - Onus and burden of proof - [See first **Extradition - Topic 3366**].

Cases Noticed:

Hurley v. United States of Mexico et al. (1997), 101 O.A.C. 121; 35 O.R.(3d) 481 (C.A.),
refd to. [para. 9].
Németh v. Canada (Minister of Justice), [2010] 3 S.C.R. 281; 408 N.R. 198; 2010 SCC
56, dist. [para. 10].
Gavrila v. Canada (Minister of Justice), [2010] 3 S.C.R. 342; 408 N.R. 273; 2010 SCC
57, refd to. [para. 14].
Slovenia (Republic) et al. v. Soba, [2011] O.A.C. Uned. 180; 2011 ONCA 206, refd to.
[para. 24].

Statutes Noticed:

Extradition Act, S.C. 1999, c. 18, sect. 44(1) [para. 16].

Counsel:

Paul Slansky, for the appellant;
Moiz Rahman and Monika Rahman, for the respondents.

This application was heard on June 19, 2012, before Goudge, Watt and Hoy, J.J.A., of the Ontario Court of Appeal. The following decision was released by the court on October 2, 2012.

Application dismissed.

Editor: Elizabeth M.A. Turgeon

Extradition - Topic 3387

Surrender to demanding country - Procedure - Onus and burden of proof - The Minister of Justice ordered that Pataki, a dual citizen of Canada and Hungary, be surrendered for extradition - Pataki did not come to Canada as a refugee and never had refugee status - Pataki applied for judicial review, arguing that the Minister erred in failing to apply the principles in *Németh v. Canada* (SCC 2010) (i.e., with regard to the onus and standard of proof) - The Ontario Court of Appeal dismissed the application - *Németh* dealt only with a person with refugee status - It did not alter the burden that a non-refugee had to meet - The Minister correctly concluded that *Németh* did not change the onus of proof and standard of proof that he was to apply to a non refugee - See paragraphs 1 to 24.