

Ottawa considers tightening law as Tran walks free

BY RICHARD CUTHBERTSON, CALGARY HERALD SEPTEMBER 3, 2009 6:49 AM



Delays in deporting people such as alleged gangster Jackie Tran, above, have prompted immigration minister Jason Kenney to suggest laws may have to be changed.

Photograph by: Leah Hennel, Calgary Herald, Calgary Herald

The federal immigration minister says he's frustrated at difficulties in deporting dangerous foreign criminals from Canada, adding changes to the law may be needed as lengthy delays and appeals could undermine public confidence in the system.

Jason Kenney made the remarks Wednesday -- the same day alleged Calgary gang member Jackie Tran was ordered released from custody after he was granted an emergency stay of his deportation order Saturday.

Meanwhile, Calgary police are questioning whether the system reflects what the public expects, and are calling for a review to tighten what they say are legal and process loopholes that allow for multiple appeals and judicial reviews of deportation orders.

During the past 18 months, Tran's case has woven through appeals and a judicial review and there is not yet any sense if, or when, the 26-year-old man will be deported.

"Canadians expect that people will have access to due process and judicial oversight before they're removed from our country," Kenney said, noting he wasn't speaking specifically of Tran's case. He said the public also expects "that once a decision's been taken--that someone is a gangster or a serious criminal, and they're a foreign citizen--that the appeals don't go on forever.

"There has to be a point where Canada says, 'I'm sorry, you've abused our generosity, you violated our laws, you pose a danger to our country, and you're out of here.' "

Kenney said he is being briefed today on Tran's case and the larger issue.

Changes may be needed, he said, and those could mean amendments to the law, including the Immigration and Refugee Protection Act.

Tran was ordered released Wednesday by an immigration board member who said the man didn't pose a flight risk, as his deportation was no longer imminent, nor was he a danger to the public.

Tran's lawyer, Raj Sharma, said there have been no unreasonable delays in Tran's case.

Sharma noted an immigration appeal decision that his client should be deported came down only five months ago and Tran is seeking a judicial review of that ruling.

He will also seek a judicial review of a separate decision, handed down Tuesday, which found Tran to be a member of the FK gang.

Sharma said his client is simply using the legal avenues available to him, remedies that sometimes prevent injustices from occurring.

"No one's going to argue with minister Kenney that unreasonable delays for removing individuals with serious criminal convictions may undermine the system," Sharma said.

"But at the end of the day . . . these are the legal remedies that (Tran is) entitled to. He's entitled to seek review of these decisions."

On Wednesday, the Canada Border Services Agency argued unsuccessfully that Tran should be held in custody.

Hearing officer Pete Stathakos said Tran was found in June in the company of three alleged members of the FK gang.

The incident apparently took place at the Bow River, where Tran was ticketed for scaring some ducks.

"There's a marked difference between association with individuals and what constitutes a danger to the public," Sharma said after the hearing.

But Calgary police are "very, very disappointed" but not surprised by Tran's release. They say a review of the system is needed to tighten up the process and make clear who can be deported.

"This saga with Mr. Tran is not going to be the last, and these type of things are going to continue to go on and on and on," spokesman Kevin Brookwell said.

"I guess the question that as a police service we ask, and probably a good portion of the citizens of this country ask, is, 'What does it take to be deported from this country?' "