

Federal Court



Cour fédérale

Date: 20240327

**Dockets: IMM-11325-22 and others
IMM-10685-23
IMM-12635-23**

Citation: 2024 FC 539

Ottawa, Ontario, March 27, 2024

PRESENT: The Hon Mr. Justice Henry S. Brown

BETWEEN:

**(SEE SCHEDULE A FOR ALL APPLICATIONS
CASE MANAGED WITH THESE CASES)**

Docket: IMM-11325-22

RAHELEH TANHAEI

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

AND BETWEEN:

Docket: IMM-11211-22

SARA SADAT MAHDIAN

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

AND BETWEEN:

Docket: IMM-4589-23

MOHAMMAD ZALI

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

AND BETWEEN:

Docket: IMM-11200-22

ARASH BEHDARVANDAN

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

AND BETWEEN:

Docket: IMM-3662-23

MEHDI LASHGARI

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

AND BETWEEN:

Docket: IMM-11409-22

HAMED HAFEZI

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

AND BETWEEN:

Docket: IMM-673-23

AFSHIN BASHIRZADEH

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

AND BETWEEN:

Docket: IMM-2103-21

SHADI MAHMOUDZADEH

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

Docket: IMM-10685-23

AND BETWEEN:

HOSSEIN BAHMANPOUR

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

Docket: IMM-12635-23

AND BETWEEN:

ALIREZA GHASEMIAN

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

ORDER

UPON MOTION by the Applicants by letter dated March 19, 2024 for an Order to extend the time to serve and file an appeal from the Order of Associate Justice Horne dated March 8, 2024, and upon reviewing the pleadings and proceedings together with the opposing

submissions of the Respondent dated March 21, 2024, and the Applicants' reply dated March 25, 2024;

AND UPON concluding the motion must be dismissed for the following reasons:

[1] While the Respondent raises a number of objections, in my respectful view the determinative issue is that this Court has no jurisdiction to entertain the Applicants' proposed appeal from the interlocutory decision of Associate Justice Horne in this immigration case.

[2] These applications for leave were all commenced pursuant to subsection 72(1) of the *Immigration and Refugee Protection Act, SC 2001, c 27 [IRPA]*. Therefore section 72 of *IRPA* governs, which provides no appeal lies from interlocutory judgments:

Judicial Review

Application for judicial review

72 (1) Judicial review by the Federal Court with respect to any matter — a decision, determination or order made, a measure taken or a question raised — under this Act is, subject to section 86.1, commenced by making an application for leave to the Court.

Application

(2) The following provisions govern an application under subsection (1):

...

(e) no appeal lies from the decision of the Court with respect to the application or with respect to an interlocutory judgment.

[Emphasis added]

[3] The jurisprudence clearly establishes paragraph 72(2)(e) of *IRPA* prohibits a party such as the Applicants from appealing an interlocutory order (as Associate Justice Horne made in this case). In *Lovemore v Canada (Citizenship and Immigration)*, 2014 FC 171 [per Zinn J.] the applicant sought to appeal a prothonotary's order refusing a motion to extension of time to perfect the application record. The Court dismissed the appeal on the ground that paragraph 72(2)(e) of *IRPA* prohibits such appeals:

[2] First, and most significantly, the Order sought to be appealed is an interlocutory order in an immigration matter and subsection 72(2)(e) of the *Immigration and Refugee Protection Act*, SC 2001, c 21 specifically provides that no appeal lies from an interlocutory order under that Act. See *Yogalingam v Canada (Minister of Citizenship and Immigration)*, 2003 FCT 540, *Patel v Canada (Minister of Citizenship and Immigration)*, 2011 FC 670, and the numerous authorities referenced therein at para. 7.

[4] To the same effect is the recent judgment of the Federal Court of Appeal confirming interlocutory decisions in immigration matters are not ordinarily subject to appeals pursuant to the preclusive clause contained in paragraph 72(2)(e): *Ewen v Canada (Public Safety and Emergency Preparedness)*, 2023 FCA 225 per Chief Justice de Montigny:

[15] It is beyond dispute that interlocutory decisions in immigration matters are not ordinarily subject to appeals pursuant to the preclusive clause contained in paragraph 72(2)(e) of *IRPA*, which states that “no appeal lies from the decision of the Court with respect to the application or with respect to an interlocutory judgment”. Furthermore, an appeal from a final judgment is only available when the judge rendering it certifies a serious question of general importance (see paragraph 74(d) of *IRPA*).

[Emphasis added]

[5] It is also beyond dispute that Associate Justice Horne's Order of March 8, 2024 is interlocutory and covered by paragraph 72(2)(e) of *IRPA*.

[6] Therefore and with respect, the Applicants' motion to extend time to institute their proposed appeal must be dismissed.

THIS COURT ORDERS that the Applicants' motion to extend time is dismissed.

"Henry S. Brown"

Judge

SCHEDULE "A"

Court File	Name
IMM-11153-22	Aminian, Navid
IMM-11304-22	Amiri, Nadia
IMM-11155-22	Aziziasl, Majid
IMM-11170-22	Bayani, Amirhossein
IMM-11173-22	Jamali, Mohammad
IMM-11198-22	Lahouti, Behnaz
IMM-11177-22	Mohammadi, Zahra
IMM-11258-22	Nayebi, Mandana
IMM-11243-22	Nezami, Azadeh
IMM-1926-22	Sadeghi, Ebrahim
IMM-11204-22	Zarghi, Arash
IMM-11212-22	Ivani, Amir
IMM-11199-22	Estahbanati, Arash
IMM-11252-22	Javadisokhangou, Mohammadjavad
IMM-11216-22	Panahi , Hamed
IMM-11220-22	Khalaj, Ghazal
IMM-11303-22	Manshaezadeh, Alisina
IMM-11301-22	Kheirabi , Arash
IMM-11325-22	Tanhaei, Raheleh
IMM-190-23	Sedaghat Karimi, Ali
IMM-2400-21	Azimplou, Hassan
IMM-2496-23	Ariani Kalat, Hossein
IMM-4819-23	Bateni, Mahdi
IMM-1817-23	Hamid Reza Khabazi