



[2022] 1 F.C.R. D-10

**CITIZENSHIP AND IMMIGRATION**

**IMMIGRATION PRACTICE**

Motion by applicant seeking interlocutory order to expedite hearing of his application for leave and for judicial review (ALJR) pursuant to *Federal Courts Rules*, SOR/98-106 (Rules), r. 8(1) — Applicant requesting that all steps remaining in ALJR be completed by November 10, 2022, three weeks from hearing — Applicant applied for study permit to attend Canadian Aviation College on or around February 23, 2022, from outside Canada — That application was refused — Applicant filed ALJR on May 10, 2022 — At this stage of proceedings, all filings for leave stage completed, decision pursuant to *Immigration and Refugee Protection Act*, S.C. 2001, c. 27 (Act), s. 72 still pending — Whether motion should be granted — Motion cannot succeed because Court cannot grant relief sought under r. 8(1) request, given that application still pending leave decision — Even if leave granted, motion still suffering several fundamental problems — R. 8(1) cannot compel Court to render leave decision within specific timeframe, because no period provided by either Rules or *Federal Courts Citizenship, Immigration and Refugee Protection Rules*, SOR/93-22 (Immigration Rules) for rendering of leave decision — Immigration Rules providing strict timeframe once leave granted, to ensure Court, parties meet 90-day requirement set out in Act, s. 72 — However, since leave decision by Court still to be issued, timeline required to render decision on leave remaining prerogative of Court — Consequently, r. 8(1) cannot be used to compel order of Court to grant or deny leave — Applicant's situation not meeting exceptionality required for Court to grant a r. 8(1) request, to depart from timelines set out by Act, Rules, Immigration Rules — Applicant failing to provide any clear or convincing evidence why matter should be expedited — Expediting matter prejudicing ability of responding party to prepare its response — No evidence showing that matter or underlying admission to Canadian Aviation College becoming moot if ALJR not expedited — Expediting this matter prejudicial to other litigants waiting patiently for their turn before Court — Motion dismissed.

EZIMOKHAI V. CANADA (CITIZENSHIP AND IMMIGRATION) (IMM-4390-22, 2022 FC 1452, Diner J., reasons for order dated October 24, 2022, 9 pp.)