

Federal Court



Cour fédérale

**Date: 20100319**

**Docket: IMM-1521-10**

**Citation: 2010 FC 324**

**Ottawa, Ontario, March 19, 2010**

**PRESENT: The Honourable Mr. Justice Zinn**

**BETWEEN:**

**MARJAN PULO and REDON PULO**

**Applicants**

**and**

**THE MINISTER OF CITIZENSHIP  
AND IMMIGRATION**

**Respondent**

**REASONS FOR ORDER AND ORDER**

[1] The applicants requested an urgent hearing of their motion for a stay of their removal. I indicated to their counsel, through the Court's offices, that their motion would not be heard. The reasons for that decision follow.

[2] The applicant brothers are citizens of Albania. They entered Canada on May 19, 2002, at Toronto, using forged Greek passports. They claimed refugee status on June 18, 2002. Their claim was based on fear of persecution because of their father's political opinion. Their claims were denied on October 8, 2003, and this Court dismissed an application for leave and judicial review of that decision by Order dated May 3, 2004.

[3] The applicants then made a Pre-Removal Risk Assessment (PRRA) application and an application for an exemption from making a permanent residence from outside of Canada on humanitarian and compassionate grounds (H&C) Application. On February 25, 2010, the applicants were informed that both the PRRA and H&C Application had been refused on December 30, 2009.

[4] The application underlying the motion for a stay is stated to be with respect to both the PRRA and the H&C decisions. As the respondent correctly notes, an application in this Court is to be restricted to one decision; accordingly, the applicants ought to have brought two applications and two motions for a stay of removal. Nonetheless, that is not the basis on which I refused to hear their motion for a stay of removal.

[5] The applicants' record indicates that they were served with a Direction to Report for Removal to take place on March 19, 2010. That Direction indicates that it was served on them on

March 1, 2010 – a full 17 days before the date scheduled for removal. The applicants took no steps to defer or stay the removal until they filed this motion with the Court on March 19, 2010.

[6] The relief the applicants seek, a stay of their removal from Canada, is equitable discretionary relief. The Court hears many such motions on the dates set for General Sittings, after proper notice to the Court and the opposite party. As an illustration, it is noted that the Court is scheduled to hear 12 such motions at the General Sittings in Toronto on March 22, 2010.

[7] Motions for a stay require the respondent(s) to respond by putting all of the information it considers relevant before the Court. In rare and truly urgent circumstances the Court may be prepared to forego the filing of respondent's record. However, the circumstances in which the respondent will be obliged to make submissions to the Court without having adequate time to prepare will be rarer. Justice is not served if a party is forced to respond ill-prepared. Equally, Justice is not served if a Judge is required to hear and rule on such a motion without proper preparation and without the benefit of reasoned submissions.

[8] The applicants waited until the eleventh hour to file and serve their motion. The Court understands that they have retained new counsel. They say that they lost confidence with those who previously represented them. Nonetheless, they have offered no explanation for the delay in bringing this motion. A party who seeks equity must do equity. The applicants cannot expect the respondent or this Court to automatically respond on a timetable of their own making.

[9] It is unfair and unjust to ask that the respondent and this Court jump through hoops when the applicants had every opportunity to bring this motion on a regularly scheduled day for hearing motions. For these reasons the Court refuses to hear this motion.

**THIS COURT ORDERS that** the applicants' motion for a stay of removal from Canada currently scheduled for today at 7:10 p.m. will not be heard by this Court today on an urgent basis.

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Judge

**FEDERAL COURT**

**SOLICITORS OF RECORD**

**DOCKET:** IMM-1521-10

**STYLE OF CAUSE:** MARJAN PULO and REDON PULO v. THE MINISTER  
OF CITIZENSHIP AND IMMIGRATION

**PLACE OF HEARING:** Urgent Stay Removal - Not Heard Before The Court

**DATE OF HEARING:** N/A

**REASONS FOR ORDER  
AND ORDER:** ZINN J.

**DATED:** March 19, 2010

**APPEARANCES:**

Nil FOR THE APPLICANTS

Nil FOR THE RESPONDENT

**SOLICITORS OF RECORD:**

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