



Federal Court



Cour fédérale

Date: 20241230

Docket: IMM-15546-24  
IMM-15656-24

Ottawa, Ontario, December 30, 2024

**PRESENT:** The Honourable Madam Justice McVeigh

**BETWEEN:**

**ALEKSEI PAKHOMOV**

**Applicant**

**and**

**THE MINISTER OF PUBLIC SAFETY AND EMERGENCY  
PREPAREDNESS**

**Respondent**

**ORDER**

**UPON MOTION** by the Respondent Minister of Public Safety and Emergency Preparedness (Applicant in this motion) (the “Minister”), dated December 2, 2024, filed in writing pursuant to Rule 369 of the *Federal Courts Rules*. The Motion is for an Order to hold the applications for leave and for judicial review in court files IMM-15546-24 and IMM-15656-24 in abeyance until the disposition of the Applicant (Respondent in this matter) “Alekssei Pakhomov” application for leave and judicial review in court file number IMM-15589-24. The Minister requests that if the abeyance is not received then they be granted seven days to file their responding Memorandum of Argument in IMM-15546-24 and IMM-15656-24;

**AND UPON** considering that Aleksei Pakhomov's opposition to the files being held in abeyance, but not the extension of time relief sought in the alternative;

**AND UPON** review of the parties' materials;

[1] The Minister is seeking relief, as all three matters are related. Mr. Pakhomov alleges that the Canada Border Services Agency Officer [CBSA Officer] erred by making their decision based on a conviction under s. 253(1)(b) pursuant to *Criminal Code*, RSC 1985, c C-46 [the *Code*], however, Mr. Pakhomov asserts that the conviction was s. 253(1)(a).

[2] On September 13, 2019, Mr. Pakhomov was convicted under s. 253(1)(a) of the *Code* and the charge under section 253(1)(b) was stayed.

[3] The Minister has sought a copy of the "Information" related to the charges to confirm the conviction from the Ontario Court of Justice at the Newmarket Courthouse and was informed that it will take approximately seven months, although the Crown counsel has expedited the request.

[4] Subsection 44(1) of the *Immigration and Refugee Protection Act* report was based on the fact Mr. Pakhomov did not disclose he had been charged with criminal offences under s. 253(1)(a) and s. 253(1)(b). The Minister did not oppose the leave application for IMM-15589-24. The Minister argued that when it obtains the information it seeks, it may expedite the resolution of IMM-15589-24 and thus resolve the two related files.

[5] Mr. Pakhomov, now 81 years old, has admitted that he was charged under section 253(1)(a) (impaired driving) and section 253(1)(b) (operating a motor vehicle with over 80 mg of alcohol in 100 ml) pursuant to the *Code*. He also admits he was convicted under s. 253(1)(a) only, as the other charge was stayed.

[6] Mr. Pakhomov opposes, as he alleges that all three leave applications are based on erroneous finding of material fact and given that IMM-15589-24 is unopposed, he sees no reason to put the other two related files in abeyance. Mr. Pakhomov takes issue with the Minister not disclosing in this motion that the CBSA Officer had access to evidence that stated the s. 253(1)(a) was stayed. As well, he says that the Minister seeking an Information is the wrong document.

[7] Finally, he argues the “Kienapple principle” given the evidence that the Minister already has. Mr. Pakhomov indicates that the Minister should unopposed leave on all files or consent so that the deportation would be stayed. He further argues that the test for a stay in s. 50(1) of the *Federal Courts Act* has not been met by the Minister so the delay an abeyance would cause would run counter to the requirement for matters to be dealt with summarily and expeditiously.

[8] I will not grant the abeyance as requested by the Minister. These files are so closely related that they should all be dealt with at the same time given the parties are in agreement with what alleged is the erroneous fact. All three decisions are based on the same alleged error and factual underpinnings and should be dealt with by the same leave judge. Though I do not find all of the issues brought up by Mr. Pakhomov to be convincing, I do see that for fairness and

efficiency at the court that all three should be dealt with at the same time by the same leave judge.

[9] On my own accord for administrative and judicial efficiencies as well as fairness, I will grant that the three matters be consolidated with the lead file being IMM-15589-24. The leave judge can make separate determinations regarding leave if they wish but they will all be done at the same time by the same judge. The Minister, if they have filed a responding record for file IMM-15589-24, may amend that to include argument regarding all three files. The Minister has 20 days to file one amended responding Record for all three files. If there is no responding record filed in file IMM-15589-24, then the Minister can, if they wish, have 20 days to serve and file a responding record with regards to the now consolidated files. The timelines that follow will run from the date the amended Application record is filed.

[10] No costs are ordered.

**THIS COURT ORDERS that:**

1. The Applications for Leave and Judicial Review in Court file numbers IMM-15546-24, IMM-15656-24 and IMM-15589-24 are, for the sole purpose of determining whether leave should be granted, hereby consolidated, and shall continue as a consolidated proceeding under Court File No. IMM-15589-24 (the “Consolidated Leave Application”).
2. An extension of time to serve and file a responding record with regards to the now consolidated files is extended to 20 days after the date of the order.

3. All subsequent timelines shall run from the date of service of the consolidated leave application record.
4. The matter of consolidation of the proceedings for hearing shall be in the discretion of the Leave Judge.
5. The Registry is directed to place a copy of this Order in Court file numbers IMM-15546-24, IMM-15656-24 and IMM-15589-24.
6. There shall be no costs.

"Glennys L. McVeigh"  

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Judge