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B E T W E E N:

SAMI ALMOAYAD, ALI ALMOAYAD,
SHAHEED ALMOAYAD, SALWA ALMOAYAD,
AMATAL RAHMAN ALSHARKI,
AKRAM ALMOAYAD AND RAYA ALMOAYAD

Applicants

- and -

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

REASONS FOR ORDER AND ORDER

GILES, A.S.P.:

The motion before me under Rule 324 seeks an extension of time within which to file the Applicants' Record.

The originating Application for Leave and for Judicial Review dated August 1st, 1996, contains a request for an extension to file the Applicants' Record because the applicants' lawyer intend to go on vacation the following day.

The affidavit of Paulette Booker, filed in support of the motion reveals that the applicants' lawyer did "not get around to" the preparation of the documents because of the pressure of business. The affiant then proceeds to include evidence that in fact the lawyer was too busy. I note *inter alia*, that in addition to being too busy to get around to this file, he took on 6 more immigration files while this one was current. As was pointed out by Madame Justice Reed, in *Chin v. M E I*, (1993) 69 F.T.R. 77 if a lawyer knows he is not going to be able to do the work because of prior commitments, vacation and the like, he should not take on the work.

The lawyer in this case, has tendered a reply for filing. There is no provision for reply in the Rule 324 procedure, and to file a reply without leave is improper. See *Vlahou v. M.E.I.* (1977) 2 F.C. 225 (C.A.), *Kurniewicz v M.E.I.* (1974) 6 N.R. 225 (C.A.) and *Lioubianenko v. M.E.I.* (1994) 79 F.T.R. 233.

I note the reply in any event concentrates in the fact that during 17 of the 30 days available, the lawyer was on holiday. Counsel feels that excuses the delay and entitle the applicants to an extension. In fact, that is one of the principal reasons the matter should be dismissed.

It is quite apparent from the Application for Leave and for Judicial Review that the applicants' lawyer knew, when he drafted the document, that he would be unable to file the record in time. In my view, this is one of the more flagrant cases and the motion for an extension must be dismissed.

I note also, that the existence of an arguable case is not shown by exhibiting an 89 page draft record. Admittedly, the Court might be able to find an arguable case in the 89 pages, but the Court has not been shown anything.

ORDER

The motion for an extension of time to file the Applicants' Record is dismissed.

"Peter A.K. Giles"

A.S.P.

Toronto, Ontario
October 28, 1996

FEDERAL COURT OF CANADA

Names of Counsel and Solicitors of Record

COURT NO: IMM-2641-96
STYLE OF CAUSE: SAMI ALMOAYAD, ET AL
- and -
THE MINISTER OF CITIZENSHIP
AND IMMIGRATION

CONSIDERED AT TORONTO, ONTARIO UNDER THE PROVISION OF
RULE 324.

REASONS FOR ORDER
AND ORDER BY: GILES, A S.P.

DATED: OCTOBER 28, 1996

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