



IMM-4050-97

Between:

CHO WING CHIU,

Applicant,

- and -

THE MINISTER OF CITIZENSHIP
AND IMMIGRATION,

Respondent.

REASONS FOR ORDER

ROULEAU, J.

This application for a stay of a deportation order was dismissed from the bench on September 29, 1997.

The applicant came to Canada from Mainland China in July of 1990 and claimed refugee status - on April 14, 1992, the CRDD determined him not to be a Convention Refugee; it found that there was no credible basis to his claim. No application for leave seeking judicial review of this determination was filed.

No application was filed with the Minister seeking relief under section 114 of the *Immigration Act*.

In 1996, after having been in Canada for 6 years, he attempted to file an application as a member of the Deferred Removal Order Class. By letter dated April 3, 1996, his application was denied; it should have been submitted no later than September of 1995.

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No further action was taken by this applicant until he was arrested and detained on September 25, 1997, for removal as of September 29, 1997.

During the application for stay it was argued that since he was the father of a child born in Canada in March of 1996 it would constitute irreparable harm to return him to Mainland China; that the balance of convenience favoured the applicant.

There is no evidence that he was the sole financial or emotional support for this child. The mother remains in Canada; this applicant has only been employed for some two months in the past two years and was incarcerated from April of 1994 to April of 1995.

There is ample jurisprudence to support the proposition that children have no legal interest to be protected vis-a-vis the Government of Canada in respect of a parent's deportation. Separation from a child may result in hardship, but it does not establish irreparable harm. There is no evidence before me that any disruption may result from the separation. I have not been persuaded as to irreparable harm.

There is no evidence that would support the proposition that there is likelihood of jeopardy to the applicant's safety.

It is in the public interest that the Minister discharge her responsibilities; the balance of convenience clearly favours the respondent.

(Sgd.) "P. Rouleau"

Judge

September 30, 1997
Vancouver, British Columbia

NAMES OF COUNSEL AND SOLICITORS OF RECORD

STYLE OF CAUSE: CHO WING CHIU

- and -

**THE MINISTER OF CITIZENSHIP
AND IMMIGRATION**

COURT NO.: IMM-4050-97

PLACE OF HEARING: Vancouver, BC

DATE OF HEARING: September 29, 1997

**REASONS FOR ORDER OF ROULEAU, J.
dated September 30, 1997**

APPEARANCES:

Mr. Dean Pietrantonio for Applicant

Ms. Esta Resnick for Respondent

SOLICITORS OF RECORD:

**Dean Pietrantonio
Barrister & Solicitor for Applicant**

**George Thomson for Respondent
Deputy Attorney General
of Canada**

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