

**BETWEEN:**

**HAO VI LAM**  
**(a.k.a. VI HAO LAM)**

Applicant

**- AND -**

**THE MINISTER OF CITIZENSHIP AND IMMIGRATION**

Respondent

**REASONS FOR ORDER**

**McKEOWN J.**

The applicant, a citizen of Vietnam, seeks judicial review of a decision of the Immigration Appeal Division of the Immigration and Refugee Board (the Appeal Division) dated March 1, 1996 dismissing the applicant's appeal from his deportation order for lack of jurisdiction.

The issue raised by the applicant is whether the Appeal Division continues to have jurisdiction to hear his appeal despite the issuance of a "danger to the public" opinion by the Minister if the hearing is commenced before the Minister renders his or her opinion. On November 14, 1994, a deportation order was made against the applicant. On November 15, 1994, the applicant filed an appeal of the deportation order to the Appeal Division pursuant to section 70 of the *Immigration Act*. A hearing date was set for October 13, 1995. However, three months earlier, on July 10, 1995 the "danger to the public" opinion was issued by the Minister. In *Tsang v. The Minister of Citizenship and Immigration*, February 11, 1997, Court File A-179-96 at 6 (F.C.A.), the Federal Court of Appeal upheld the Trial Division's decision:

... for the right of appeal to be preserved the hearing must be commenced before the coming into force of the provision ...

Since the hearing was scheduled to begin on October 13, 1995, the hearing was not commenced when the subsection came into force, therefore, the Minister was entitled to file her opinion at the time she did. The Appeal Division was correct in dismissing the appeal for lack of jurisdiction.

The application for judicial review is dismissed.

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OTTAWA, ONTARIO  
July 30, 1997

Judge