



Date: 20130219

Docket: IMM-10768-12

Citation: 2013 FC 171

Toronto, Ontario, February 19, 2013

PRESENT: The Honourable Mr. Justice Zinn

BETWEEN:

SHIRLEY LOVEMORE

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

REASONS FOR ORDER AND ORDER

[1] The applicant seeks to appeal the Order of Prothonotary Aalto dated January 22, 2013 dismissing her motion to extend the time to perfect her application seeking judicial review of a negative decision dated February 8, 2012 of her application for permanent residence on humanitarian and compassionate grounds. That relief cannot be granted.

[2] First, and most significantly, the Order sought to be appealed is an interlocutory order in an immigration matter and subsection 72(2)(e) of the *Immigration and Refugee Protection Act*,

SC 2001, c 21 specifically provides that no appeal lies from an interlocutory order under that Act. See *Yogalingam v Canada (Minister of Citizenship and Immigration)*, 2003 FCT 540, *Patel v Canada (Minister of Citizenship and Immigration)*, 2011 FC 670, and the numerous authorities referenced therein at para. 7.

[3] In any event, this motion requires an extension of time as it has been filed more than 10 days after the decision it seeks to appeal contrary to Rule 51 of the *Federal Courts Rules*. Although some explanation has been offered for the delay – namely counsel’s initial attempt to file an appeal with the Federal Court of Appeal – no reasonable explanation has been offered for the further delay in making and perfecting this motion, that is the period between January 31, 2013 and February 12, 2013. As a result, had I jurisdiction to consider this appeal, the time for filing would not have been extended.

[4] Lastly, I have reviewed the decision of the Prothonotary and as it is a discretionary decision find it is not one where I would have found differently than he on the basis of the record.

[5] The applicant asks that the court certify a question as to whether an appeal of the Order of the Prothonotary refusing an extension of time is interlocutory or final. I shall not as it would not be determinative of this motion in any event, given my alternative findings.

ORDER

IT IS ORDERED that this motion to appeal the decision of Prothonotary Aalto dated January 22, 2013 is dismissed.

“Russel W. Zinn”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-10768-12

STYLE OF CAUSE: SHIRLEY LOVEMORE
v.
THE MINISTER OF CITIZENSHIP AND
IMMIGRATION

PLACE OF HEARING: Toronto, Ontario

DATE OF HEARING: February 18, 2013

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

DATED: February 19, 2013

APPEARANCES:

Mr. Osborne Barnwell FOR THE APPLICANT

Mr. David Cranton FOR THE RESPONDENT

SOLICITORS OF RECORD:

Osborne G. Barnwell FOR THE APPLICANT
Barrister and Solicitor

William F. Pentney FOR THE RESPONDENT
Deputy Attorney General of Canada