

THE HIGH COURT

[2018 No. 5 I.A.]

BETWEEN

M.I. (PAKISTAN)

APPLICANT

AND

THE MINISTER FOR JUSTICE AND EQUALITY

RESPONDENT

EX TEMPORE JUDGMENT of Mr. Justice Richard Humphreys delivered on the 22nd day of January, 2018

1. Before the court is an application by Mr. Garry O'Halloran B.L. on behalf of the applicant for an *ex parte* injunction in an intended action by Mr. M.I. who is proposed to be deported at 11.10 am this morning from Dublin to Pakistan. Mr. O'Halloran has applied for an *ex parte* injunction without the benefit of an affidavit, or indeed any papers, other than his instructions, which are as follows.
2. Mr. M.I. has apparently been in detention for some weeks, having been a failed protection seeker. Apparently after his detention he applied for readmission to the protection process. That application was refused on 15th January, 2018, and that refusal is under appeal.
3. Mr. O'Halloran submits firstly that the applicant is taken by surprise by the proposal to deport him pending an appeal. It seems to me that he cannot be legitimately surprised because any right to remain by virtue of a re-application only applies to the first instance process, not to the appellate process (see *S.H.M. v. Minister for Justice and Equality* [2015] IEHC 829 [2015] 12 JIC 2115, at para. 18).
4. Secondly, it seems that the applicant has already been in considerable jeopardy from at least the point in time at which he was detained, which was some weeks ago. On that basis it seems to me that to accede to an eleventh-hour injunctive application is inappropriate.
5. That is particularly so in the present case as the application was made at the latest possible time, with Mr. O'Halloran moving it at around 11.09 a.m. on a day when the applicant is due to be deported at 11.10 a.m. (presumably that is a boarding time rather than a take-off time although that was not specified).
6. Finally, the fact that the applicant applied for readmission to the protection process only after his arrest means that the application for readmission is *prima facie* abusive and presumptively for the purposes of delay (see *S.H.M. v. Minister for Justice and Equality* [2015] IEHC 829 [2015] 12 JIC 2115 para. 20; *Onyemaechi v. Minister for Justice and Equality* [2017] IEHC 682, para. 3; *J.A. (Cameroon) v. The Governor of Cloverhill Prison* [2017] IEHC 609, para. 12).

Order

7. So in all of those circumstances it seems to me the application for an injunction has no merit and I will dismiss it.