Federal Court Cour fédérale

Date: 20260616

Docket: IMM-12882-26

Ottawa, Ontario, June 16, 2026

PRESENT: The Honourable Mr. Justice Lafrenière

BETWEEN:

THOMAS TEYE PARTEY

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

ORDER

[1] By motion in writing dated June 14, 2026, brought pursuant to Rule 369 of the *Federal Courts Rules*, SOR/98-106 [*Rules*], the Applicant, Thomas Teye Partey, requests various heads of relief, including:

a. An Order abridging the time for service and filing of this motion and the supporting motion record, and dispensing with compliance with the ordinary notice and timing requirements of the *Rules*, pursuant to Rules 8 and 55;

b. An Order declaring this matter urgent and granting expedited treatment of the underlying Application for Leave and for Judicial Review [ALJR];

c. An Order abridging the timelines for the perfection of the application for leave, and the filing of the Respondent's responding materials, and for any reply;

d. An Order requiring the expedited production of the Certified Tribunal Record;

e. An Order fixing an expedited schedule for the determination of leave and, if leave is granted, and expedited hearing of the application for judicial review at the earliest available date;

f. In the alternative, an Order directing the Respondent to determine, on an expedited basis, the Applicant's request for reconsideration of the refusal and/or for a Temporary Resident Permit [TRP] under section 24 of the *Immigration and Refugee Protection Act,* SC 2001, c 27 [IRPA].

[2] On June 15, 2026, counsel for the Applicant submitted a letter pursuant to Rule 35 of the *Rules* stating that the matter is exceptionally urgent and requested that the matter be heard as soon as possible.

[3] By Court direction dated June 15, 2026, a special sitting was scheduled to be held by Zoom videoconference on June 16, 2026 at 9:00 AM (Eastern).

[4] In the evening of June 15, 2026, the Respondent filed a responding motion record opposing the relief requested by the Applicant.

I. Factual and Procedural Background

A. *Facts*

[5] The Applicant is a citizen of Ghana and a professional soccer player. He is a member of Ghana's national football team, the Black Stars, and an accredited participant for the 2026 FIFA World Cup.

[6] On May 21, 2026, the Applicant applied for a temporary resident visa [TRV] to visit Canada as part of the Ghana Football Association delegation under a FIFA invitation, to play in Ghana's World Cup match against Panama scheduled for June 17, 2026, at the BMO Field in Toronto.

[7] In the statutory criminality and security questions of the TRV application, the Applicant answered "No" to having ever committed, been arrested for, charged with, or convicted of any criminal offence in any country.

[8] On May 25, 2026, Immigration, Refugees, and Citizenship Canada [IRCC] issued a Procedural Fairness Letter [PFL] to the Applicant, advising that open-source information showed that he was facing several sexual-assault-related charges in the United Kingdom [UK] and raising concerns regarding the Applicant's obligation to answer truthfully under subsection 16(1) and misrepresentation under ss 40(1) of the IRPA.

[9] On May 27, 2026, the Applicant responded to the PFL with a notice of criminal charge, and a statement of assets and other financial circumstances attached.

[10] On May 28, 2026, prior to the final decision on admissibility, an officer noted in the Global Case Management Notes System [GCMS] that the Applicant did not meet the requirements under paragraphs 1(c) or 2(d) of the Temporary Public Policy to Exempt Certain FIFA-Invited Applicants Attending the 2026 FIFA Men's World Cup from the biometrics collection requirement, thereby rendering him ineligible for the biometrics exemption. IRCC therefore requested that the Applicant pay the applicable fee. IRCC additionally requested that the Applicant provide an original police certificate provided by the UK.

[11] On or around June 4, 2026, the Applicant provided an ACRO Police Certificate issued by a national police unit in the UK [UK Police Certificate], which recorded "impending prosecutions" for "rape of female aged 16 years or over", sexual assault, and engaging in controlling/coercive behaviour in an intimate/family relationship, all under investigation by the Metropolitan Police.

[12] This was accompanied by a letter bearing the same date from the Applicant's solicitors who represent the Applicant in the criminal proceedings in England who wrote to IRCC to advise that the UK Police Certificate is incorrect. They confirmed that the Applicant was due to stand trial at Southwark Crown Court on June 7, 2027 on an eight-count indictment (7 counts of rape and one count of sexual assault) to which he has pleaded not guilty. They clarified that additional "impending prosecutions" have either been discontinued or reflect dates being narrowed down by the investigation process.

[13] The Applicant received a visitor visa to the United States of America [US] on June 4, 2026.

[14] On June 5, 2026, IRCC issued a request for additional documents, noting that the Applicant required a TRP in order to travel to Canada, and requesting the fee receipt for the TRP payment by June 12, 2026.

B. *Refusal Decision*

[15] On June 10, 2026, the Assistant Deputy Minister for IRCC's Service Delivery Sector [Officer] refused the Applicant's TRV application [Refusal Decision]. The Officer's GCMS notes state that having reviewed the UK Police Certificate, noting that the Applicant was charged with seven counts of rape and one count of sexual assault in the UK, these charges equate to eight counts of charges under paragraph 271(a) of the *Criminal Code*, RSC 1985, c C-46, which is an indictable offence and liable to imprisonment for a term of up to 10 years. As a result, the Applicant was found inadmissible to Canada under paragraph 36(1)(c) of the IRPA for "committing an act outside Canada that is an offence in the place where it was committed and that, if committed in Canada, would constitute an offence under an Act of Parliament punishable by a maximum term of imprisonment of at least 10 years."

[16] Following the Refusal Decision, the Applicant remains in the US with Ghana's national team.

C. *Reconsideration Request*

[17] On June 14, 2026, the Applicant submitted a "Request for Reconsideration and, in the Alternative, Issuance of a Temporary Resident Permit" to IRCC. The package sets out legal submissions challenging the Officer's reasoning and invites the Minister's delegate to exercise discretionary relief under section 24 of the IRPA in light of the Applicant's role in the World Cup and Ghana's diplomatic representations.

D. *Underlying Proceeding*

[18] On June 15, 2026, the Applicant commenced the underlying ALJR challenging the Refusal Decision. He alleges in the ALJR, among other grounds, that the Officer erred in applying paragraph 36(1)(c) of the IRPA and that the reasons are inadequate. In his prayer for relief, the Applicant seeks to have the matter remitted for redetermination by a different officer.

[19] In parallel, the Applicant brought the present motion seeking urgent and expedited relief.

II. Analysis

[20] Although the Applicant's ALJR and motion record present various and incongruent requested relief, he essentially seeks the Court's intervention to facilitate his entry to Canada for a soccer match on June 17, 2026, in Toronto.

[21] The Applicant initially moved for an interlocutory order permitting his temporary entry into Canada for the sole purpose of participating in the match in Toronto on June 17, 2026. However, at the hearing, counsel for the Applicant properly conceded that a directed verdict

providing that a visa be issued to her client is not within the jurisdiction of the Court in the circumstances.

[22] The Applicant also moved for an expedited reconsideration and redetermination of the underlying application the same day he filed his motion or the following day, having regard to the time-sensitive nature of the Applicant's intended travel to participate in the match in Toronto.

[23] In effect, the Applicant is asking this Court to issue a visa to him by way of a interlocutory motion while allowing the Applicant to avoid filing an application record, not allowing the Respondent the proper time to respond to that record, ignoring the requirement for leave, ignoring the requirement to transmit a Certified Tribunal Record [CTR], dispensing with the cross-examination of witnesses, and ultimately, denying the Court a complete factual record on which to adjudicate the requested relief.

[24] This relief was not pursued vigorously by counsel at the return of the motion, and for good reason. In the case at hand, it would be impractical if not impossible to produce the CTR on such short notice. It would be procedurally unfair to require the Respondent serve and file a memorandum of argument and affidavit evidence in response to the application in a matter of hours. In addition, the Court would be rushed to make an informed decision. The Applicant cannot point to any precedent where the Court expedited the disposition of an ALJR to the extent requested and completely ignored the procedural steps set out in the *Federal Courts Citizenship, Immigration and Refugee Protection Rules*, SOR/93-22. In the circumstances, I am not prepared

to order that any timelines be abridged or that consideration of the Applicant's ALJR be expedited.

[25] During her submissions, counsel for the Applicant clarified that the injunctive relief being sought was more in the nature of *mandamus*, directing the Minister's delegate to consider his reconsideration request of the Refusal Decision and TRP request on an expedited basis. However, in *Clifton v Hartley Bay Village Council*, 2005 FC 1594 at paras 3–5 [*Clifton*], Justice Danièle Tremblay-Lamer confirmed that the writ of *mandamus* may be obtained only on an application for judicial review under s 18.1 of the *Federal Courts Act*, RSC 1985, c F-7. The issuance of a writ of *mandamus* is not possible in this case "for it would constitute in fact an interim declaration of right." (at para 4, citing *Delisle v Canada (Attorney General)* (2004), 2004 FC 788 at para 13)

[26] For the above reasons, the motion is dismissed.

[27] I wish to add that even if an injunction was available, which it cannot be as the *status quo* would have the Applicant — a foreign national outside of Canada who needs authorization to enter — remains outside of Canada, the tri-partite test set out in *RJR-MacDonald Inc v Canada (Attorney General)*, 1994 CanLII 117 (SCC) [*RJR-MacDonald*] is not met. The applicant must demonstrate that: 1) there is a serious issue to be tried; 2) that irreparable harm would result to the applicant if the injunction was not granted; and 3) the balance of convenience between the parties favours granting the injunction.

A. *Serious Issue*

[28] The Applicant has not established that the Officer ignored contradictory information or misapprehended the evidence in rendering the Refusal Decision. It is trite law that visa officers are presumed to have weighed and considered all the evidence presented to them unless it is proven otherwise.

[29] The totality of the reasons provided, which includes the GCMS notes, demonstrates there is no serious issue in the underlying refusal.

[30] The Applicant submits that the Officer breached the duty of procedural fairness by refusing the application on a ground never put to the Applicant. I disagree. As noted above, the Applicant failed to disclose in his application that he is the subject of multiple criminal charges for sexual violence in the UK. IRCC specifically stated in the PFL that further information was required regarding the Applicant's current charges in the United Kingdom to assess his admissibility to Canada.

[31] The Applicant was put on notice that his admissibility to Canada was at issue. And yet, the Applicant's response to the PFL and his affidavit in the motion record fail to acknowledge, let alone explain why this material information was missing in his application. He also failed to put forward any evidence before the decision maker on additional grounds he now raises before this Court, such as evidence regarding UK or US law which would demonstrate that his ability to travel is a probative fact or a consequence of the laws of those countries. There is no evidence regarding UK law as to why the Applicant is permitted to live and work in Spain, and no

evidence as to whether US law contains a provision similar to s 36(1)(c) of the IRPA which would have prohibited his admission without a conviction. The Applicant submits that the Officer failed to consider relevant public-interest considerations associated with the Applicant's accredited participation in the 2026 FIFA World Cup and failed to consider or determine the Applicant's eligibility for relief under s 24 of the IRPA despite having required payment of the TRP fee. However, these are matters that could and should have been raised in response to the PFL. It is too late to raise these considerations here.

[32] The Applicant submits that the Officer failed to identify evidence capable of establishing, on the applicable standard, that the Applicant committed the alleged acts. Once again, I disagree.

[33] The Applicant has not established that the Officer erred in law by basing the Refusal Decision on an unproven commission of an offence. Paragraph 36(1)(c) of the IRPA, as distinct from 36(1)(b), does not require a conviction in order to find the Applicant inadmissible. Rather, simply having reasonable grounds to believe that an offence has been committed is sufficient.

[34] The fact that the Applicant has not been convicted of the serious criminal charges he is facing is irrelevant to the analysis under paragraph 36(1)(c) of the IRPA. Contrary to the Applicant’s assertion, the fact that Parliament included inadmissibility for an act committed outside of Canada in the absence of a criminal conviction does not mean that visa officers are prevented from assessing criminality where a conviction is not yet entered. In this regard, the Applicant’s statutory interpretation argument, if accepted, would create a gap whereby persons charged with a crime but not yet tried would be able to avoid criminal inadmissibility. I agree

with the Respondent that paragraph 36(1)(c) fills that gap. Given the explicit nature of the allegations in the indictment, it was open to the Officer to conclude that the Applicant committed serious acts of sexual violence that render him inadmissible to Canada.

B. *Irreparable Harm*

[35] Even if the Applicant could establish a serious issue, he must still show that he will suffer irreparable harm if interlocutory relief is denied. Irreparable harm is a strict test. The Federal Court of Appeal has described the test for irreparable harm, in the interlocutory context, as requiring a real probability of unavoidable harm that cannot be repaired later. It must constitute more than a series of possibilities and cannot be simply based on assertions and speculation. The burden is on the Applicant to prove such harm. Here, while the Applicant alleges loss of an opportunity to participate in one or more matches at the 2026 FIFA World Cup, and reputational harm flowing from the refusal of his TRV application, the evidence provided is general and broad. I would note that the reputational and practical consequences the Applicant currently faces flow primarily from the fact that he has been charged with multiple counts of rape and sexual assault in the UK, not from Canada's application of its immigration laws.

[36] In sum, while the Applicant's circumstances are unusual and important to him personally and to his national team, they do not rise to the level of irreparable harm as defined in *RJR-MacDonald*.

C. *Balance of Convenience*

[37] Finally, the balance of convenience favours preserving the integrity of Canada's immigration system and the enforcement of Parliament's choices in the IRPA.

[38] The Applicant seeks extraordinary, mandatory interlocutory relief that would in substance require Canada to set aside a lawfully rendered inadmissibility finding and facilitate his entry for a specific event. As stated in the recent decision of the Federal Court of Appeal in *Canada (Transport) v ITPS (Canada) Ltd*, 2026 FCA 112 at para 16, the Court is required to consider the public interest in balancing the harm. In this context, the public interest in the consistent and balanced application of inadmissibility rules for serious criminality weighs heavily against such relief.

III. Conclusion

[39] As noted earlier, the Applicant submitted a request for reconsideration of the Refusal Decision as well as a request for the issuance TRP. I agree with the Applicant that these requests are time-sensitive and that failure to respond in a timely manner may render the relief requested moot. I would simply urge the Respondent to prioritize rendering decisions on the requests but will go no further.

THIS COURT ORDERS that:

1. The motion is dismissed.

"Roger R. Lafrenière"
Judge