



Ottawa, April 23, 2021 – A decision was issued today by Justice William Pentney in file T-340-21:

IN THE MATTER OF *Spencer v. Canada (Attorney General)*

Summary: The Applicants are Canadians who have travelled abroad during the COVID-19 pandemic and now wish to return to Canada. They sought an interlocutory injunction to prohibit the Government of Canada from enforcing the mandatory quarantine of travellers arriving by air at designated facilities while they await the results of the COVID-19 tests they must take upon arrival.

The Applicants claim that the mandatory quarantine of air travellers at a government-authorized accommodation or designated quarantine facility mandated by the impugned Order-in-Council, violates their rights under sections 6, 7, 9, 10(b), 11(d), 11(e), and 12 of the *Canadian Charter of Rights and Freedoms*.

They submit that the measures are not justified and that it is unnecessary to forcibly detain returning Canadians, as opposed to the reasonable and minimally impairing alternative of allowing them to quarantine in their own homes. In seeking interlocutory relief, they asserted that the quarantine measures should not be left in place pending the hearing of their *Charter* challenge on its merits.

The Government of Canada argued that the Applicants did not meet the very high threshold that applies to an application to suspend the operation of a law or regulation on an interlocutory basis. It claimed that the fact that the Applicants may have to change their travel plans, and may have to incur extra costs because of the current rules, is not a basis to suspend important public health measures that have been adopted based on current scientific advice in response to the threats associated with the emergence of new variants of concern of the COVID-19 virus.

The Court dismissed the motion for an interlocutory injunction, as it would not be just or equitable to suspend the operation of the challenged quarantine measures pending the determination of the merits of the Applicants' *Charter* claim. Any harm to the Applicants' rights and freedoms from a temporary stay at a hotel is not a sufficient basis to suspend a significant public health measure that is based on the advice of scientific experts, and seeks to prevent or slow the spread of COVID-19 and its variants into Canada.

The reasonable alternative proposed by the Applicants, namely immediately quarantining at their residence, does not take into account the evidence that 1-2% of air travellers arriving in Canada after having taken a COVID-19 test shortly prior to departure, were nevertheless testing positive upon arrival in Canada, nor does it reflect the evidence that individuals in quarantine continued to pose a risk of spreading the virus by their contact with others.

A copy of the decision can be obtained via the [Web site](https://decisions.fct-cf.gc.ca/fc-cf/decisions/en/item/495996/index.do) of the Federal Court:
<https://decisions.fct-cf.gc.ca/fc-cf/decisions/en/item/495996/index.do>