

**CITIZENSHIP AND IMMIGRATION**

STATUS IN CANADA

Citizens

Motion pursuant to *Federal Court Rules*, SOR/98-106 (Rules), r. 51 appealing decision of Prothonotary (2021 FC 536) requiring plaintiff Ministers to disclose a number of documents over which privilege claimed — Prothonotary holding that nature of proceeding required Ministers to comply with level of disclosure articulated in *R v. Stinchcombe*, [1991] 3 S.C.R. 326 — In underlying action, Ministers seeking declarations pursuant to *Citizenship Act*, R.S.C., 1985, c. C-29 that defendant obtained Canadian citizenship by false representation or fraud or by knowingly concealing material circumstances (Act, s. 10.1(1)); that defendant inadmissible to Canada on grounds of having violated human or international rights (Act, s. 10.5(1)) — In course of litigation, Ministers produced affidavit listing several documents which Ministers claimed were not producible because of litigation privilege — Prothonotary ruled that many were producible, even though privileged, as *Stinchcombe* principles applied to litigation — Whether Court having jurisdiction to hear this appeal pursuant to Act, s. 10.6 — Ministers arguing that s. 10.6 does not bar appeal of interlocutory decision of prothonotary, which is appealable pursuant to r. 51(1) — Arguing s. 10.6 only barring appeals of Federal Court decisions to Federal Court of Appeal — Whether appeal herein barred by virtue of s. 10.6 — Court without jurisdiction to hear this appeal — Grammatical, ordinary sense of words in s. 10.6 indicating that that no appeal lying from any interlocutory judgment in action for declaration under ss. 10.1(1) or 10.5(1) — Ministers' interpretation creating unexpected, curious result: motion for production heard by prothonotary may be appealed to judge; however, no appeal if same motion heard by judge — Statutory provision barring appeal from order of prothonotary under r. 51(1) not requiring that the statutory provision specifically reference r. 51(1) — R. 1.1(2) providing that statutory provision inconsistent with Rules governs — Interplay of statutory provision barring appeal, r. 1.1(2) considered in *Yogalingam v. Canada (Minister of Citizenship and Immigration)*, 2003 FCT 540, [2003] 4 F.C. D-104 — No principled basis found to interpret s. 10.6 as applying only to decisions made by Federal Court judges — S. 10.6 removing Court's jurisdiction to hear appeal of Prothonotary's decision in this matter — Motion dismissed.

CANADA (CITIZENSHIP AND IMMIGRATION) V. JOZEPOVIĆ (T-1862-17, 2021 FC 923, Zinn J., reasons for order dated September 7, 2021, 7 pp.)