

FEDERAL COURT

BETWEEN:

THE ATTORNEY GENERAL OF CANADA

– and –

MOHAMED ALKOKA



Respondent

APPLICATION UNDER SECTION 38.04(1) OF THE
CANADA EVIDENCE ACT

AMENDED NOTICE OF APPLICATION

TO THE RESPONDENT:

A PROCEEDING HAS BEEN COMMENCED by the Applicant. The relief claimed by the Applicant appears on the following pages.

THIS APPLICATION will be heard by the Court at a time and place to be fixed by the Judicial Administrator. The Applicant requests that this Application be heard at Ottawa.

IF YOU WISH TO OPPOSE THIS APPLICATION, to receive notice of any step in the Application or to be served with any documents in the Application, you or a solicitor acting for you must prepare a notice of appearance in Form 305 prescribed by the *Federal Courts Rules, 1998* and serve it on the Applicant's solicitor **WITHIN 10 DAYS** after being served with this Notice of Application.

Copies of the *Federal Courts Rules, 1998*, information concerning the local offices of the Court and other necessary information may be obtained on request to the Administrator of this Court at Ottawa (telephone 613-992-4238) or at any local office.

IF YOU FAIL TO OPPOSE THIS APPLICATION, JUDGEMENT MAY BE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU.

Dated: February 14, 2017
Amended: February 22, 2017

Issued by: DANIELLE PARENT
REGISTRY OFFICER
Federal Court AGENT DU GREFFE

TO: **MOHAMED ALKOKA**
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APPLICATION

THIS IS AN APPLICATION under s. 38.04(1) of the *Canada Evidence Act*, R.S.C. 1985, c. C-5, as amended by SC 2001, c. 41, s. 43, (“*CEA*”), for an order regarding disclosure of information referred to in a notice under s. 38.01(1) of the *CEA* that was provided to the Attorney General of Canada (“Attorney General”) on August 24, 2016. In the notice, Max Binnie, counsel with the Department of Justice, advised that he believed that sensitive or potentially injurious information, as defined in section 38 of the *CEA*, would be disclosed in connection with an application for judicial review filed by Mohamed Alkoka in this Court concerning a decision by the Security Intelligence Review Committee (SIRC).

THE APPLICANT MAKES APPLICATION FOR:

- (a) an order under s. 38.06(3) of the *CEA* confirming the prohibition of disclosure of the information referred to in the notice, except as previously authorized by the Attorney General under s. 38.03(1); and
- (b) such further and other relief as the Applicant may request and the Court deems just.

THE GROUNDS FOR THE APPLICATION ARE:

- (a) Mr. Alkoka filed a complaint with SIRC on April 2, 2009. Mr. Alkoka alleged that the Canadian Security Intelligence Service (the Service) profiled him on the basis of his religious identity, activities and affiliations, and improperly shared information about him with foreign states which led to his detention and/or questioning abroad;
- (b) On December 3, 2015, SIRC issued a decision finding that the Service did not breach the *Canadian Security Intelligence Service Act* or any policies;

- (c) On March 29, 2016, Mr. Alkoka applied for judicial review of SIRC's decision, and his counsel requested an unredacted copy of the SIRC decision;
- (d) On August 24, 2016, Max Binnie, counsel for the Department of Justice, gave notice to the Attorney General pursuant to s. 38.01(3) of the *CEA* that he believed that the SIRC decision contained sensitive or potentially injurious information. On August 24, 2016, the Attorney General authorized disclosure of the fact that notice had been given;
- (e) On November 24, 2016, the Attorney General authorized, pursuant to s. 38.03(1) of the *CEA*, disclosure of a redacted version of the document;
- (f) The information which the Attorney General has not authorized disclosure of is sensitive or potentially injurious information which if disclosed would be injurious to national security;
- (g) The Attorney General requests that this proceeding be kept confidential until such time as the judge that is seized of this matter has heard representations from counsel for the Attorney General pursuant to s. 38.04(5)(a) of the *CEA*; and
- (h) Further and other grounds as the Applicant may advise and this Honourable Court may permit.

**THE ATTORNEY GENERAL MAKES THE FOLLOWING REPRESENTATIONS
UNDER SUBSECTION 38.04(5) OF THE *CEA*:**

- (a) A public hearing may be necessary;
- (b) Mohamed Alkoka is a party whose interests are affected by the information contained in the document subject to these proceedings and he must be named as Respondent;

- (c) A copy of the Notice of Application, in amended form, should be served on Mohamed Alkoka, or his counsel;
- (d) The Notice of Application must remain confidential until it is amended to name the Respondent in the style of cause and is served on the Respondent or the Respondent's counsel;
- (e) The next steps in these proceedings must be according to Noel J.'s February 3, 2017 Order in court file T-505-16 and as decided by the judge seized of the matter; and
- (f) Further and other grounds as the Applicant may advise and this Honourable Court may permit.

THE APPLICATION WILL BE SUPPORTED BY THE FOLLOWING MATERIAL:

- (a) Affidavits and other material as counsel may advise and this Honourable Court may permit.

Date: February 14, 2017
Amended: February 22, 2017



ATTORNEY GENERAL OF CANADA

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