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## Affidavit of Paul Champ

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**FEDERAL COURT**

BETWEEN:

**ABOUSFIAN ABDELRAZIK**

Applicant

-and-

**MINISTER OF FOREIGN AFFAIRS and  
ATTORNEY GENERAL OF CANADA**

Respondent

**AFFIDAVIT OF PAUL CHAMP**

I, Paul Champ, of the City of Ottawa, Province of Ontario, MAKE OATH AND SAY:

1. I am a lawyer in the firm Raven, Cameron, Ballantyne & Yazbeck LLP. Although I am not the solicitor of record for the within application, I have provided legal advice and assistance to the Applicant throughout. I also appeared on a motion in this proceeding in June 2008, before Madam Justice Mactavish. As such, I have knowledge of the matters hereinafter deposed to. Where my evidence is based on information and belief, I have stated the source of that information and belief.

**Background**

2. The Applicant commenced the within application for judicial review on May 7, 2008. The Applicant claims that the Respondents have acted in bad faith to

block his return to Canada and leave him stranded in *de facto* exile in Sudan, in violation of his right to enter Canada under section 6 of the *Canadian Charter of Rights and Freedoms*.

3. The Applicant brought a motion early in the application for an order for advance costs. I was legal counsel on the motion. A copy of the Applicant's Written Representations, dated June 19, 2009, is attached hereto as Exhibit "A".

4. One of the documents relied upon in the motion was obtained by the Applicant through a *Privacy Act* request submitted to the Department of Foreign Affairs. The internal government document, entitled "Consular Case relating to Abousfian Abdelrazik", is attached hereto as Exhibit "B".

5. On July 29, 2008, the Applicant filed affidavits in support of his application. One of the affiants, Jo Wood, attached as exhibits documents that were obtained by the Applicant from the Department of Foreign Affairs under the *Privacy Act*, including the above mentioned "Consular Case" document.

6. The Respondent Minister of Foreign Affairs filed supporting affidavits on September 12, 2008. One of the affiants was Sean Robertson, a Director of Consular Case Management employed by the Department of Foreign Affairs. Mr. Robertson attested to the following at paragraph 22 of his affidavit:

The respondent did not request that the applicant be detained by Sudanese authorities and at no time did the respondent request his continued or further detention.

7. On September 29, 2008, Chief Justice Lutfy issued an order amending the application to include the Attorney General of Canada. The Respondents consented to the amendment without terms.

8. Mr. Robertson was cross examined on his affidavit on October 8, 2008.

The following line of questioning ensued between Mr. Robertson and counsel for the Applicant:

Question 272: Paragraph 22 you mention that, "The respondent did not request that the applicant be detained by Sudanese authorities and at no time did the respondent request his continued or further detention". Correct?  
A. That's correct.

Question 273: At the time you swore this Affidavit the only Respondent was the Minister of Foreign Affairs and International Trade; correct?  
A. I believe so, yes.

Question 274: So your reference to the Respondent there is solely reference to the Minister of Foreign Affairs and International Trade; correct?  
A. Correct.

Question 275: Are you aware if other departments of the Government of Canada have at any time -- do you have full information to categorically say that other government departments of the Government of Canada did not at some time request his arrest or detention?  
A. No.

**Question 276: Do you know if other government departments did request his arrest or detention?**  
**A. No, I do not.**

9. Mr. Robertson was served with a direction to attend to produce documents within his possession, power or control. However, he did not bring the documents to the cross examination on October 8, 2008, as the Attorney General invoked section 38 of the *Canada Evidence Act*. The Attorney General claimed that disclosure of the documents could cause injury to Canada and subsequently commenced a review of the documents to determine whether they could be produced in whole or in part under the *Act*. This paragraph is based on information and belief supplied to me by Professor Amir Attaran, the counsel who cross examined Mr. Robertson.

10. For different reasons, the parties were allowed to file additional affidavit

evidence. The Respondents filed three new affidavits on December 1, 2008. The Applicant filed two supplementary affidavits on January 6, 2009. The affidavit and cross examination of Sean Robertson referred to above are included in the parties' records.

11. On February 26, 2009, the Respondents finally delivered documents to the Applicant which had been requested pursuant to directions to attend served upon the Respondents' affiants. Delivery of the documents had been delayed by the Attorney General's internal review process under section 38 of the *Canada Evidence Act*. All of the documents had passages that were redacted pursuant to that Act.

12. One of the documents produced by the Respondents on February 26, 2009, was an internal government email dated December 22, 2005, forwarding an earlier email dated December 16, 2005 (together referred to hereinafter as the "NSI document"). The later email was stamped "SECRET – CANADIAN EYES ONLY" and the name of the recipient was blacked out and kept secret by the Attorney General pursuant to the *Canada Evidence Act*. The earlier email described a meeting between Canadian Embassy officials in Khartoum with the Sudanese National Security & Intelligence Agency (NS). The December 16, 2005 email contains the following two statements:

Abusofian [sic] Abdelrazik was arrested on September 10, 2003 [\*\*\*\*\*] and recommendation by CSIS, for suspected involvement with terrorist elements.

[...]

NSI maintains that all recent interactions have resulted in repeated statements to them by Canadian security officials in the field reiterating that Mr. Abdelrazik's case "is a consular case," despite the fact that initial recommendations for his detention emerged from CSIS [KRTM notes that if this is indeed the case, we had not been told of these communications].

13. Other large portions of the NSI document were blacked out and kept secret by the Attorney General. A copy of this document is attached hereto as

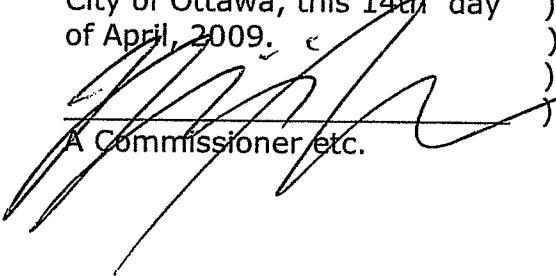
Exhibit "C".

14. On March 10, 2009, the Applicant filed his Application Record. Both the "Consular Case" document and the NSI document are included in the record.

15. Jim Judd, the Director of CSIS, appeared before a Standing Committee on Parliament Hill on April 2, 2009. I base this information on a notice on Minutes of Proceedings published on the House of Commons website. A copy of this document is attached hereto as Exhibit "D".

16. I have personally reviewed the documents referred to in this affidavit as well as the Court Docket for Court File T-727-08.

AFFIRMED BEFORE ME at the )  
City of Ottawa, this 14th day )  
of April, 2009. )

  
A Commissioner etc. )

  
Paul Champ