

August 2017

# Excerpts of Transcripts of the Cross-examination of Sean Robertson

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Examination No. 08-0986

Court File No. T-727-08

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FEDERAL COURT

B E T W E E N:

ABOUSFIAN ABDELRAZIK

APPLICANT(S)

- and -

MINISTER OF FOREIGN AFFAIRS and  
THE ATTORNEY GENERAL OF CANADA

RESPONDENT(S)

\*\*\*\*\*

CROSS-EXAMINATION OF SEAN ROBERTSON ON HIS SWORN AFFIDAVIT  
DATED SEPTEMBER 9, 2008, pursuant to an appointment made on  
consent of the parties, to be reported by Gillespie  
Reporting Services, on October 7, 2008, commencing at the  
hour of 10:03 in the forenoon.

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APPEARANCES:

PROFESSOR A. ATTARAN

for the Applicant

MS. A. BROUSSEAU

for the Applicant

MR. K. ELGAZZAR

for the Applicant

MS. A. TURLEY

for the Respondent

MS. E. RICHARDS

for the Respondent

MS. Z. OXAAL

for the Respondent

MR. M. JOHNSON

client representative

This Cross-Examination was monitored by Gillespie Reporting  
Services at Ottawa, Ontario, having been duly appointed for the  
purpose.

COPY

1 PROFESSOR ATTARAN:

2 220. Q. And the fact that torture in prisons would  
3 have been a DFAIT concern during Mr. Abdelrazik's  
4 detention could possibly explain why there have been human  
5 rights concerns about him by others?

6 A. I'm not sure I understand your question.

7 221. Q. Well, we'll leave the question. We don't need  
8 a further answer. When Canadian officials visited  
9 Mr. Abdelrazik during his detention, would there have been  
10 a concern that he would not be able to speak freely  
11 because of the existence of torture in detention in Sudan?

12 A. I think it's fair to say that any time a  
13 Consular official conducts a visit, that they will always  
14 seek, to the extent possible, to conduct a portion,  
15 preferably all, not just a portion of that visit, in  
16 private to allow the individual to express himself freely.

17 222. Q. Based on your previous experience as a  
18 consular case manager in various countries, are you aware  
19 that persons in detention may be reticent to disclose  
20 torture for fear of retribution?

21 A. Yes, that's correct.

22 223. Q. So even if a person is interviewed by a DFAIT  
23 official and has been tortured, he may have reasons not to  
24 say so?

25 A. That's correct.

1 224. Q. And why is that? What are the reasons?

2 A. It would depend on the individual  
3 circumstances, no?

4 225. Q. But fundamentally, retribution would be?

5 A. I would imagine it would be one of the primary  
6 concerns, yes.

7 226. Q. I'd like to go to another document that is at  
8 page 418 of Exhibit A in Jo Wood's Affidavit. This is an  
9 email from Rodney Moore to various DFAIT officials,  
10 including Konrad Sigurdson and Odette Gaudet-Fee who at  
11 the time both were Consular officers in Ottawa; is that  
12 correct?

13 A. That's correct. Odette, we've established her  
14 position. And Mr. Sigurdson was the former  
15 Director General with the Consular.

16 227. Q. He held your job prior?

17 A. No. He was Director General.

18 228. Q. Director General, I'm sorry. Is he still in  
19 that position?

20 A. No. Mr. Sigurdson has retired.

21 229. Q. And the e-mail was also copied to various  
22 persons from ISI, ISD and NJW Branches. Those are  
23 security-related branches; correct?

24 A. Yes, we've already established that.

25 230. Q. So again, the security people are being kept

1 A. It would be no for both. I have no knowledge.

2 MS. TURLEY: Then I guess we don't have to put our  
3 38 objection. We can get rid of that.

4 PROFESSOR ATTARAN: Thank you for your assistance  
5 on that, Ms. Turley. That was a good way to proceed.

6 530. Q. Mr. Robertson, in paragraph 35 you say that  
7 the Minister and the Department only became aware of the  
8 Applicant saying that he was tortured in Sudanese custody  
9 in February 2008. Is that correct?

10 A. That's correct.

11 531. Q. You base that statement on your review of the  
12 file; correct?

13 A. Correct.

14 532. Q. Have you debriefed each individual who  
15 actually had contact with the Applicant to know if perhaps  
16 they were told of his claims of torture but didn't write  
17 it down?

18 A. No. I have not debriefed them individually  
19 but I would say that an allegation of mistreatment, abuse  
20 or torture of a Canadian in detention abroad, it would be  
21 highly unusual that that was not noted somewhere or an  
22 individual such as Ms. Gaudet-Fee who had been involved in  
23 the file since the initial stages would not be aware of  
24 such an allegation.

25 533. Q. But you have no first-hand knowledge of him

1 having said that he was tortured prior to February 27 and  
2 as far as you know no other official does?

3 A. That's correct.

4 534. Q. We've already discussed people in detention  
5 who are tortured may be reticent to speak about it for  
6 fear of retributions.

7 A. That's --

8 MS. TURLEY: He already answered that question. \*O\*

9 PROFESSOR ATTARAN: Yes.

10 535. Q. Are you aware of the meeting that took place  
11 in Khartoum between Mr. Abdelrazik and the Member of  
12 Parliament Deepak Obhrai?

13 A. Yes, I believe that was in March of this year.

14 536. Q. March of this year? Have you seen a written  
15 report of that meeting?

16 A. Yes, I have.

17 537. Q. Was that written report prepared by  
18 Mr. Obhrai?

19 A. No. It was prepared by a departmental  
20 official who attended.

21 538. Q. Who was that official?

22 A. It was the Consul at the Canadian Embassy in  
23 Khartoum, Mr. Eric O'Connor.

24 PROFESSOR ATTARAN: Counsel, just to be clear,  
25 that is one thing we will be very much wishing to see in

1 the documents that we requested pursuant to the  
2 Direction to Attend.

3 MS. TURLEY: I don't know if it is encompassed in  
4 your Direction to Attend. I mean if it is it will be  
5 there.

6 PROFESSOR ATTARAN: I believe it is.

7 MS. TURLEY: But if it's not it's not.

8 PROFESSOR ATTARAN: I believe it is.

9 MS. TURLEY: Under what para --

10 PROFESSOR ATTARAN: Now is not the time to debate  
11 it either.

12 MS. TURLEY: I'm not asking you to debate it. I'm  
13 just asking you if you can help us out. What paragraph  
14 would it be in?

15 PROFESSOR ATTARAN: We'll get an answer to you on  
16 that before the end of the day.

17 539. Q. Is it true that during that meeting, as far as  
18 you are aware, Mr. Abdelrazik showed marks on his body  
19 which he claimed were the result of torture?

20 A. That's my understanding, yes. That was what  
21 was reported in the summary of the meeting.

22 540. Q. So in that meeting that took place with the  
23 Member of Parliament Mr. Obhrai and I believe also  
24 Erin Gardiner was present at that meeting who I think is  
25 staff to Mr. Obhrai in some way -- is that correct?

1                   A. Yes. There was -- Mr. Gardiner actually was  
2                   the -- who is in Mr. Bernier or Mr. Bernier's office, I  
3                   don't recall his exact role but he was one of the exempt  
4                   staff.

5   541.            Q. Staff to the Minister?

6                   A. Yes.

7   542.            Q. At that meeting Mr. Abdelrazik your  
8                   understanding is showed marks on his body which he claimed  
9                   were the result of torture?

10                  A. That's my understanding, yes.

11   543.            Q. Now, around this time there was renewed  
12                   discussion about a charter aircraft to bring  
13                   Mr. Abdelrazik home. I'll give you a document produced  
14                   under the Privacy Act. I'll anticipate Ms. Turley's point  
15                   on this. It is not in Exhibit A.

16                  PROFESSOR ATTARAN: So I propose we mark this as  
17                   Exhibit B for identification to be dealt with at a later  
18                   time and I'll ask my questions on reserve.

19                  EXHIBIT NO. B: Two e-mails from Ms. Gaudet-Fee  
20                   dated April 17, 2008 and April 16, 2008, copied to  
21                   Mr. Robertson.

22                  PROFESSOR ATTARAN:

23   544.            Q. This is a couple of e-mails from  
24                   Ms. Gaudet-Fee, the first one dated April 17th, 2008, the  
25                   second one dated April 16th, 2008, is that correct, and