



4-3-2009

## Respondent's Notice of Motion dated 3 April 2009

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**FEDERAL COURT**

BETWEEN:

**ABOUSFIAN ABDELRAZIK**

Applicant

and

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

Respondents

**NOTICE OF MOTION**

**TAKE NOTICE THAT** the respondents will make a motion to Prothonotary Tabib, as the case management prothotary, in writing pursuant to Rule 369 of the *Federal Courts Rules*.

**THE MOTION IS FOR:**

- a) leave of the Court pursuant to Rule 312 of the *Federal Courts Rules* to file an additional affidavit; and
- b) such further and other relief as counsel may advise and this Honourable Court may permit.

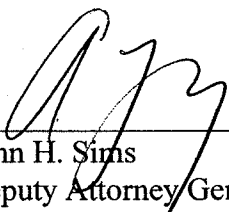
**THE GROUNDS FOR THE MOTION ARE:**

- a) The applicant has levied serious allegations against the Canadian government in its memorandum of fact and law filed on March 10, 2009. More particularly, the applicant alleges that officials of the Canadian Security Intelligence Service (“CSIS”) requested his detention by the Sudanese authorities in September 2003 and that this led to violations of his section 6 *Charter* rights.
- b) The applicant bases his allegation on a statement in an email written two full years after the applicant’s detention.
- c) Other documentary evidence filed on the Court record in the within application directly contradicts the applicant’s allegations on this point.
- d) The CSIS recently posted a letter dated March 5, 2009 on its website wherein it requested the Security Intelligence Review Committee (“SIRC”) review the applicant’s allegations against CSIS.
- e) This new evidence is relevant to an issue to be determined on the application pending before the Court – namely whether Canada has breached the applicant’s *Charter* rights. In light of the applicant’s allegations against CSIS, as raised in his memorandum as fact and law, the judge hearing the application should know that CSIS has now asked for an investigation on the performance of the Service’s duties and functions with respect to the applicant’s case.
- f) The respondents therefore seek leave to file an additional affidavit attaching the CSIS letter.
- g) Rule 312 of the *Federal Courts Rules*.

**THE FOLLOWING DOCUMENTARY EVIDENCE** will be used at the hearing of the motion:

- a) the applicant's memorandum of fact and law dated March 10, 2009;
- b) affidavit is Sean Robertson and exhibit "N";
- c) additional exhibit to the cross-examination of Sean Robertson;
- d) the affidavit of Kathleen Mongeon sworn April 2, 2009; and
- e) such further and other materials as counsel may advise and this Honourable Court may permit.

April 3, 2009



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