Federal Court  Cour fédérale

Date: 20220627

Docket: T-785-22

Citation: 2022 FC 957

Ottawa, Ontario, June 27, 2022

PRESENT: Prothonotary Benoit M. Duchesne

BETWEEN:

ANDRE BLAIR

Applicant

and

ATTORNEY GENERAL OF CANADA

Respondent

AMENDED REASONS AND ORDER

[1] The Applicant, Mr. Blair, is incarcerated at the Beaver Creek Institution. On June 2, 2021, he made an application pursuant to section 745.6(1) of the *Criminal Code* to the Superior Court of Justice in Ontario, for a reduction in the number of years of imprisonment during which he is ineligible for parole. This type of application is known as "Faint Hope" application. At the time of his "Faint Hope" application, Mr. Blair's security threat group affiliation status was that of an inactive member of the M&E (Markham & Eglington) Crew Bloods.

[2] On March 10, 2022, 9 months later, and while his "Faint Hope" application remained pending, the Institutional Head at the Beaver Creek Institution made a decision to modify Mr. Blair's security threat group affiliation status from an "inactive" member to an "active" member of the M&E Crew Bloods (the "Decision"). Mr. Blair was informed of the Decision on March 18, 2022 and commenced an application for judicial review of the Decision on April 12, 2022.

[3] The Respondent Attorney General of Canada (the "AG") has brought a motion in writing pursuant to Rule 369 of the *Federal Courts Rules*, SOR/98-106 (the "Rules") for an order striking out Mr. Blair's application for judicial review on the basis that it is premature and has no reasonable prospect of success. The AG argues that Mr. Blair has not exhausted the grievance process available to him pursuant to sections 90 and 91 of the *Corrections and Conditional Release Act*, R.S.C. 1985, C-44.6 (the *"CCRA"*) and the *Corrections and Conditional Release Regulations*, SOR/92-620 (the *"Regulations"*) for reviewing the Decision and that he is required to do so before this Court can intervene to review the Decision.

[4] Mr. Blair resists the motion on the basis that exceptional circumstances exist in this case that render the grievance system created by the *CCRA* and the *Regulations* an inadequate alternative remedy to judicial review. The exceptional circumstance identified by Mr. Blair is that the Decision, if left unreviewed, may detrimentally impact his likelihood of success on his "Faint Hope" application that was filed 9 months earlier and remains pending. He also argues, among others, that the grievance process under the *CCRA* and the *Regulations* is unlikely to be completed prior to the adjudication of his "Faint Hope" application with the result that the

Decision will remain in place when his "Faint Hope" application is disposed of. It follows, in his view, that the grievance process need not be exhausted prior to judicial review.

[5] For the reasons that follow, I allow the AG's motion.

I. **The Law Applicable on a Motion to Strike**

[6] The parties are in agreement that the test applicable on a motion to strike an application for judicial review is the test set out in *Canada (National Revenue) v. JP Morgan Asset Management (Canada)* 2013 FCA 250 (*"*JP Morgan*"*). The Court wrote in that decision at paragraph 47 that:

> "The Court will strike a notice of application for judicial review only where it is "so clearly improper as to be bereft of any possibility of success" There must be a "show stopper" or a "knockout punch" – an obvious, fatal flaw striking at the root of this Court's power to entertain the application."

[7] In determining whether the high threshold is met by the moving party, the Court should consider that any of the following qualify as an obvious, fatal flaw warranting the striking out of a notice of application (*JP Morgan*, at para. 66; *Dakota Plains First Nation v. Smoke*, 2022 FC 911 (CanLII), at para. 6):

a) If the notice of application fails to state a cognizable administrative law claim which can be brought in the Federal Court;

b) If the Federal Court is not able to deal with the administrative law claim by virtue of the *Federal Courts Act* or some other legal principle; or

c) If the Federal Court cannot grant the relief sought in the notice of application.

[8] In considering a motion to strike, the Court must read the notice of application with a view to understanding its real essence, to having a realistic appreciation of the application's essential character by reading it holistically and practically (*JP Morgan,* at paras. 49 and 50).

[9] The facts pleaded in the notice of application are to be taken as true while reading the application broadly with a view to accommodating any inadequacies in the allegations. Accepting facts as pleaded in the notice of application as true for the purposes of the motion does not entail that characterisations of fact or speculations contained in the application should be considered as true.

[10] The principles of pleading contained in the *Rules* and in our jurisprudence require that the grounds alleged in the notice of application must be concise but not bald, complete, exhaustive and stated with particularity. The relevant facts in support of the grounds must also be included. The applicant should not, however, include all the evidence that will be submitted to the record, or list all the individuals who will produce sworn statements in support of the application. While clearly not all the evidence will be in the notice of application for judicial review, the grounds must all be stated at this preliminary stage (*JP Morgan,* at paras. 38 to 46; *Soprema Inc. v. Canada (Attorney General),* 2021 FC 732 (CanLII), at paragraphs 37 to 39, affirmed 2022 FCA 103 (CanLII)). It is not enough for an applicant to say that his right of procedural fairness was violated. The applicant must go further and identify the facet of procedural fairness he says was violated and how it was violated. Similarly, an applicant who alleges that a decision is incorrect in law must plead the law relied upon and how the decision is incorrect. If an applicant pleads that a decision sought to be reviewed is unreasonable, then the application should include

particulars of how and why the decision is unreasonable. A failure to adequately plead allegations that, if proven, could lead a court to exercise its discretion on judicial review, is fatal to an application for judicial review (*Soprema Inc., supra*).

[11] As a general rule, affidavits are not admissible in support of a motion to strike applications for judicial review. The general rule against admissibility is justified by several considerations as articulated by the Federal Court of Appeal in *JP Morgan* at paragraph 52 as follows:

> [51] As a general rule, affidavits are not admissible in support of motions to strike applications for judicial review.
>
> [52] This general rule is justified by several considerations:
>
> > • Affidavits have the potential to trigger cross-examinations and refused questions and, thus, can delay applications for judicial review. This is contrary to Parliament's requirement that applications for judicial review proceed "without delay" and be heard "in a summary way."
> >
> > • A respondent bringing a motion to strike a notice of application does not need to file an affidavit. In its motion, it must identify an obvious and fatal flaw in the notice of application, i.e., one apparent on the face of it. A flaw that can be shown only with the assistance of an affidavit is not obvious. A respondent's inability to file evidence does not normally prejudice it. It can file evidence later on the merits of the review, subject to certain limitations, and often the merits can be heard within a few months. If an application has no merit, it will be dismissed soon enough. And if there is some need for faster determination of the merits, a respondent can always move for an order expediting the application.
> >
> > • As for an applicant responding to a motion to strike an application, the starting point is that in such a motion the facts alleged in the notice of

> application are taken to be true: *Chrysler Canada Inc. v. Canada*, 2008 FC 727 at paragraph 20, aff'd on appeal, 2008 FC 1049. This obviates the need for an affidavit supplying facts. Further, an applicant must state "complete" grounds in its notice of application. Both the Court and opposing parties are entitled to assume that the notice of application includes everything substantial that is required to grant the relief sought. An affidavit cannot be admitted to supplement or buttress the notice of application.

[12] Exceptions to the rule against admitting affidavits on motions to strike should be permitted only where the justifications for the general rule of inadmissibility are not undercut, and the exception is in the interests of justice. One such exception is where a document is referred to and incorporated by reference in a notice of application ((*Paul v. Canada (Attorney General)*, 2001 FCT 1280 (CanLII), at para. 23; see also *McLarty v. Canada*, 2002 FCA 206 (CanLII), at para. 10; *Harris v. Canada*, 2000 CanLII 15738 (FCA), [2000] 4 F.C. 37 (F.C.A.) approving the judgment of the Ontario Court of Appeal in *Web Offset Publications Limited et al. v. Vickery et al.* (1999), 1999 CanLII 4462 (ON CA), 43 O.R. (3d) 802 (C.A.)). In these circumstances, a party may file an affidavit merely appending the document, without more, for the assistance of the Court.

[13] In this case, both parties submitted motion records that contain affidavit and documentary evidence. These affidavits and their documentary exhibits must be considered in light of the principles set out above before considering whether Mr. Blair's application for judicial review should be struck as their content may, if admissible, assist in understanding the real essence of the application.

[14] The AG has filed a brief affidavit that introduces a copy of the Institution Head's Decision, along with a copy of a final level grievance commenced by Mr. Blair in respect of the Decision, and copies of the *Commissioner's Directive 081: Offender Complaint and Grievance*, and of *Guideline 081-1: Offender Complaint and Grievance Process*. Only the Decision was specifically referred to and pleaded in the notice of application. The Decision itself is but a portion of a larger and more comprehensive document titled *"Assessment of Affiliation with a Security Threat Group*" that sets out the events and steps taken that led to the Decision. Its content is specifically pleaded in several paragraphs of the notice of application. It is incorporated by reference into the notice of application, falls within an exception to the prohibition against affidavit and documentary evidence on motions to strike, and is properly admitted for consideration. The remainder of the affidavit material and documentary exhibits, however, are not. The final level grievance commenced by Mr. Blair in connection with the Decision that is included as an exhibit in the AG's motion record is inadmissible on this motion and is not considered.

[15] Mr. Blair has filed an equally brief affidavit that introduces past grievances he made on September 19, 2017, July 12, 2017 and May 15, 2019. Mr. Blair's evidence also produces a copy of an *Audit of Offender Redress* dated March 6, 2018, published by Correctional Service Canada, and a copy of the 2016-2107 *Annual Report of the Office of the Correctional Investigator*. None of these documents are referred to in the notice of application. They do not fall within the evidentiary exception referred to above and cannot be admitted or considered on this motion.

II. **The Notice of Application for Judicial Review**

[16] The facts that follow are taken from Mr. Blair's notice of application and from the Decision and *Assessment of Affiliation with a Security Threat Group* referred to within it.

[17] Mr. Blair is serving a life sentence (25) years for first degree murder and is incarcerated at the Beaver Creek Institution.

[18] On June 2, 2021, Mr. Blair commenced a "Faint Hope" Application through which, if successful, the number of years of imprisonment during which Mr. Blair is ineligible to apply for parole will be reduced. Mr. Blair's "Faint Hope" application is pending before the Superior Court of Justice. When it may be heard is unknown.

[19] Mr. Blair had previously been evaluated as a member of the "M&E (Markham & Eglington) Crew Bloods", a security threat group operating in Toronto. On December 14, 2018, Mr. Blair had his security threat group affiliation membership status changed from "active" to "inactive". The change in Mr. Blair's security threat group affiliation status is argued as a beneficial change for the purposes of his "Faint Hope" application.

[20] Mr. Blair's affiliation with a security threat group was reassessed by the Beaver Creek Institution in the late fall of 2021 and early months of 2022 following the seizure of a smart phone and Micro SD card from Mr. Blair's cell. Mr. Blair has acknowledged being the owner of the Micro SD card at issue. The information contained on the Micro SD card includes photos and open source resource information on other persons having ties to security threat groups in

Toronto as well as maps associating various security threat groups to neighbourhoods depicted on the maps.

[21] The security intelligence officer who completed the reassessment reported that the Toronto Police Service was consulted and that it considers Mr. Blair as an active member of the M&E Crew Bloods. The security intelligence officer recommended that Mr. Blair's activity level or affiliation role with the M&E Crew Bloods security threat group be modified from "inactive" to "active".

[22] Mr. Blair was provided with the opportunity to rebut the security intelligence officer's assessment and recommendations both verbally and in writing, which he did on February 12 and February 14, 2022.

[23] The Beaver Creek Institution Head concurred with the recommendation of the security intelligence officer and, on March 10, 2022, decided to modify Mr. Blair's security threat group affiliation from "inactive" to "active". Mr. Blair's security threat group affiliation level was modified accordingly.

[24] By way of relief sought, Mr. Blair this Court to set aside the Decision on the grounds that: a) the Institutional Head's decision is incorrect in law and/or unreasonable, b) includes reasons that fail to adequately consider Mr. Blair's arguments and evidence, and, more generally, c) violate procedural fairness.

III. **ANALYSIS**

A. ***Sufficiency of the Notice of Application for Judicial Review***

[25] Although the notice of application alleges that the Decision is incorrect in law, it neither alleges nor sets out any particulars about how the Decision is incorrect in law. The notice of application sets out that Mr. Blair relies on sections 3, 4, 23, 24, and 25 of the *CCRA*, and the *Commissioner's Directive 568-3: Identification and Management of Security Threat Groups*, but does not allege how these provisions might apply to bring one to conclude that the Decision is incorrect in law or unreasonable.

[26] Section 3 of the *CCRA* sets out the purpose of the correctional system while section 4 sets out the principles that guide the Correctional Service of Canada (the "Service") in achieving the purposes set out in section 3.

[27] Section 23 of the *CCRA* prescribes the information the Service is to take reasonable steps to obtain about a person when that person is sentenced, committed or transferred to a penitentiary and how the offender can access a to such information as would be disclosed under the *Privacy Act* and the *Access to Information Act*. Section 23 focusses on a specific period in time which is not relevant the Decision. Section 23 is of no assistance to Mr. Blair.

[28] Section 25 of the *CCRA* sets out the Service's duty to give, at the appropriate times, to the Parole Board of Canada, provincial governments, provincial parole boards, police, and any body authorized by the Service to supervise offenders, all information under its control that is relevant to release decision-making or to the supervision or surveillance of offenders. Section 25

is of no assistance to Mr. Blair as the Decision does not involve any of the described section 25 recipients of information or whether information, complete or not, was provided to them.

[29] Subsection 24(1) of the *CCRA* sets out the Service's obligation to take reasonable steps to ensure that any information about an offender that it uses is as accurate, updated and complete as possible. This section is sufficiently broad in its scope to include information the Service may have with respect to Mr. Blair's security threat group affiliation through time including in 2022 (*Ewert v. Canada*, 2018 SCC 30 (CanLII), [2018] 2 SCR 165, at paragraphs 37 to 45). Subsection 24(1) might be of assistance to Mr. Blair in his application, but there are no allegations of any failure by the Service to take reasonable steps to update its information on Mr. Blair in breach of subsection 24(1), or how those failures make the Decision incorrect in law or unreasonable.

[30] Subsection 24(2), of narrower scope, provides an opportunity for an offender to request that the Service correct the information the Service has compiled pursuant to subsection 23(1) if the offender believes the information is inaccurate. Like sections 23 and 25 of the *CCRA*, subsection 24(2) is of no assistance to Mr. Blair in alleging how the Decision is incorrect in law or unreasonable because it applies to the information collected pursuant to subsection 23(1) and a request for correction of the same.

[31] The notice of application also does not allege how the Decision is unreasonable other than that Mr. Blair contests the facts accepted by the decision-maker as the basis for his Decision.

[32] The notice of application does not plead how Mr. Blair's right to procedural fairness was violated despite his written and verbal submissions to the Institutional Head prior to the Decision being made.

[33] The most detailed portions of the notice of application reiterate the summary rationale contained in the *Assessment of Affiliation with a Security Threat Group* that contains the Decision, and summarize Mr. Blair's rebuttal submissions against a change in his security threat group affiliation. These brief submissions are completed by a verbatim reiteration of the brief reasons provided for the Decision. No particulars of what is being objected to are pleaded.

[34] Finally, Mr. Blair's pleads that he filed his "Faint Hope" application on June 2, 2021, and that it remains pending before the Superior Court of Justice in Ontario. He pleads that the Decision, if left undisturbed, will be before the Court hearing his "Faint Hope" application and will have significant and adverse impacts on his likelihood of success at having his parole ineligibility reduced. Despite this allegation, there is no allegation that the Decision's speculative effect on the "Faint Hope" application constitutes an exceptional circumstance that renders the grievance process under the *CCRA* inadequate as a remedy.

[35] On the basis of the foregoing, I am of the view that Mr. Blair's notice of application for judicial review fails to adequately plead the minimum concise, complete and exhaustive grounds that are required to be pleaded for this Court to potentially grant the relief sought on the merits of the application. Although an amendment could perhaps save the application and complete its general outline, no leave to amend was sought by Mr. Blair.

[36] For the reasons that follow, however, whether an amendment could remedy the application's deficiencies is an academic question that need not be answered.

B. ***The Principle of Exhaustion and Exceptional Circumstances***

[37] As referred to above, the AG pleads that Mr. Blair's application for judicial review should be struck on the basis that it is premature because he has not exhausted the grievance process available to him pursuant to sections 90 and 91 *CCRA* and the *Regulations*.

[38] In his written representations, Mr. Blair admits that he has not exhausted the Service's internal grievance process.

[39] He similarly admits in his written representations that while the Service's internal grievance process may be an adequate alternative to judicial review in most cases, exceptional circumstances exist in this case that make the grievance system an inadequate alternative remedy.

[40] The exceptional circumstances he relies upon are that: a) the Decision will have and will have significant and adverse impacts on his likelihood of success on his "Faint Hope" Application; and, b) the grievance process might not conclude prior to his "Faint Hope" Application being heard. Only the first of these is pleaded in the notice of application, and it is not pleaded as an exceptional circumstance.

[41] Judicial review is a discretionary remedy that the court will consider when there is no adequate alternative remedy available to the aggrieved applicant (*Harelkin v University of Regina*, 1979 CanLII 18 (SCC), [1979] 2 SCR 561, 26 NR 364; *Nome v. Canada*, 2016 FC 187: at paras 19 and following).

[42] In *Canada (Border Services Agency) v. C.B. Powell Limited*, 2010 FCA 61 (CanLII) ("*C.B. Powell*"), at paragraphs 30 to 33, this Court wrote about the well-established principle of judicial non-interference with ongoing administrative proceedings. It has been reiterated through many of this Court's decisions since (*Dugré v. Canada (Attorney General)*, 2020 FC 789 (CanLII), at paragraphs 24 to 57). The normal rule that follows this principle is that parties can proceed to the court system only after all adequate remedial recourses in the administrative process have been exhausted. The importance of this rule in Canadian administrative law is well-demonstrated by the large number of decisions of the Supreme Court of Canada on point. The general point of the rule is that, absent exceptional circumstances, courts should not interfere with ongoing administrative processes until after they are completed, or until the available, effective remedies within that process are exhausted. Stated differently, applicants for judicial review are required, in principle, to exhaust all possible remedies available to them in the administrative process prior to asking the court to judicially review the decision complained of.

[43] Considering the admission contained in his written representations, it appears that Mr. Blair is aware of the grievance process established by sections 90 and 91 of the *CCRA* and its *Regulations* that is available to him. The scope of the grievance process through the *CCRA* is very broadly defined at section 90 of the *CCRA* as including offenders' grievances on matters

within the jurisdiction of the Commissioner of Corrections. The Commissioner's jurisdiction extends to the control and management of the Service and all matters connected with the Service pursuant to subsection 6(1) of the *CCRA*. In my view, a grievance from the Decision that followed an assessment of an offender's affiliation with a security threat group falls within the broad scope of the grievance process created by Parliament to be followed by offenders, including by Mr. Blair. Mr. Blair does not suggest that the Decision is beyond the scope of the grievance process established by statute.

[44] This Court's jurisprudence has generally held that the grievance process available through sections 90 and 91 of the *CCRA* is an adequate alternative remedy that must be exhausted prior to seeking judicial review *Giesbrecht v. Canada*, 1998 CanLII 7905, at paragraph 14; *MacInnes v Mountain Institution*, 2014 FC 212, at paragraph 17; *Nome v Canada (Attorney General),* 2016 FC 187, at paragraphs 21, 22, *Nome v Canada (Attorney General)*, 2018 FC 1054 at paragraph 7; *Thompson v Canada (Correctional Service)*, 2018 FC 40 at paragraphs 14 to 17).

[45] The Court will intervene and will allow the grievance process to be bypassed where there are exceptional circumstances (*Rose v Canada (Attorney General),* 2011 FC 1495 at para 35; *Nickerson v. Canada (Correctional Service)*, 2019 FC 1136 (CanLII), at paragraphs 15 and 16).

[46] Exceptional circumstances have been generally described as being, "cases of emergency, evident inadequacy in the procedure, or where physical or mental harm is caused to an inmate" (*Rose v Canada (Attorney General)*, 2011 FC 1495 at para 35; *Marleau v Canada (Attorney*

General), 2011 FC 1149 at para 34; *Gates v Canada (Attorney General)*, 2007 FC 1058, 316 FTR 82 at para 26). This list of exceptional circumstances is not exhaustive. Very few circumstances qualify as "exceptional" and the threshold for exceptionality is high. Concerns about procedural fairness or bias, the presence of an important legal or constitutional issue, or the fact that all parties have consented to early recourse to the courts are not exceptional circumstances allowing parties to bypass an administrative process, as long as that process allows the issues to be raised and an effective remedy to be granted (*C.B. Powell*, *supra*, at paragraph 33).

[47] Mr. Blair argues that the effect his modified security threat group affiliation assessment on his "Faint Hope" application is an "exceptional circumstance" that renders the grievance process inadequate as an alternative remedy. He argues that the decision will have significant and adverse impacts on his likelihood of success on his "Faint Hope" application pending before the Superior Court of Justice. His written representations address the various steps involved in a "Faint Hope" application, that the application goes to a screening judge at the Superior Court of Justice, that the judge appointed to preside over Mr. Blair's "Faint Hope" application was appointed on June 14, 2021, and that Mr. Blair's "Faint Hope" Application has been pending for a year, and will likely be determined prior to the grievance process being completed. None of these points were alleged in the notice of application.

[48] Mr. Blair also argues that the Decision is impacting his daily life at the Beaver Creek Institution because it has slowed his ability to progress within the institution, to cascade to lower

levels security, and poses a potential threat to his safety. No grounds were not alleged in the notice of application in support of this argument.

[49] In *Karas v. Canada (Attorney General),* 2020 FC 345 (CanLII) (*"Karas"*), this Court considered whether an offender's application for judicial review from a decision regarding the offender's security level of maximum, medium or minimum should be dismissed because the offender had not exhausted the internal complaints process set out in the *CCRA.* The offender argued, as Mr. Blair does here, that the potential for his position to be weakened in another proceeding, specifically, on a 745.6 Criminal Code "Faint Hope" application, as a result of the decision sought to be reviewed outside of the grievance process constituted an exceptional circumstance sufficient for the Court to bypass the requirement that the internal complaints process be exhausted. This Court was unpersuaded because the outcome of success on the "Faint Hope" application was speculative and unsupported by evidence (*Karas* at paras. 21 and 22).

[50] Although *Karas* was decided on the merits of an application for judicial review and not on a motion to strike, it is instructive for the purposes of this motion in that it clarifies that the potential impact of a decision on an applicant's prospects of success in a separate "Faint Hope" application does not constitute an "exceptional circumstance" that should permit the applicant to by-pass the obligation to exhaust the alternative grievance process available to him.

[51] Mr. Blair argues that *Karas* is distinguishable from this case because the security threat group affiliation at issue here is more prejudicial than a security classification change in *Karas* may be in a "Faint Hope" application. Although there may be different impacts to be appreciated

on a proper evidentiary record in connection with different security classifications, there is no evidence before me to support the argument being made and there are no allegations in support of the argument in the notice of application. Mr. Blair's argument is otherwise not persuasive because it fails to address the speculative and unsupported nature of the alleged prejudicial impact on Mr. Blair's likelihood of success in another proceeding.

[52] The allegations made in Mr. Blair's notice of application do not reflect a case of emergency, physical or mental harm of the type accepted by the Court in *Gates v. Canada (Attorney General),* 2007 FC 1058 (CanLII) as constituting an exceptional circumstance. *Gates* was concerned with a situation of real and immediate health concerns due to temperature changes and the obligation imposed upon the Service to provide a healthy environment for offenders in penitentiaries. The exceptional circumstance at issue there fell squarely within the exceptional circumstances related to physical or mental harm to an inmate.

[53] Although there is an argument to be made that the grievance procedure to be followed may be too slow to deliver a result before a Mr. Blair's "Faint Hope" application has been determined that suggestion remains only an argument without foundation. The time required for the grievance process to run its course was not alleged in the application, and no admissible evidence was tendered in support of the argument.

[54] It is my view that there is no exceptional circumstance in this case as pleaded that could potentially exempt Mr. Blair from exhausting the grievance process prescribed by the *CCRA*.

IV. **CONCLUSION**

[55] For the reasons set out above, I grant the AG's motion and strike Mr. Blair's application for judicial review without leave to amend because it is bereft of any possibility of success. The obvious and fatal flaw striking at the root of this Court's power to hear Mr. Blair's application for judicial review at this time is the existence of an adequate alternative remedy through the *CCRA* that must be exhausted by Mr. Blair prior to this Court intervening. There are no exceptional circumstances in this case that permit the Court to by-pass the grievance process created by Parliament.

THIS COURT ORDERS that

1. The Attorney General of Canada's motion to strike the application for judicial review commenced by Mr. Blair in this proceeding is granted.
2. Mr. Blair's application for judicial review is struck without leave to amend.
3. The parties are encouraged to confer and come to an agreement as to costs. If the parties are unable to agree, the Attorney General may serve and file written representations on costs not exceeding 3 pages (excluding schedules or appendices) within 15 days of this Order, and Mr. Blair may serve and file written representations on costs not exceeding 3 pages (excluding schedules or appendices) within 15 days thereof.

"Benoit M. Duchesne"
Prothonotary

FEDERAL COURT

SOLICITORS OF RECORD

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SOLICITORS OF RECORD:

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