

Federal Court



Cour fédérale

Date: 20240729

Docket: T-2349-23

Citation: 2024 FC 1201

Ottawa, Ontario, July 29, 2024

PRESENT: The Honourable Mr. Justice Pamel

BETWEEN:

DR STEPHEN FOX

Applicant

and

**CANADA (FEDERAL MINISTER OF
PUBLIC SAFETY & THE ATTORNEY
GENERAL OF CANADA)**

Respondent

ORDER AND REASONS

I. Overview

[1] In the underlying application, Dr. Stephen Fox, a self-represented litigant, seeks judicial review of the decision taken by the Minister of Public Safety and Emergency Preparedness [the Minister] to list Dr. Fox as an individual pursuant to section 8 of the *Secure Air Travel Act*, SC 2015, c 20, s 11 [SATA] – colloquially referred to as a “no-fly list” [the List] – between October 2 and 20, 2023 inclusive. According to Dr. Fox, this had the effect of prohibiting him

from travelling from the United Kingdom to Canada to testify in his own defence at the continuation of his criminal trial, which had begun on April 11, 2023, was adjourned, and set to resume on October 16, 2023, thereby leading to him subsequently being found guilty on a lesser offence; it would seem Dr. Fox was thereafter conditionally discharged with forfeiture of seized items.

[2] Dr. Fox claims that he became “aware of his inclusion as a “listed person” on [October 8, 2023] during a phone call to the Canadian Government Emergency Watch Centre for Canadian Citizens Abroad [the Watch Centre]”, and alleges that he was placed on the List specifically so that he would be prevented from so testifying; he asserts that “[t]he only way the Crown could ensure a guilty verdict was to find [Dr. Fox], in absentia, had absconded and subsequently declare him guilty in his absence” and that the “notional finding of guilt at the provincial level was contrived purely to limit the liability of the Crown in any future civil litigation that [Dr. Fox] might bring against the Crown.” According to Dr. Fox:

This criminal matter is intrinsically linked to a matter known as the [Vancouver Island Health Authority]-COVID hospital sex scandal which occurred in British Columbia in the second and third quarters of 2020 during the COVID-19 pandemic. This scandal implicated senior medical staff, rehabilitation staff and RCMP officers. Supposedly on duty, these individuals, using their employment rosters as alibis, met for extramarital sex away from their places off [*sic*] work, breaking all lockdown and public health mandates.

Fearful that this scandal would undermine confidence in the federal and provincial governments during the COVID-19 public health emergency, the Crown embarked on a cover-up targeting [Dr. Fox] over the past 3 years which resulted in the financial and professional ruin of the applicant. More importantly this has resulted in the applicant being kept away from his two daughters over the past 3 years and in the animal murder of one of his dogs and the surrender of the other to the SPCA.

[3] In his underlying application, Dr. Fox seeks the following relief, which I summarize:

- i. A written confirmation of his inclusion on the List between October 2 and 20, 2023 and disclosure of the Minister’s detailed reasoning for his inclusion as a “listed person” between those dates.
- ii. An Order that Dr. Fox not be relisted pursuant to section 8 of SATA without the Minister first seeking the approval of the Court and providing sufficient evidence to warrant such an action.
- iii. A declaration that the inclusion of Dr. Fox on the List between October 2 and 20, 2023 was unlawful.

[4] Why Dr. Fox requires confirmation of his inclusion on the List is unclear. However, he states that his underlying application will be supported by his affidavit with multiple exhibits including audio recordings of telephone calls between Dr. Fox and the Watch Centre on October 8, 2023, as well as between Dr. Fox and WestJet Airlines on October 12, 2023. In addition, as part of his underlying application for judicial review, Dr. Fox requests that the Minister and the AGC:

send a certified copy of the following material that is not in the possession of the applicant but is in the possession of said Ministers to the applicant and to the Registry. Specifically all communications/telephone notes/information that the responsible ministers received or sent to the sources listed below – before, during and after making this decision:

- i. the Minister of Transport;
- ii. the Minister of Citizenship and Immigration;
- iii. a member of the Royal Canadian Mounted Police or a civilian employee of that police force;
- iv. the Director or an employee of the Canadian Security Intelligence Service;
- v. an officer or employee of the Canada Border Services Agency; and

- vi. any other person or entity prescribed by regulation;
- vii. any other person or entity not prescribed by regulation.

[5] I should mention that other than Dr. Fox's bald assertions, nothing in the record suggests any conspiracy or the existence of any sex scandal involving the Vancouver Island Health Authority, which the Crown seemingly wanted covered up. In addition, and although Dr. Fox identifies his criminal case docket number in the Provincial Court of British Columbia, there is no evidence as to whether Dr. Fox sought to appear at his criminal trial to give testimony by alternate means, say by video or telephone conference. Nor does the record contain a copy of the decision or decisions of the trial judge in the criminal case which may answer many of the remaining unanswered questions in this case, such as the nature of the charges, the reason for and who requested the postponement, any evidence given to the trial judge as to whether Dr. Fox was even included on the List, what efforts were made by Dr. Fox to actually attend the continuation of his trial after he had travelled to the United Kingdom, or why the trial judge found Dr. Fox to have absconded from his trial in the first place.

[6] That aside, the Attorney General of Canada [the AGC] now brings a motion to strike the underlying application in its entirety, without leave to amend. The AGC argues, firstly, that the underlying application is premature as Dr. Fox has not exhausted the administrative recourse available to him under the SATA. In addition, the AGC claims that this Court has no jurisdiction to consider the matter by way of an application for judicial review as the SATA expressly provides for an appeal of the decision of the Minister under section 15 thereof to this Court pursuant to section 16 of the SATA. Consequently, the underlying proceeding, being in the form

of application for judicial review, should be struck on procedural grounds in accordance with section 18.5 of the *Federal Courts Act*, RSC 1985, c F-7.

[7] In his response, Dr. Fox asserts, for the first time, that he did in fact avail himself of the administrative recourse of section 15 of the SATA when his solicitors sent a letter to the Minister to have his name removed from the List; Dr. Fox includes in his response a copy of the letter from his solicitors to the Minister dated October 9, 2023, requesting that he, Dr. Fox, be removed from the List on account of having to travel to testify at the resumption of his criminal trial. It would seem as though the Minister obliged, as Dr. Fox's name was supposedly removed from the List on October 20, 2023; however, according to Dr. Fox, the Minister failed to notify him of the decision. As to the procedural argument set out by the AGC, Dr. Fox argues that Rule 57 of the *Federal Courts Rules*, SOR/98-106, provides that an originating document shall not be set aside simply because a different originating document should have been used.

[8] In his reply submissions, and in addition to the AGC's initial arguments, the AGC argues that given the late disclosure by Dr. Fox of his having availed himself of section 15 of the SATA and that, as a result, his name was in fact removed from the List on October 20, 2023, the fact remains that Dr. Fox's claim is now moot as the granting of his administrative application leaves no room for an appeal under section 16 of the SATA.

[9] For the reasons that follow, I agree with the AGC's submissions. The present motion to strike will be granted without leave to amend.

II. Relevant Legislation

[10] I set out the relevant provisions of the SATA in the annex to my decision.

[11] In *Brar v Canada (Public Safety and Emergency Preparedness)*, 2022 FC 1168 [*Brar FC*], aff'd 2024 FCA 114 [*Brar FCA*], this Court provided a comprehensive review and analysis of the SATA; in short, section 8 of the SATA provides for the establishment of a list by the Minister (or their delegate) of persons whom they have “reasonable grounds to suspect” will engage in an act that would threaten transportation security or travel by air for the purpose of committing a specified Criminal Code offence. As the Federal Court of Appeal explains, being placed on this list does not trigger any immediate consequences, however “[e]ach time a person on the list tries to fly, the Minister decides whether a direction to an air carrier should be made concerning the listed person” (*Brar FCA* at para 2; subsection 9(1) of the SATA). Such directions may include directing an air carrier to deny transportation to a person on the no-fly list. When a denial of transportation is directed, the listed person is provided with a written notice to this effect. Prior to this step, the listed person would only know they were on the no-fly list if they had to apply for specific permission to travel into Canada via programs operated through the Canada Border Services Agency and/or Immigration, Refugees and Citizenship Canada. A listed person who has been denied transportation pursuant to section 9 of the SATA can apply to the Minister in writing to have their name removed from the list pursuant to subsection 15(1).

[12] Section 16 of the SATA provides for an appeal to the Federal Court of decisions made pursuant to the administrative recourse provisions in section 15 of the SATA. A judge hearing an

appeal pursuant to section 16 of the SATA may order that the appellant's name be removed from the list if it is found that the section 15 decision was unreasonable (subsection 16(5) of the SATA).

III. Analysis

[13] It is clear that Dr. Fox utilized an improper originating document; he should have filed a Notice of Appeal rather than proceed by way of an application for judicial review. However, I agree with him that this is not fatal, and it is within the power of this Court to allow him to rectify the situation.

[14] I also note Dr. Fox's assertion, although somewhat late in the day, that he did avail himself of the administrative remedies of section 15 of the SATA. Although the AGC is correct in saying that Dr. Fox cannot introduce evidence on a motion to strike, and that his recourse under section 15 of the SATA should have been alleged in his underlying proceeding, the fact remains that this glitch can be overcome by way of an amendment.

[15] The reason I am granting the present motion, however, is because, taking Dr. Fox's assertions as being true, availing himself of his administrative recourse was successful, and his name was removed from the List on October 20, 2023. I agree with the AGC that even if I were to allow Dr. Fox to amend his pleadings, any appeal is limited to a decision referred to in section 15 (subsection 16(2) of the SATA), that a judge hearing an appeal may only determine the reasonableness of the Minister's decision taken under section 15, and where such a decision is unreasonable, may order that the appellant's name be removed from the List (subsection 16(5)

of the SATA). Given that Dr. Fox's administrative application was seemingly successful and that his name was removed from the List, there is no basis for any appeal. Even in the case of a non-response by the Minister, as alleged by Dr. Fox, the Minister is deemed to have decided to remove Dr. Fox's name from the List (subsection 15(6) of the SATA); either way, any appeal would therefore be moot.

[16] Nevertheless, the issue of mootness does not necessarily end there. Generally, courts will not decide an issue that has become moot; however, where the matter is moot, it is necessary to determine whether the court should nonetheless exercise its discretion to hear the case, guided by three policy imperatives: first, whether an adversarial context continues to exist between the parties; second, concern for judicial economy; and third, whether in rendering its decision, the court would be encroaching upon the legislative sphere rather than fulfilling its role as the adjudicative branch of government (*Borowski v Canada (Attorney General)*, [1989] 1 SCR 342 at pp 353 to 363; *Canada (Public Safety and Emergency Preparedness) v Kaygisiz*, 2024 FC 693 at para 9); *Canada (Public Safety and Emergency Preparedness) v Boampong*, 2021 FC 1187 at para 40). In this case, nothing suggests that there remains a live controversy between the parties; Dr. Fox's inclusion on the List is no longer, and no argument is made that there continues to be a live issue to nourish any further appeal. As such, no amendment to the underlying proceeding, whether in form or substance, will change that.

[17] In reviewing the relief sought in his underlying application, what Dr. Fox seems to seek is the reason why his name was included on the List in the first place. It appears to me that there are other avenues available to obtain this information such as a request under the *Access to*

Information Act, RSC 1985, c A-1. An appeal under section 16 of the SATA of a positive decision which effectively removed one's name from the List is not such an avenue.

[18] As regards costs, and having regard to the factors set forth in Rule 400(3), I fix costs payable by Dr. Fox at a lump sum amount of \$500.

ORDER in T-2349-23

THIS COURT ORDERS THAT:

1. The present motion filed by the Attorney General of Canada is granted; the underlying Notice of Application is struck in its entirety without leave to amend.
2. Dr. Fox shall pay to the Attorney General of Canada costs fixed in the lump sum amount of \$500.

"Peter G. Pamel"

Justice

ANNEX

Secure Air Travel Act, SC
2015, c 20, s 11

Loi sur la sûreté des
déplacements aériens,
LC 2015, ch 20, art 11

Delegation

7 The Minister may delegate his or her powers, duties and functions under this Act to any officer or employee, or any class of officers or employees, of the Department of Public Safety and Emergency Preparedness.

Délégation

7 Le ministre peut déléguer les attributions qui lui sont conférées sous le régime de la présente loi à un dirigeant ou à un fonctionnaire, individuellement ou au titre de son appartenance à telle catégorie de personnes, du ministère de la Sécurité publique et de la Protection civile.

Exemption power — urgent situations, etc.

7.1 (1) The Minister may, by order, on any terms that may be specified in the order, exempt an air carrier or a class of air carriers from the application of subsection 6(2) or of a provision of the regulations with respect to any flight specified in the order if, in his or her opinion,

(a) the urgency of a situation or circumstances beyond the air carrier's control would make it difficult for it to comply with that subsection or provision; and

(b) the exemption is not likely to adversely affect transportation security.

Exemption from *Statutory Instruments Act***Pouvoir d'exempter — situations urgentes, etc.**

7.1 (1) Le ministre peut, par arrêté, aux conditions qui peuvent y être précisées, soustraire un transporteur aérien ou une catégorie de transporteurs aériens à l'application du paragraphe 6(2) ou de l'une des dispositions des règlements, relativement à tout vol précisé dans l'arrêté, lorsqu'il juge, d'une part, que l'urgence d'une situation ou que des circonstances indépendantes de la volonté du transporteur aérien rendent difficile le fait de se conformer à ce paragraphe ou à cette disposition et, d'autre part, que la sûreté des transports ne risque pas d'être compromise.

Loi sur les textes réglementaires

(2) An order made under subsection (1) is exempt from the application of the *Statutory Instruments Act*.

Exemption power — tests

7.2 The Minister may, by order, for any period and on any terms that may be specified in the order, exempt an air carrier or a class of air carriers from the application of a provision of the regulations to allow for the conduct of tests, including tests of new kinds of technologies and tests of alternative measures to those set out in the provision, so as to allow him or her to determine whether any changes to the regulations are required as a result, if, in his or her opinion, the exemption is not likely to adversely affect transportation security.

List

8 (1) The Minister may establish a list on which is placed the surname, first name and middle names, any alias, the date of birth and the gender of any person, and any other information that is prescribed by regulation that serves to identify the person, if the Minister has reasonable grounds to suspect that the person will

(a) engage or attempt to engage in an act that would

(2) Est soustrait à l'application de la *Loi sur les textes réglementaires* tout arrêté pris en vertu du paragraphe (1).

Pouvoir d'exempter — essais

7.2 S'il est d'avis que la sûreté des transports ne risque pas d'être compromise, le ministre peut, par arrêté, pour la période et aux conditions qui peuvent y être précisées, soustraire un transporteur aérien ou une catégorie de transporteurs aériens à l'application de toute disposition des règlements, afin de permettre la conduite d'essais, notamment à l'égard de nouvelles technologies ou de procédures de rechange à ce qui est prévu à cette disposition, de façon à permettre au ministre d'établir en conséquence si des changements réglementaires sont nécessaires.

Liste

8 (1) Le ministre peut établir une liste sur laquelle il inscrit les nom et prénoms, tout nom d'emprunt, la date de naissance et le genre de toute personne — ainsi que tout autre renseignement prévu par règlement permettant de l'identifier, à l'égard de laquelle il a des motifs raisonnables de soupçonner qu'elle :

a) soit participera ou tentera de participer à un acte qui

threaten transportation security; or

(b) travel by air for the purpose of committing an act or omission that

(i) is an offence under section 83.18, 83.19 or 83.2 of the *Criminal Code* or an offence referred to in paragraph (c) of the definition *terrorism offence* in section 2 of that Act, or

(ii) if it were committed in Canada, would constitute an offence referred to in subparagraph (i).

menacerait la sûreté des transports;

b) soit se déplacera en aéronef dans le but de commettre un fait — acte ou omission — qui :

(i) constitue une infraction visée aux articles 83.18, 83.19 ou 83.2 du *Code criminel* ou à l'alinéa c) de la définition de *infraction de terrorisme* à l'article 2 de cette loi,

(ii) s'il était commis au Canada, constituerait une des infractions mentionnées au sous-alinéa (i).

Review of list

(2) The Minister must review the list every 90 days to determine whether the grounds for which each person's name was added to the list under subsection (1) still exist and whether the person's name should remain on the list. The review does not affect the validity of the list.

Amendment of list

(3) The Minister may at any time amend the list

(a) by deleting the name of a person and all information relating to them if the grounds for which their name was added to the list no longer exist; or

Examen périodique de la liste

(2) Tous les quatre-vingt-dix jours, le ministre examine la liste afin de déterminer si les motifs sur lesquels il s'est basé pour inscrire le nom de chaque personne en vertu du paragraphe (1) existent encore et si le nom de la personne devrait demeurer sur la liste. L'examen est sans effet sur la validité de la liste.

Modifications apportées à la liste

(3) Le ministre peut en tout temps modifier la liste pour :

a) soit enlever le nom d'une personne de la liste ainsi que tout renseignement la visant, si les motifs pour lesquels le nom a été inscrit sur la liste n'existent plus;

(b) by changing the information relating to a listed person.

b) soit modifier les renseignements visant une personne inscrite.

Exemption from *Statutory Instruments Act*

Loi sur les textes réglementaires

(4) The list is exempt from the application of the *Statutory Instruments Act*.

(4) La liste est soustraite à l'application de la *Loi sur les textes réglementaires*.

Directions

Directives

9 (1) The Minister may direct an air carrier to take a specific, reasonable and necessary action to prevent a listed person from engaging in any act set out in subsection 8(1) and may make directions respecting, in particular,

9 (1) Le ministre peut enjoindre à un transporteur aérien de prendre la mesure raisonnable et nécessaire qu'il précise en vue d'éviter qu'une personne inscrite commette les actes visés au paragraphe 8(1). Il peut en outre lui donner des directives relatives, notamment :

- (a) the denial of transportation to a person; or
- (b) the screening of a person before they enter a sterile area of an airport or board an aircraft.

- a) au refus de transporter une personne;
- b) au contrôle dont une personne fait l'objet avant d'entrer dans une zone stérile de l'aéroport ou de monter à bord d'un aéronef.

Exemption from *Statutory Instruments Act*

Loi sur les textes réglementaires

(2) A direction made under subsection (1) is exempt from the application of the *Statutory Instruments Act*.

(2) Est soustraite à l'application de la *Loi sur les textes réglementaires* toute directive donnée en vertu du paragraphe (1).

...

[...]

Application to Minister

Demande de radiation

15 (1) A listed person who has been denied transportation as a result of a direction made under section 9 may, within 60 days after the day on which they are denied transportation, apply in writing to the

15 (1) La personne inscrite ayant fait l'objet d'un refus de transport à la suite d'une directive donnée en vertu de l'article 9 peut, dans les soixante jours suivant le refus, demander par écrit au ministre

Minister to have their name removed from the list.

Exceptional circumstances

(2) If the Minister is satisfied that there are exceptional circumstances that warrant it, the Minister may extend the time limit set out in subsection (1).

Representations

(3) The Minister must afford the applicant a reasonable opportunity to make representations.

Application to Minister

(4) On receipt of the application, the Minister must decide whether there are still reasonable grounds to maintain the applicant's name on the list.

Notice of decision to applicant

(5) The Minister must give notice without delay to the applicant of any decision made in respect of the application.

Deemed decision

(6) If the Minister does not make a decision in respect of the application within a period of 120 days after the day on which the application is received — or within a further period of 120 days, if the Minister does not have sufficient information to make a decision and he or she notifies the applicant of the extension within the first 120-day period — the Minister is

que son nom soit radié de la liste.

Prolongation

(2) Le ministre, s'il est convaincu qu'il existe des circonstances exceptionnelles le justifiant, peut prolonger le délai visé au paragraphe (1).

Observations

(3) Le ministre accorde au demandeur la possibilité de faire des observations.

Décision du ministre

(4) À la réception de la demande, le ministre décide s'il existe encore des motifs raisonnables qui justifient l'inscription du nom du demandeur sur la liste.

Avis de la décision au demandeur

(5) Le ministre donne sans délai au demandeur un avis de la décision qu'il a rendue relativement à la demande.

Présomption

(6) S'il ne rend pas sa décision dans les cent vingt jours suivant la réception de la demande ou dans les cent vingt jours suivant cette période s'il n'a pas suffisamment de renseignements pour rendre sa décision et qu'il en avise le demandeur durant la première période de cent vingt jours, le ministre est réputé avoir

deemed to have decided to remove the applicant's name from the list.

Decisions under this Act

16 (1) This section applies in respect of any appeal of any direction made under section 9 and any decision made under section 8 or 15 by the Minister.

Application

(2) A listed person who has been denied transportation as a result of a direction made under section 9 may appeal a decision referred to in section 15 to a judge within 60 days after the day on which the notice of the decision referred to in subsection 15(5) is received.

Extension

(3) Despite subsection (2), a person may appeal within any further time that a judge may, before or after the end of those 60 days, fix or allow.

Determination

(4) If an appeal is made, the judge must, without delay, determine whether the decision is reasonable on the basis of the information available to the judge.

Removal from list

(5) If the judge finds that a decision made under section 15 is unreasonable, the judge

décidé de radier de la liste le nom du demandeur.

Décisions au titre de la présente loi

16 (1) Le présent article s'applique à toute demande d'appel d'une directive donnée en vertu de l'article 9 et d'une décision du ministre prise au titre des articles 8 ou 15.

Demande

(2) La personne inscrite ayant fait l'objet d'un refus de transport à la suite d'une directive donnée en vertu de l'article 9 peut présenter à un juge une demande d'appel de la décision visée à l'article 15 dans les soixante jours suivant la réception de l'avis visé au paragraphe 15(5).

Délai supplémentaire

(3) Malgré le paragraphe (2), une personne peut présenter une demande d'appel dans le délai supplémentaire qu'un juge peut, avant ou après l'expiration de ces soixante jours, fixer ou accorder.

Décision

(4) Dès qu'il est saisi de la demande, le juge décide si la décision est raisonnable compte tenu de l'information dont il dispose.

Radiation de la liste

(5) S'il conclut que la décision visée à l'article 15 n'est pas raisonnable, le juge peut

may order that the appellant's name be removed from the list.

Procédure

(6) The following provisions apply to appeals under this section:

(a) at any time during a proceeding, the judge must, on the request of the Minister, hear information or other evidence in the absence of the public and of the appellant and their counsel if, in the judge's opinion, its disclosure could be injurious to national security or endanger the safety of any person;

(b) the judge must ensure the confidentiality of information and other evidence provided by the Minister if, in the judge's opinion, its disclosure would be injurious to national security or endanger the safety of any person;

(c) throughout the proceeding, the judge must ensure that the appellant is provided with a summary of information and other evidence that enables them to be reasonably informed of the Minister's case but that does not include anything that, in the judge's opinion, would be injurious to national security or endanger the

ordonner la radiation du nom de l'appelant de la liste.

Procédure

(6) Les règles ci-après s'appliquent aux appels visés au présent article :

a) à tout moment pendant l'instance et à la demande du ministre, le juge doit tenir une audience à huis clos et en l'absence de l'appelant et de son conseil dans le cas où la divulgation des renseignements ou autres éléments de preuve en cause pourrait porter atteinte, selon lui, à la sécurité nationale ou à la sécurité d'autrui;

b) il lui incombe de garantir la confidentialité des renseignements et autres éléments de preuve que lui fournit le ministre et dont la divulgation porterait atteinte, selon lui, à la sécurité nationale ou à la sécurité d'autrui;

c) il veille tout au long de l'instance à ce que soit fourni à l'appelant un résumé de la preuve qui ne comporte aucun élément dont la divulgation porterait atteinte, selon lui, à la sécurité nationale ou à la sécurité d'autrui et qui permet à l'appelant d'être suffisamment informé de la thèse du ministre à

safety of any person if disclosed;

(d) the judge must provide the appellant and the Minister with an opportunity to be heard;

(e) the judge may receive into evidence anything that, in the judge's opinion, is reliable and appropriate, even if it is inadmissible in a court of law, and may base a decision on that evidence;

(f) the judge may base a decision on information or other evidence even if a summary of that information or other evidence has not been provided to the appellant;

(g) if the judge determines that information or other evidence provided by the Minister is not relevant or if the Minister withdraws the information or evidence, the judge must not base a decision on that information or other evidence and must return it to the Minister; and

(h) the judge must ensure the confidentiality of all information or other evidence that the Minister withdraws.

Definition of *judge*

(7) In this section, ***judge*** means the Chief Justice of the Federal Court or a judge of

l'égard de l'instance en cause;

d) il donne à l'appellant et au ministre la possibilité d'être entendus;

e) il peut recevoir et admettre en preuve tout élément — même inadmissible en justice — qu'il estime digne de foi et utile et peut fonder sa décision sur celui-ci;

f) il peut fonder sa décision sur des renseignements et autres éléments de preuve même si un résumé de ces derniers n'est pas fourni à l'appellant;

g) s'il décide que les renseignements et autres éléments de preuve que lui fournit le ministre ne sont pas pertinents ou si le ministre les retire, il ne peut fonder sa décision sur ces renseignements ou ces éléments de preuve et il est tenu de les remettre au ministre;

h) il lui incombe de garantir la confidentialité des renseignements et autres éléments de preuve que le ministre retire de l'instance.

Définition de *juge*

(7) Au présent article, ***juge*** s'entend du juge en chef de la Cour fédérale ou du juge de

that Court designated by the
Chief Justice.

cette juridiction désigné par
celui-ci.

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: T-2349-23

STYLE OF CAUSE: DR STEPHEN FOX v. CANADA (FEDERAL
MINISTER OF PUBLIC SAFETY & THE ATTORNEY
GENERAL OF CANADA)

**MOTION IN WRITING CONSIDERED AT OTTAWA, ONTARIO PURSUANT TO
RULE 369 OF THE *FEDERAL COURTS RULES***

ORDER AND REASONS: PAMEL J.

DATED: JULY 29, 2024

APPEARANCES:

Dr. Stephen Fox

FOR THE APPLICANT
(ON HIS OWN BEHALF)
(RESPONDING PARTY)

Kevin Palframan

FOR THE RESPONDENT
(MOVING PARTY)

SOLICITORS OF RECORD:

Attorney General of Canada
Ottawa, Ontario

FOR THE RESPONDENT
(MOVING PARTY)