



CITIZENSHIP AND IMMIGRATION

IMMIGRATION PRACTICE

Application by respondent for order pursuant to *Immigration and Refugee Protection Act*, S.C. 2001, c. 27, s. 87 for non-disclosure of information or other evidence redacted from certified tribunal record — Respondent seeking to protect information that provides reason for cancellation of applicant's visa — Applicant, citizen of Kazakhstan, challenging visa officer's decision to cancel his Canadian multiple-entry visa on basis that purpose of his visit "was in doubt" — Applicant, wife, daughter using visas for short period in 2017 to visit applicant's step-daughter — Couple divorcing shortly after — Wife bringing their daughter to Canada without his permission in 2018 — Applicant attempting to return to enforce family court ruling, but visa cancelled because visa not used for intended purpose, i.e. tourism — Respondent filing motion on basis that disclosure of redacted information injurious to national security or endangering safety of any person — Whether s. 87 applying to evidence that respondent seeking to protect in underlying application for judicial review — Information respondent seeking to protect in this file not falling within ambit of Act, Division 9, cannot be protected by way of s. 87 motion — Conflict herein matter of statutory interpretation — Information under Division 9 defined as "security or criminal intelligence information and information that is obtained in confidence from a source in Canada, the Government of a foreign state, an international organization of states or an institution of such a government or international organization" — Jurisdiction to hear cases under Division 9 limited to that of Chief Justice or to judge specifically designated by Chief Justice — Division 9 cannot be read to apply to any confidential information that needs to be protected in any judicial review conducted under Act — Limitations to scope of Division 9 excluding information respondent seeking to protect in within application from ambit of s. 87 — Changes to Act, ss. 86, 87 intended for process to be applicable to inadmissibility proceedings, other immigration proceedings involving secret or classified information — Significant difference between, on one hand, confidential, secret, top secret or classified information as contemplated in various pieces of legislation concerning national security and, on the other hand, confidential or personal information as contemplated in privacy, personal information protection legislation — Type of information protected under s. 87 never disclosed to permanent resident or foreign national, dealt with in exceptional procedures before Court — S. 87 affording unique, robust layer of protection to secret or classified information not generally afforded to confidential or personal information protected by privacy laws or business interests — Visa officer concerned with privacy rights, not national security protection — S. 87 restricted to, *inter alia*, information pertaining to identity of targets of surveillance, technical means and sources of surveillance, method of surveillance — Parliament intending to limit "safety of any person" to individuals impacted by disclosure of secret or classified information — Other means for protecting personal, confidential information available, including confidentiality order issued pursuant to *Federal Courts Rules*, SOR/98-106, r. 151 — Respondent's interpretation of s. 87 could lead to abuse, eventually interfere with international child custody battles — Respondent failing to convince Court that disclosure of redacted evidence injurious to national security or endangering safety of any person — Motion dismissed.

X v. CANADA (CITIZENSHIP AND IMMIGRATION) (CONF-4-20, 2020 FC 864, Gagné J., reasons for order dated June 24, 2020, 19 pp.)