



[2021] 3 F.C.R. D-23

## SECURITY INTELLIGENCE

Public order dealing with (1) appropriateness, justification of redactions in Attorney General of Canada's (AGC) appeal book; (2) judicial task of providing appellant with summary of evidence, other information available to designated judge so as to enable appellant to be reasonably informed of Minister of Public Safety and Emergency Preparedness's case — Underlying proceeding appeal from Minister's decision to maintain appellant on no-fly list pursuant to *Secure Air Travel Act*, S.C. 2015, c. 20, s. 11 (SATA), ss. 15, 16 — *Ex parte, in camera* hearings held in November 2020 regarding redactions — Minister's witnesses in appellant's matter examined, cross-examined — Appropriate legal test with respect to disclosure in appeal under SATA whether disclosure of redacted information, other information adduced during *ex parte, in camera* hearings, would be injurious to national security or endanger safety of any person — If no, information must be disclosed to appellant — If yes, question becomes whether protected information can be disclosed to appellant in the form of summary or otherwise in way that would not be injurious to national security or endanger safety of any person — AGC having burden to satisfy designated judge that each redaction justified — Designated judge having to show deference to AGC's assessment of injury to national security — If redaction justified on national security grounds, designated judge having then to determine whether summary of protected information that does not contain any sensitive information can be provided to appellant so as to ensure he or she is reasonably informed of Minister's case — SATA, s. 16(6)(c) making it clear that such summaries must not contain anything that would be injurious to national security or endanger safety of any person if disclosed — Designated judge also having to ensure that appellant reasonably informed of Minister's case — Principles established by Supreme Court in *Canada (Citizenship and Immigration) v. Harkat*, 2014 SCC 37, [2014] 2 S.C.R. 33 in relation to *Immigration and Refugee Protection Act*, S.C. 2001, c. 27 requirement that named person be reasonably informed of Minister's case also applying to SATA appeal scheme — AGC identifying five categories of information to be protected — Each redaction of information in appeal book justified by AGC by one or more categories — Some redactions injurious if disclosed — Summary of allegations disclosed to appellant — New revised appeal book to contain further information resulting from determinations made in respect of contested redactions — As result of process herein, more information disclosed to appellant in form of lifts, partial lifts, summaries.

DULAI V. CANADA (PUBLIC SAFETY AND EMERGENCY PREPAREDNESS) (T-670-19, 2021 FC 933, Noël J., amended public reasons for order dated October 5, 2021, 54 pp.)