

Federal Court



Cour fédérale

**Date: 20180525**

**Docket: T-331-18**

**Citation: 2018 FC 545**

[ENGLISH TRANSLATION]

**Ottawa, Ontario, May 25, 2018**

**PRESENT: The Honourable Madam Justice Gagné**

**BETWEEN:**

**HASSENE BEN ABDESSLEM**

**Plaintiff**

**and**

**HER MAJESTY THE QUEEN**

**Defendant**

**ORDER AND REASONS**

[1] Hassene Ben Abdesslem brought an action for damages against Her Majesty the Queen, in which he finds her responsible for the wrongdoing of several individuals who he suspects of being Canadian Security Intelligence Service [CSIS] agents.

[2] Mr. Ben Abdesslem alleges that he was interrogated by CSIS agents when he arrived in Canada in 2001 and that, since then, he has been harassed by CSIS and other individuals, including his ex-spouse, who CSIS hired to entrap him.

[3] He made a number of unsuccessful attempts to confirm that he is, indeed, a CSIS target and that the individuals he names in his proceeding are CSIS agents or mandataries.

- (a) On June 16, 2016, he filed a complaint with the Security Intelligence Review Committee.
- (b) On April 2 and May 11, 2016, he filed access to information requests with CSIS.
- (c) He filed several complaints with the Office of the Privacy Commissioner of Canada.

[4] He alleges that, because of all these actions, the individuals he suspects of being CSIS agents or mandataries attacked him at his home during the night between September 24 and 25, 2016, seriously injuring his right hand.

[5] He filed an interlocutory application, essentially asking the court to order the defendant do the following:

1. Release all CSIS files that would allow a designated judge of this court to confirm the identity of CSIS agents and human sources that he suspects of “assaulting, intimidating, and harassing him, and being the agents behind the hoax terrorist plots”;
2. To disclose to the designated judge of this court the photos, and audio and video recordings used by CSIS to defame him and discredit him with those around him; and

3. To provide him or the designated judge of this court with copies of all the documents concerning him that CSIS has in its possession.

[6] First, it is important to note the Mr. Ben Abdesslem did not apply for a judicial review of the decisions described in paragraph 3 of these reasons, issued by the Security Intelligence Review Committee and by the Office of the Privacy Commissioner of Canada. Had he done so, he would have encountered a certain number of obstacles (see, for example, Mr. Justice Patrick Gleeson's recent decision in *VB v. Canada (Attorney General)*, 2018 FC 394).

[7] Furthermore, although his application was initially based on rules 317 and 318 of the *Federal Courts Rules*, SOR/98-106, during the hearing, Mr. Ben Abdesslem acknowledged that these provisions only apply to applications for judicial review and not to actions such as his. However, he did not clarify the actual basis of his motion for the court.

[8] In any event, I am of the opinion that Mr. Ben Abdesslem's motion is unfounded or, at the very least, premature, and that it has no purpose until the parties have filed their affidavit of documents as set out in rules 222 and following of the *Federal Courts Rules*. Once this takes place, Mr. Ben Abdesslem will have the right to examine the defendant's representative regarding all issues raised in his action.

[9] If necessary, the defendant must notify the Attorney General of Canada [AGC] of the possibility of the disclosure of sensitive information or information that is potentially injurious to international relations, defence, or national security within the meaning of section 38.01 of the *Canada Evidence Act* (R.S.C., 1985, c. C-5). If advised of such, the AGC will have the right to

contact one of the designated judges of this court to obtain an order confirming the prohibition of disclosure of the information requested by Mr. Ben Abdesslem, if it exists, under subsection 38.06(3) of the *Canada Evidence Act*.

[10] Finally, I want to point out that the path Mr. Ben Abdesslem has taken by bringing his action against the defendant has as many obstacles as if he had applied for a judicial review of the decisions rendered by the Security Intelligence Review Committee and by the Office of the Privacy Commissioner of Canada. The public interest privilege that the AGC may invoke with respect to the information requested by Mr. Ben Abdesslem, if it exists, is the same in both cases. This privilege could cover all the information Mr. Ben Abdesslem is requesting, including whether he is a person of interest to CSIS.

**ORDER IN FILE T-331-18**

**THIS COURT ORDERS that:**

1. The plaintiff's motion is dismissed;
2. Costs in the amount of \$500, including disbursements and taxes, are awarded to the defendant.

“Jocelyne Gagné”

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Judge

**FEDERAL COURT**  
**SOLICITORS OF RECORD**

**DOCKET:** T-331-18

**STYLE OF CAUSE:** HASSENE BEN ABDESSLEM v HER MAJESTY THE QUEEN

**PLACE OF HEARING:** MONTRÉAL, QUEBEC

**DATE OF HEARING:** APRIL 10, 2018

**ORDER AND REASONS:** GAGNÉ J.

**DATED:** MAY 25, 2018

**APPEARANCES:**

Hassene Ben Abdesslem

FOR THE PLAINTIFF  
(REPRESENTING HIMSELF)

Émilie Tremblay

FOR THE DEFENDANT

**SOLICITORS OF RECORD:**

Attorney General of Canada  
Montréal, Quebec

FOR THE DEFENDANT