

Federal Court



Cour fédérale

**Date: 20140114**

**Docket: T-1298-10**

**[UNREVISED ENGLISH CERTIFIED TRANSLATION]**

**Montréal, Quebec, January 14, 2014**

**PRESENT: The Honourable Mr. Justice Beaudry**

**BETWEEN:**

**LOUIS DUFOUR**

**Applicant**

**and**

**ATTORNEY GENERAL OF CANADA  
INFORMATION COMMISSIONER  
OF CANADA**

**Respondents**

**ORDER**

**FOLLOWING** an application for judicial review by the applicant pursuant to section 41 of the *Access to Information Act* (ATIA) for a review of the decision by the Minister of Justice refusing to disclose documents for which he had filed an access to information request. The applicant is also seeking a review of the investigation by the respondent, the Office of the Information Commissioner of Canada (Commissioner). It should also be noted that the applicant is representing himself;

**CONSIDERING** that the Court has analyzed and considered the documents filed by the parties, their written and oral submissions;

**CONSIDERING** that for the reasons that follow, the application for judicial review will be dismissed;

**CONSIDERING** the history of the case (see paragraphs 2 to 20, memorandum of fact and law of the respondent, the Attorney General of Canada (AG), as well as paragraphs 6 to 16, Commissioner's memorandum of fact;

**CONSIDERING** that the applicant is ultimately seeking a breakdown of the amount spent by the AG in eight separate dockets (before the Federal Court and before the Canadian Human Rights Tribunal) involving himself, Micheline Montreuil and Patrick Bernath, all former members of the Canadian Forces;

**CONSIDERING** that the AG initially sent him documents, although some of the documents requested could not be disclosed because, according to the AG, those documents were protected by solicitor-client privilege. Subsequently, after filing his complaint with the AG, the latter provided him with an additional document on January 25, 2010, as well as other documents on March 14, 2013, following a review of the file;

**CONSIDERING** that on July 13, 2010, following her investigation and applying the principles in *Stevens v Canada (Prime Minister)* [1997] 2 FC 759 (*Stevens*), the Commissioner rendered her decision and dismissed the applicant's complaint;

**CONSIDERING** that, in this case, the applicant is essentially arguing that the AG cannot claim solicitor-client privilege when his or her client is a public organization;

**CONSIDERING** that the Court has read and reviewed the unredacted version of the documents the applicant is seeking disclosure of and notes that the documents consist of the nomenclature and identity of the counsel who provided legal services, the dates and description of the work performed by each counsel, the number of hours worked for each task as well as the amount of legal fees charged;

**CONSIDERING** that the ATIA, at section 23, provides that the head of a government institution may refuse to disclose records that contain information that is subject to solicitor-client privilege;

**CONSIDERING** that disclosure is the general rule while the aforementioned section is recognized as the exception;

**CONSIDERING** the evidence in the record, the Court finds that the documents requested by the applicant fall under the exemption set out in section 23 of the ATIA. Furthermore, the Court

sees nothing to indicate that the discretion exercised in refusing disclosure was in any way contrary to the Act;

**CONSIDERING** that the applicant's argument to the effect that the AG cannot invoke solicitor-client privilege in refusing to disclose documents when his or her client is a public organization cannot be accepted (*Stevens*, above, para 22);

**CONSIDERING** that the finding in the preceding paragraph disposes of paragraphs 1 and 2 of the remedies sought by the applicant in his application for judicial review. As for those enumerated in paragraphs 3, 4, 5 and 6 regarding an allegation of conflict of interest or bias, the Court has reviewed the applicant's affidavit and that of Emily McCarthy (Volume 1 pages 12 and 13, Commissioner's Record) on the history of the case and concluded that its intervention is not warranted. The Court concurs with paragraphs 25 to 27 of the Commissioner's amended memorandum of fact and law;

**CONSIDERING** that the applicant claims no costs upon the application's success and the Commissioner has expressed the same wish. Even though the AG has not waived costs, the Court, in exercising its discretion, will award no costs;

**THE COURT ORDERS** that the application for judicial review be dismissed. Without costs.

“Michel Beaudry”

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Judge

Certified true translation  
Sebastian Desbarats, Translator