

Federal Court



Cour fédérale

Date: 20140808

Docket: T-1352-13

Citation: 2014 FC 789

Ottawa, Ontario, August 8, 2014

PRESENT: The Honourable Mr. Justice O'Keefe

BETWEEN:

ZIAD EL SHURAF A

Applicant

and

ATTORNEY GENERAL OF CANADA

Respondent

JUDGMENT AND REASONS

I. Nature of the Proceeding

[1] This is an application for judicial review of Passport Canada's decision to issue a geographically-restricted passport to the applicant.

[2] The applicant seeks an order setting aside the decision and requiring Passport Canada to issue him a passport without travel restrictions.

II. Background

[3] The applicant runs an immigration consultancy business out of the United Arab Emirates that serves many different countries, including Canada. On May 10, 2012, he was charged with eight offences of counselling misrepresentation contrary to section 126 of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [the Act]. He was out of the country at the time, but he voluntarily returned to Canada to face the charges on the understanding that he would be released on his own recognizance. The Court did so but required him to reside at an address in Dubai.

[4] While in Canada, he noticed that all of the pages of his current passport were filled. He applied to Passport Canada to have it renewed.

III. Decision

[5] The applicant was issued a new passport, but with a restriction that it was only valid for travel to the United Arab Emirates. By a letter dated June 21, 2013, an investigator explained why. He observed that paragraph 9(b) of the *Canadian Passport Order*, SI/81-86, allowed Passport Canada to refuse passports to someone charged with an indictable offence, while paragraph 9(d) allowed it to refuse passports to someone who is forbidden to leave Canada under different types of conditions.

[6] The investigator then said that his office had revised its priorities since the inception of the *National Action Plan to Combat Human Trafficking* [National Action Plan] in April, 2012,

especially regarding people who have been charged with indictable offences relating to human trafficking and illegal migration. Since the applicant had been charged under section 126 of the Act, Passport Canada decided to refuse him a regular passport. However, because the applicant was required by the Court to live in Dubai, it decided it would issue him a passport that would allow him to travel between Canada and the United Arab Emirates, but only between those countries.

IV. Subsequent History

[7] The respondent states that Passport Canada ceased to exist in July, 2013, when the *Canadian Passport Order* was amended to transfer responsibility over passports to the Minister of Citizenship and Immigration (SI/2013-57, s 2). However, I will continue to refer to Passport Canada as it was the entity that made the decision, and I will cite to the version of the *Canadian Passport Order* that was in force when the decision was made.

V. Issues

[8] The applicant submits five issues for my consideration:

- a. Was the decision of Passport Canada to issue the applicant a restricted passport reasonable?
- b. Was the procedure undertaken by Passport Canada in arriving at its decision fundamentally fair?

- c. Was the decision of Passport Canada, contrary as it was to the undertakings provided by Crown counsel with which the applicant agreed and acted upon to his detriment, fundamentally unfair?
- d. Did Passport Canada base its decision on an erroneous finding of fact that it made in a perverse or capricious manner?
- e. Is Passport Canada authorized to issue travel restricted passports?

[9] The respondent replies that there are only two issues:

- a. Is the decision correct?
- b. Is the decision reasonable?

[10] For the sake of analytical convenience, I will address the issues as follows:

- A. What is the standard of review?
- B. Can Passport Canada issue travel-restricted passports?
- C. Was the process unfair?

D. Was the decision unreasonable?

E. What is the appropriate remedy, if any?

VI. Applicant's Written Submissions

[11] The applicant says that the decision should be reviewed on the reasonableness standard.

[12] The applicant points out that an employee of Passport Canada said the following in an e-mail: "Given that he has judicial restrictions, and that we have received a letter from his lawyer, we are in the process of drafting him a refusal letter along with answering the concerns of his attorney." The applicant says that this was an erroneous basis for the decision, since the recognizance only contained a standard residence restriction and does not affect travel at all. Further, he criticizes Passport Canada for capriciously having made no inquiries whatsoever into what the applicant was alleged to have done or whether there were any agreements in place with Crown counsel. Indeed, he says that such conduct does not accord with the duty of procedural fairness owed to him.

[13] As well, Passport Canada justified its decision with concerns about human trafficking and illegal migration, but the applicant says that the crimes he has been charged with do not fit under either definition. Rather, he is accused only of counselling permanent residents to lie about how long they were in the country so that they may obtain citizenship, and that activity bears no resemblance to the heinous crimes described in the National Action Plan. Indeed, the National

Action Plan specifically lists Canada's legislative actions to combat human trafficking, and section 126 of the Act is not among them.

[14] Further, he argues that Passport Canada also acted unfairly because its actions violated his deal with the prosecutor. He says that he only agreed to return to Canada to face the charges on the condition that he would not face travel restrictions while the matter was litigated. As the Crown is indivisible, Passport Canada was also bound by that deal, and would have known about it had it made even the smallest effort to inquire. The prosecutor directly made this undertaking to the Court, and it would defy sense and logic to allow the Crown to effectively renege on that deal by placing Passport Canada in a sphere of its own.

[15] Finally, the applicant argues that nothing in the *Canadian Passport Order* authorizes the issuance of geographically-restricted passports. In this case, Passport Canada neither revoked the passport nor failed to renew it, and they would not have been able to do so because of the Court order. It simply issued it, and once that is done, nothing allows them to restrict the citizen's use of it. Although there was evidence that Passport Canada issues many of these types of passports every year, illegal decisions do not become legal merely because they are commonly made without objection.

VII. Respondent's Written Submissions

[16] The respondent says that correctness is the standard of review for the issues about procedural fairness and Passport Canada's authority, but reasonableness is the standard for the other issues.

[17] Although the *Canadian Passport Order* does not expressly refer to geographically-limited passports, the respondent argues that it allows for them. Passports are always the property of Her Majesty in Right of Canada and applicants are not entitled to them. There were grounds for refusing the passport in this case since the applicant had been charged with indictable offences, and the definition of passport does not require that it be useable everywhere. Rather, it simply must facilitate travel, and geographically-restricted passports do that. Moreover, the respondent says that passports need only be in “a form prescribed by the Minister” and the form prescribed in this case included geographical limitations. Finally, issuing passports is a matter of royal prerogative, and the *Canadian Passport Order* does not reduce or circumscribe that authority. Indeed, the respondent says that the Federal Court of Appeal recognized the ability to issue limited passports in *Kamel v Canada (Attorney General)*, 2009 FCA 21 at paragraph 62, [2009] 4 FCR 449 [*Kamel*]. The respondent also says that the passport issued is a reasonable and justifiable limit on the applicant’s mobility rights.

[18] The respondent disputes the applicant’s indivisibility of the Crown argument. The applicant was responsible for investigating any possible consequences of the charges. Neither the Crown prosecutor nor the provincial court has any authority to issue or revoke passports, and neither purported to have such authority. In its view, the Minister’s duties cannot be fettered because of something a prosecutor allegedly did or did not do.

[19] Further, the reference to the National Action Plan was purely for explanatory purposes, and it did not reflect any misunderstanding of the nature of the offences with which the applicant

is charged. Still, the respondent says that those charges are serious and are contrary to Passport Canada's policy objectives. Its actions were warranted.

[20] The respondent says that the decision was also procedurally fair. The applicant had a full opportunity to participate in the process and was given reasons for the refusal. Besides, the Act creates a discretionary power to refuse to issue a passport when someone is charged with an indictable offence, so any breach of procedural fairness could not have had any effect on the outcome of the matter.

[21] Finally, the respondent says that there were only two outcomes that could be reasonable in these circumstances: outright refusal or the issuance of a geographically-limited passport. In light of the recognizance requiring the applicant to live in Dubai, the latter outcome was chosen. That was reasonable and is supported by the decision letter and the record.

VIII. Analysis

A. *What is the standard of review?*

[22] Where previous jurisprudence has determined the standard of review applicable to a particular issue before the court, the reviewing court may adopt that standard (see *Dunsmuir v New Brunswick*, 2008 SCC 9 at paragraph 57, [2008] 1 SCR 190 [*Dunsmuir*]).

[23] In *Pavicevic v Canada (Attorney General)*, 2013 FC 997 at paragraph 27, 20 Imm LR (4th) 37 [*Pavicevic*], Madam Justice Cecily Strickland said that a question regarding Passport

Canada's authority to do something should be reviewed for correctness and cited paragraph 59 of *Dunsmuir*, which created a presumption that correctness is the standard for true questions of jurisdiction. However, in *Alberta (Information and Privacy Commissioner) v Alberta Teachers' Association*, 2011 SCC 61 at paragraph 34, [2011] 3 SCR 654, Mr. Justice Marshall Rothstein questioned whether this category still existed. Rather, since such questions always involve interpreting the enabling statutory instruments of a decision-maker, the standard should be presumed to be reasonableness. Here too, Passport Canada was interpreting the *Canadian Passport Order*, so the presumption is engaged.

[24] However, the *Canadian Passport Order* was promulgated under the Crown's prerogative power over passports (see subsection 4(3)), and the scope of such powers is typically determined by the courts. In *Black v Canada (Prime Minister)*, 54 OR (3d) 215 at paragraph 26, 199 DLR (4th) 228 (CA), the Ontario Court of Appeal observed that "[t]he prerogative is a branch of the common law because decisions of courts determine both its existence and its extent". It went on to say at paragraph 29 that "[t]he court has the responsibility to determine whether a prerogative power exists and, if so, its scope and whether it has been superseded by statute". That same sentiment was endorsed by this Court in *Khadr v Canada (Attorney General)*, 2006 FC 727 at paragraph 88, [2007] 2 FCR 218 [*Khadr*].

[25] Therefore, if Passport Canada's interpretation of the *Canadian Passport Order* would give it powers not contemplated by the Crown's prerogative power over passports, then it is owed no deference however reasonable that interpretation might be. In my view, that is a constitutional question because it is about the separation of powers between the executive and

legislative branches of government, and on such questions the standard of review is correctness (see *Dunsmuir* at paragraph 58). It remains the responsibility of the courts to define the extent of such powers, and the Crown should not be granted more deference on this issue solely because it has created an order that must be interpreted by the decision-maker.

[26] For the issues of procedural fairness, I agree with the respondent that the standard is correctness (see *Canada (Citizenship and Immigration) v Khosa*, 2009 SCC 12 at paragraph 43, [2009] 1 SCR 339 [*Khosa*]). Persons affected by a decision must have the procedural rights to which they are entitled, though sometimes an error will not attract relief if it “is purely technical and occasions no substantial wrong or miscarriage of justice” (*Khosa* at paragraph 43).

[27] The applicant also originally pleaded a violation of section 6 of the *Canadian Charter of Rights and Freedoms*, Part I of the *Constitution Act*, 1982, being Schedule B to the *Canada Act* 1982 (UK), 1982, c 11. That issue was not argued by the applicant in his written submissions, but he did mention it again at the hearing. However, the applicant has not challenged the constitutional validity of paragraph 9(b) of the *Canadian Passport Order* nor any other provision. Rather, it is the particular decision that is alleged to violate the applicant’s rights, and so it does not automatically attract a correctness standard of review (see *Doré v Barreau du Québec*, 2012 SCC 12 at paragraphs 23 to 58, [2012] 1 SCR 395). Still, I will consider the importance of the *Charter* right at stake when assessing the lawfulness of Passport Canada’s decision.

[28] As for the remainder of the issues, I agree with both parties that previous cases have satisfactorily determined that the standard of review is reasonableness (see *Pavicevic* at paragraph 27; *Villamel v Canada (Attorney General)*, 2013 FC 686 at paragraph 30 (available on CanLII)). This means that I should not intervene if the decision is transparent, justifiable, intelligible, and within the range of acceptable outcomes (see *Dunsmuir* at paragraph 47; *Newfoundland and Labrador Nurses' Union v Newfoundland and Labrador (Treasury Board)*, 2011 SCC 62 at paragraph 16, [2011] 3 SCR 708 [*Newfoundland Nurses*]). As the Supreme Court held in *Khosa* at paragraphs 59 and 61, a court reviewing for reasonableness cannot substitute its own view of a preferable outcome, nor can it reweigh the evidence.

B. *Can Passport Canada issue geographically-limited passports?*

[29] I agree with the respondent that Passport Canada had the authority to issue a geographically-restricted passport. Although the *Canadian Passport Order* does not contain any express authority for limiting the validity of passports, subsection 4(1) provides that any Canadian citizen “may be issued a passport”. A passport is defined in section 2 as “an official Canadian document that shows the identity and nationality of a person for the purpose of facilitating travel by that person outside Canada”. Nothing in that definition requires it to facilitate travel everywhere outside Canada. I am satisfied that geographically-restricted passports do facilitate travel outside Canada and its issuance is therefore authorized under subsection 4(1). I also believe it is well within the Crown’s prerogative power over passports to only request safe passage for the bearer from specific countries, and that power is preserved by subsection 4(3). Indeed, as the respondent correctly pointed out, the availability of limited-

validity passports was part of the reason the Federal Court of Appeal held that passport refusal minimally impaired the rights at stake in *Kamel* (at paragraph 62).

C. *Was the process unfair?*

[30] The applicant argues that Passport Canada unfairly failed to inquire about his business, family circumstances, the nature of the crimes he is alleged to have committed, and his agreements with the prosecutors.

[31] Undoubtedly, Passport Canada had a duty to be fair (see *Khadr* at paragraph 35 and *Pavicevic* at paragraphs 28 to 29). However, the content of that duty is variable (see *Baker v Canada (Minister of Citizenship and Immigration)*, [1999] 2 SCR 817 at paragraph 21, 174 DLR (4th) 193 [*Baker*]). In *Canada (Attorney General) v Mavi*, 2011 SCC 30 at paragraph 42, [2011] 2 SCR 504, the Supreme Court of Canada said the following:

The duty of fairness is not a “one-size-fits-all” doctrine. Some of the elements to be considered were set out in a non-exhaustive list in *Baker* to include (i) “the nature of the decision being made and the process followed in making it” (para. 23); (ii) “the nature of the statutory scheme and the ‘terms of the statute pursuant to which the body operates’” (para. 24); (iii) “the importance of the decision to the individual or individuals affected” (para. 25); (iv) “the legitimate expectations of the person challenging the decision” (para. 26); and (v) “the choices of procedure made by the agency itself, particularly when the statute leaves to the decision-maker the ability to choose its own procedures, or when the agency has an expertise in determining what procedures are appropriate in the circumstances” (para. 27). Other cases helpfully provide additional elements for courts to consider but the obvious point is that the requirements of the duty in particular cases are driven by their particular circumstances. The simple overarching requirement is fairness, and this “central” notion of the “just exercise of power” should not be diluted or obscured by jurisprudential lists developed to be helpful but not exhaustive.

[32] I agree with the applicant that this was an important decision (see *Khadr* at paragraphs 113 to 115). However, its importance alone does not necessarily mean that Passport Canada was required to undertake an independent investigation. The decision itself is essentially administrative and bears little resemblance to the adjudicative process employed by the Court. At the time of the decision, section 5 of the *Canadian Passport Order* provided the following:

| | |
|---|--|
| <p>5. No passport shall be issued to any person unless an application is made to Passport Canada by the person in the form and manner established by Passport Canada and containing the information, materials and declarations specified by Passport Canada.</p> | <p>5. Un passeport n'est délivré que si une demande est présentée à Passeport Canada selon les modalités de forme et de présentation qu'il établit et avec les renseignements, documents et déclarations qu'il spécifie.</p> |
|---|--|

[33] While the information in question here was not specified by Passport Canada, it suggests that applicants are primarily responsible for providing information to support their applications. In this case, all of the information that the applicant complains was ignored were facts within his personal knowledge and which he easily could have mentioned. Beyond that, section 8 authorized Passport Canada to request further information from the applicant, but that does not mean that it must do so if it is considering rejecting the application. As well, the applicant has not directed me to anything that could have created a legitimate expectation that Passport Canada would seek out facts to bolster his application.

[34] Finally, I note that in the decision letter itself, Passport Canada gave the applicant an opportunity to supply more information. At page 2, it said:

Should you wish to bring any additional facts, mitigating information or correction to any erroneous information that would cause us to reconsider our decision to refuse you passport issuance,

you must do so in writing and your submission must be received in this office by **July 21, 2013**.

(Emphasis in original)

[35] The applicant never took that opportunity, instead opting for judicial review as he was entitled to do. However, he can hardly complain now that Passport Canada failed to independently discover pertinent facts when Passport Canada expressly gave him an opportunity to submit that information in response to its refusal. In my view, the duty of fairness did not require Passport Canada to do anything more.

[36] The applicant also complains that the decision was fundamentally unfair because it was contrary to his agreement with the prosecutor. It is not clear to me whether he is advancing this as a procedural argument under the doctrine of legitimate expectations or saying it gave him a substantive entitlement to an unrestricted passport. Either way, the thrust of his argument is well described when the applicant says at paragraph 76 of his brief that Passport Canada is not “entitled to renege on an undertaking made by federal crown counsel which was presented to a court and secured the arraignment and release of the Applicant [on] agreed terms”.

[37] However, the applicant has not proven that any such undertaking was made. His evidence was that he instructed his counsel that he wanted to be released without any international travel restrictions, but he does not say whether the Crown prosecutor made any promises in that regard. The recognizance itself does not impose any travel restrictions, but neither does it prohibit any such restrictions; it is silent on the issue. A prosecutor may not see fit to ask for travel restrictions, but that is not the same as a promise that no such travel restrictions will be imposed

by any other legal mechanisms. If the prosecutor had made such a promise in Court, then I would expect there to be a transcript to show it. The applicant has not submitted one. Neither is there any written agreement to that effect, nor any affidavit from either the prosecutor or the applicant's counsel saying that there was an oral agreement. I am therefore not satisfied that there was any undertaking.

[38] Consequently, I do not need to consider what effect such an undertaking would have had on Passport Canada.

D. *Was the decision unreasonable?*

[39] The applicant questioned whether the investigator who wrote the reasons letter was actually the decision-maker. I do not believe it matters. The letter was sent to explain the decision, so I take it to contain the reasons for the refusal. I will also look to the record when necessary (see *Newfoundland Nurses* at paragraph 15).

[40] As I see it, the applicant alleges the decision was unreasonable for two reasons: (1) it was based on the misconception that the recognizance imposed travel restrictions; and (2) it wrongly grouped his offences in with offences relating to human trafficking and illegal migration.

[41] The respondent replied by suggesting that, since the applicant was being charged with indictable offences, the only reasonable outcomes would have been either an outright refusal or the issuance of the geographically-limited passport. I disagree. Paragraph 9(b) is discretionary, and Passport Canada was not required to refuse the passport simply because it was met.

[42] As well, I agree with the applicant that Passport Canada misunderstood the conditions in the recognizance. As the applicant pointed out, an e-mail from one of the employees seemed to connect the refusal to the existence of “judicial restrictions”, but the judicial restrictions in this case would not have engaged paragraph 9(d) of the *Canadian Passport Order* since they did not forbid the applicant from leaving the country. Further, this misunderstanding appears to have been shared by the investigator who wrote the refusal letter, as otherwise he would not have mentioned paragraph 9(d).

[43] However, it does not appear that that misunderstanding affected Passport Canada’s decision. Rather, the letter said it was refusing the applicant a passport because he had been charged for committing an offence under section 126 of the Act. It mentioned the residency requirement only to explain why it decided to issue him a geographically-restricted passport so that he could travel between his home in Dubai and Canada. As such, I do not find that the misunderstanding affected the reasoning, since the sole ground for the refusal was the fact that he had been charged with indictable offences relating to illegal migration.

[44] That brings me to the second alleged error. The applicant is right that the offences with which he has been charged have nothing to do with human trafficking, and I agree that the reference to the National Action Plan is confusing for that reason. However, the letter also referred to illegal migration, which was not something discussed in the National Action Plan. The applicant said this was limited to people smuggling and so said it also had nothing to do with section 126, but I see no reason to adopt such a narrow definition. The plain meaning of the

words suggest that it is about any migration that is not in accordance with the laws of Canada, and the Act is a law of Canada that governs immigration.

[45] Arguably, the offences with which the applicant was charged were not related to migration since they allege only that he counselled permanent residents to lie in order to obtain citizenship. However, the applicant never told Passport Canada that, and there is nothing in the record which would have allowed Passport Canada to know the details; the recognizance itself only lists the sections under which he was charged. As such, the details of the allegations are new evidence that was not before the decision-maker. As Passport Canada had no obligation to conduct an independent investigation, those details cannot be admitted on judicial review (see *Buschau v Rogers Communications Inc*, 2012 FCA 197 at paragraph 15, 352 DLR (4th) 151; *Ochapowace First Nation (Indian Band No 71) v Canada (Attorney General)*, 2007 FC 920 at paragraph 10, 316 FTR 19).

[46] All that the decision-maker knew was that the applicant was charged with eight indictable offences under section 126 of the Act, and those could be related to illegal migration. It is reasonable to deny passport services to people charged with such offences in general, especially where those people choose not to disclose the details of the allegations made against them. Therefore, considering the information that Passport Canada had before it, the decision to refuse general passport services was reasonable, as was the decision to allow the applicant to travel to the United Arab Emirates so that he could fulfill the requirements of his recognizance. I am satisfied that the interference with the applicant's mobility rights is justified.

[47] I need not deal with the last issue because of my findings on the other issues.

[48] As a result of my findings, the application for judicial review must be dismissed.

JUDGMENT

THIS COURT'S JUDGMENT is that the application for judicial review is dismissed.

"John A. O'Keefe"

Judge

ANNEX

Relevant Statutory Provisions

Immigration and Refugee Protection Act, SC 2001, c 27

126. Every person who knowingly counsels, induces, aids or abets or attempts to counsel, induce, aid or abet any person to directly or indirectly misrepresent or withhold material facts relating to a relevant matter that induces or could induce an error in the administration of this Act is guilty of an offence.

126. Commet une infraction quiconque, sciemment, incite, aide ou encourage ou tente d'inciter, d'aider ou d'encourager une personne à faire des présentations erronées sur un fait important quant à un objet pertinent ou de réticence sur ce fait, et de ce fait entraîne ou risque d'entraîner une erreur dans l'application de la présente loi.

Relevant Orders

Canadian Passport Order, SI/81-86 (as it appeared on 21 June 2013)

2. In this Order,

2. Dans le présent décret,

...

...

“passport” means an official Canadian document that shows the identity and nationality of a person for the purpose of facilitating travel by that person outside Canada;

« passeport » désigne un document officiel canadien qui établit l'identité et la nationalité d'une personne afin de faciliter les déplacements de cette personne hors du Canada;

...

...

4. (1) Subject to this Order, any person who is a Canadian citizen under the Act may be issued a passport.

4. (1) Sous réserve du présent décret, un passeport peut être délivré à toute personne qui est citoyen canadien en vertu de la Loi.

(2) No passport shall be issued to a person who is not a Canadian citizen under the Act.

(2) Aucun passeport n'est délivré à une personne qui n'est pas citoyen canadien en vertu de la Loi.

(3) Nothing in this Order in any manner limits or affects Her Majesty in right of Canada's royal prerogative over passports.

(3) Le présent décret n'a pas pour effet de limiter, de quelque manière, la prérogative royale que possède Sa Majesté du chef du Canada en matière de passeport.

(4) The royal prerogative over passports can be exercised by the Governor in Council or the Minister on behalf of Her Majesty in right of Canada.

(4) La prérogative royale en matière de passeport peut être exercée par le gouverneur en conseil ou le ministre au nom de Sa Majesté du chef du Canada.

5. No passport shall be issued to any person unless an application is made to Passport Canada by the person in the form and manner established by Passport Canada and containing the information, materials and declarations specified by Passport Canada.

5. Un passeport n'est délivré que si une demande est présentée à Passeport Canada selon les modalités de forme et de présentation qu'il établit et avec les renseignements, documents et déclarations qu'il spécifie.

...

...

8. (1) In addition to the information and material that an applicant is required to provide in the application for a passport or in respect of the delivery of passport services, the Minister may request an applicant and any representative of the applicant to provide further information, material, or declarations respecting any matter relating to the issue of the passport or the delivery of passport services.

8. (1) En plus des renseignements et des documents à fournir avec une demande de passeport ou à l'égard de la prestation de services de passeport, le ministre peut demander au requérant ou à son représentant de fournir des renseignements, des documents ou des déclarations supplémentaires à l'égard de toute question se rapportant à la délivrance du passeport ou à la prestation des services.

...

...

9. Passport Canada may refuse to issue a passport to an applicant who

9. Passeport Canada peut refuser de délivrer un passeport

au requérant qui :

...

(b) stands charged in Canada with the commission of an indictable offence;

...

(d) is subject to a term of imprisonment in Canada or is forbidden to leave Canada or the territorial jurisdiction of a Canadian court by conditions imposed with respect to

(i) any temporary absence, work release, parole, statutory release or other similar regime of absence or release from a penitentiary or prison or any other place of confinement granted under the *Corrections and Conditional Release Act*, the *Prisons and Reformatories Act* or any law made in Canada that contains similar release provisions,

(ii) any alternative measures, judicial interim release, release from custody, conditional sentence order or probation order granted under the *Criminal Code* or any law made in Canada that contains similar release provisions, or

...

b) est accusé au Canada d'un acte criminel;

...

d) est assujéti à une peine d'emprisonnement au Canada ou est frappé d'une interdiction de quitter le Canada ou le ressort d'un tribunal canadien selon les conditions imposées :

(i) à l'égard d'une permission de sortir, d'un placement à l'extérieur, d'une libération conditionnelle ou d'office, ou à l'égard de tout régime similaire d'absences ou de permissions, d'un pénitencier, d'une prison ou de tout autre lieu de détention, accordés sous le régime de la *Loi sur le système correctionnel et la mise en liberté sous condition*, de la *Loi sur les prisons et les maisons de correction* ou de toute loi édictée au Canada prévoyant des mesures semblables de mise en liberté,

(ii) à l'égard de toutes mesures de rechange, d'une mise en liberté provisoire par voie judiciaire, d'une mise en liberté ou à l'égard d'une ordonnance de sursis ou de probation établie sous le régime du *Code criminel* ou de toute loi édictée au Canada prévoyant des mesures semblables de mise en liberté,

(iii) any absence without escort from a penitentiary or prison granted under any law made in Canada;

(iii) dans le cadre d'une permission de sortir sans escorte d'une prison ou d'un pénitencier accordée en vertu de toute loi édictée au Canada;

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: T-1352-13

STYLE OF CAUSE: ZIAD EL SHURAF A v ATTORNEY GENERAL OF CANADA

PLACE OF HEARING: HALIFAX, NOVA SCOTIA

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DATED: AUGUST 8, 2014

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