

Date: 20080319

Docket: A-51-08

Citation: 2008 FCA 107

Present: THE HONOURABLE MR. JUSTICE PELLETIER

IN RE a certificate pursuant to subsection 77(1) of the
Immigration and Refugee Protection Act, signed by the
Minister of Immigration and the Solicitor General of Canada (the Ministers)
S.C. 2001, c. 27 (IRPA);

IN RE the filing of this certificate in the Federal Court of Canada
pursuant to subsection 77(1) and
sections 78 and 80 of the IRPA;

IN RE a motion to quash subpoenas *duces tecum* filed by
Joël-Denis Bellavance and Gilles Toupin and the
objections resulting from questions raised on an examination on affidavit;

AND IN RE
Adil Charkaoui

BETWEEN:

JOËL-DENIS BELLAVANCE
and
GILLES TOUPIN

Appellants

-AND-

ADIL CHARKAOUI

Respondent

Written motion decided without appearance by parties.

Order made at Ottawa, Ontario on March 19, 2008.

REASONS FOR ORDER:

PELLETIER J.A.

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REASONS FOR ORDER

PELLETIER J.A.

[1] Following the publication in the Montréal daily newspaper *La Presse* of an article titled [TRANSLATION] “Did Charkaoui discuss attack?”, Mr. Charkaoui filed a motion to terminate or permanently suspend security certificate proceedings. In that motion Messrs. Bellavance and Toupin, the authors of the article, were served with subpoenas *duces tecum* requiring them to produce in court certain documents from the Canadian Security Intelligence Service which were the basis for their article. The two writers then filed their own motion to quash the subpoenas *duces tecum* and raised other incidental questions. Noël J. of the Federal Court dismissed the motion to quash and also dismissed the other incidental relief sought by Messrs. Bellavance and Toupin.

[2] Messrs. Bellavance and Toupin appealed Noël J.’s decision. In their notice of appeal they named Mr. Charkaoui as respondent and made no mention of the Minister of Citizenship and Immigration and the Solicitor General of Canada (the Ministers). The latter filed their motion to be granted the status of interveners in the appeal.

[3] In the Court’s view the motion is ill-conceived. The problem raised by the service of subpoenas *duces tecum* and the motion to quash is part of the process of Mr. Charkaoui’s motion to terminate or permanently suspend security certificate proceedings regarding him. Although the subpoenas *duces tecum* may have been served by Mr. Charkaoui’s counsel, that does not prevent the whole episode forming part of the process of the application to terminate Mr. Charkaoui’s

proceedings. The notice of appeal filed by Messrs. Bellavance and Toupin should have named not only Mr. Charkaoui but also the Ministers as respondents.

[4] Accordingly, the question is not whether the status of intervener should or should not be granted to the Ministers. They are entitled to participate in the appeal as parties. The motion to be added to the appeal as interveners is therefore dismissed without costs and the Court orders *ex proprio motu* that the style of cause be amended to add the Minister of Citizenship and Immigration and the Solicitor General of Canada as respondents.

“J.D. Denis Pelletier”

J.A.

Certified true translation

Brian McCordick, Translator

FEDERAL COURT OF APPEAL

SOLICITORS OF RECORD

DOCKET: A-51-08

STYLE OF CAUSE: Joël-Denis Bellavance and Gilles
Toupin and Adil Charkaoui

WRITTEN MOTION DECIDED WITHOUT APPEARANCE BY PARTIES

REASONS FOR ORDER BY: The Honourable Mr. Justice Pelletier

DATED: March 19, 2008

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