

Federal Court



Cour fédérale

Date: 20110620

Docket: IMM-7093-10

Citation: 2011 FC 729

Ottawa, Ontario, June 20, 2011

PRESENT: The Honourable Mr. Justice Mosley

BETWEEN:

JEYAKUMAR KRISHNAMOORTHY

Applicant

and

**THE MINISTER OF CITZENSHIP
AND IMMIGRATION**

Respondent

REASONS FOR ORDER AND ORDER

[1] These Reasons for Order and Order refer to the respondent's Motion of June 3, 2011 for a non-disclosure order pursuant to s.87 of the *Immigration and Refugee Protection Act* ("IRPA") regarding information that is presently redacted in the Certified Record filed on May 31, 2011 and the applicant's letter of June 14, 2011 addressed to the Registrar of the Court. The underlying application for judicial review of an inadmissibility determination pursuant to section 34 of the

IRPA is scheduled to be heard in Toronto on August 9, 2011. The respondent has advised the applicant and the Court that he intends to rely in the judicial review on information that is presently redacted in the certified record and for which the s.87 order is sought.

[2] In the June 14, 2011 letter, the applicant took no position on the respondent's Motion for Non-Disclosure and requests that the Court review the redactions to determine whether they are such that if disclosed, would be injurious to national security or would endanger the safety of any person.

[3] Pursuant to the instructions in paragraph 83 (1) (a) of the *IRPA* to proceed as informally and expeditiously as the circumstances and considerations of fairness and natural justice permit, I have read the motion materials including the redacted content of the certified record at pages 60, 61, 62, 197, 202, 203, 214 and 218 in the original clear text. I have also read the secret affidavits and attachments filed by the respondent on June 10, 2011 in support of the Motion.

[4] Following my review of the redacted content, I conclude that all or parts of the redacted content of pages 60, 62, 197, 202, 214 and 218 is information of an internal or administrative nature that is routinely protected from disclosure on national security grounds and, as such, I am of the opinion that the redactions are justified.

[5] The more substantive redacted content found in pages 61 and 203 that could have some probative value appears to be information that has already been disclosed to the applicant, in one form or another, elsewhere in the Certified Record.

[6] As I am of the opinion that the redactions should be maintained for reasons of national security, I do not see a need for a hearing to adjudicate the motion for disclosure. However, should the respondent find it necessary to hold an *in camera* and *ex parte* hearing in conformity with paragraph 83 (1) (c) of the *IRPA*, I could hear the matter at 11:00 in the forenoon between June 27 and June 30, 2011. Counsel may also request a teleconference during that time period should they wish to speak to the Court concerning such matters.

ORDER

THIS COURT ORDERS that:

1. the respondent's application for non-disclosure pursuant to s.87 of the *Immigration and Refugee Protection Act* is granted;
2. the information redacted from the Certified Record filed on May 31, 2011 and contained in the secret affidavit and attachments filed in support of the application shall not be disclosed to the public or to the applicant and his counsel; and
3. the application for judicial review on the underlying merits in this matter shall be set down for a hearing before me at Toronto on September 12, 2011 at 9:30 a.m.

“Richard G. Mosley”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-7093-10

STYLE OF CAUSE: JEYAKUMAR KRISHNAMOORTHY
and
THE MINISTER OF CITIZENSHIP
AND IMMIGRATION

PLACE OF HEARING: Ottawa, Ontario

**REASONS FOR ORDER
AND ORDER:** MOSLEY J.

DATED: June 20, 2011
(heard pursuant to Rule 369 in Ottawa)

APPEARANCES:

Lorne Waldman FOR THE APPLICANT

Jamie Todd FOR THE RESPONDENT

SOLICITORS OF RECORD:

LORNE WALDMAN FOR THE APPLICANT
Waldman & Associates
Toronto, Ontario

MYLES J. KIRVAN FOR THE RESPONDENT
Deputy Attorney General of Canada
Toronto, Ontario