

Federal Court  
of Appeal



Cour d'appel  
fédérale

**Date: 20090603**

**Docket: A-208-09**

**Citation: 2009 FCA 186**

**Present: RICHARD C.J.**

**BETWEEN:**

**THE PRIME MINISTER OF CANADA, THE MINISTER OF FOREIGN AFFAIRS, THE  
DIRECTOR OF THE CANADIAN SECURITY INTELLIGENCE SERVICE, and THE  
COMMISSIONER OF THE ROYAL CANADIAN MOUNTED POLICE**

**Appellants**

**and**

**OMAR AHMED KHADR**

**Respondent**

Dealt with in writing without appearance of parties.

Order delivered at Ottawa, Ontario, on June 3, 2009.

**REASONS FOR ORDER BY:**

**RICHARD C.J.**

Federal Court  
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**REASONS FOR ORDER**

**RICHARD C.J.**

[1] This is a motion by the British Columbia Civil Liberties Association (BCCLA) in writing under Rule 369 of the *Federal Courts Rules* for the following order:

1. leave to intervene in the hearing of this appeal pursuant to Rule 109 of the *Federal Courts Rules*, SOR/98-106;
2. leave to file a factum up to 20 pages in length;
3. leave to make oral argument at the hearing, up to 15 minutes in length; and
4. such further or other Order as this Honourable Court may deem appropriate.

[2] The appeal arises from the Judgment of the Federal Court dated April 23, 2009 (*Omar Ahmed Khadr v. The Prime Minister of Canada, et al.*, 2009 FC 405).

[3] The appeal is proceeding on an expedited basis and the parties have agreed to stay enforcement of the Judgment pending resolution of this appeal.

[4] The BCCLA claims that it has a strong interest in this appeal, because of its long history of involvement with national security, intelligence and anti-terrorism issues in Canada.

[5] The respondent consents to the motion of the BCCLA to intervene in this appeal and has not filed further response.

[6] The appellants submit that BCCLA's motion for leave to intervene should be dismissed.

[7] In arriving at my decision to dismiss the motion to intervene brought by the proposed interveners, I have considered the factors relevant to an application for intervention in *Canadian Union of Public Employees v. Canada Airlines International Ltd.*, [2000] F.C.J. No. 220 (QL), paragraph 8 (C.A.) and in particular whether:

- the position of the proposed intervener is adequately defended by one of the parties to the case;
- the interests of justice are better served by the intervention of the proposed third party;
- the Court can hear and decide the cause on its merits without the proposed intervener.

[8] At its highest, BCCLA's interest is jurisprudential in nature. It is well-established that this kind of interest alone cannot justify an application to intervene.

[9] Accordingly, the motion to intervene will be dismissed.

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"J. Richard"  
Chief Justice

**FEDERAL COURT OF APPEAL**

**NAMES OF COUNSEL AND SOLICITORS OF RECORD**

**DOCKET:**

A-208-09

**STYLE OF CAUSE:**

THE PRIME MINISTER OF  
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SECURITY INTELLIGENCE  
SERVICE, and THE  
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**MOTION DEALT WITH IN WRITING WITHOUT APPEARANCE OF PARTIES**

**REASONS FOR ORDER BY:**

RICHARD C.J.

**DATED:**

June 3, 2009

**WRITTEN REPRESENTATIONS BY:**

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FOR THE APPELLANTS

Nathan J. Whitling

FOR THE RESPONDENT

Joseph J. Arvay, Q.C.

FOR THE PROPOSED  
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