**Docket: T-1656-18 - Citation: 2019 FC 1137 - Date September 5, 2019**

**Roderick Russell's notes re "Judgment & Reasons "Document by Mr. Justice Fothergill**

**RODERICK THOMAS MCCULLOCH RUSSELL (Applicant) & ATTORNEY GENERAL OF CANADA (Respondent)**

**RR's Comments** - Comments in **red** have been drafted by the Applicant, Roderick Russell, as notes to his file for future reference purposes. These comments by Mr. Russell are **not** part of Justice Fothergill's "Judgment & Reasons" document, but rather are Mr. Russell's personal **notes on it** (RR 17/1/2021)

## JUDGMENT AND REASONS

Documents filed by Mr. Russell with the Court included: the Applicant's Application Record (**AAR**) (filed on Jan 22 2019) with **97 pages of sworn Affidavits from five (5) Affiants** as well as a Supplemental Revision to the Applicants Application Record (**SAAR**) filed on April 3 2019 with an **additional 30 pages of sworn affidavits**.. The pages within these documents are consecutively numbered by hand in the top right hand corner.

## Overview

[1] Roderick Thomas McCulloch Russell seeks judicial review of the refusal by the Canadian Security Intelligence Service [CSIS] to grant his request for "[a]ll records without limitation or restriction, from all locations (irrespective of whether such records are physically, electronically, mechanically or otherwise held by CSIS) in respect of Roderick Thomas McCulloch Russell."

RR Comment - Request to CSIS on June 18 2014 was for -- *"All records without limitation or restriction, from all locations (irrespective of whether such records are physically, electronically, mechanically or otherwise held by CSIS) in respect of Roderick Thomas McCulloch Russell. This includes, but is not limited to, records which refer to Roderick Thomas McCulloch Russell: i)*

*directly, ii) indirectly, iii) both directly and indirectly, iv) other than by the name Roderick Thomas McCulloch Russell, and v) otherwise than by name. "*

## Roderick Russell'sComments - Key issues commented on:

- **Secret evidence given by CSIS**. Fundamentally Unjust- Paragraph 14
- **Sworn Affidavits from Five Affiants provide extensive corroberation --** Parageraph 2 ,5 , 29, 33
- **CSIS switches the goalposts & makes direct accusations of subversive & hostile activities -- Paragraph 3, 5, 10, 31, 32**
- **Jurisdiction Issues - Knackered the project, by prohibiting Judicial Review of the OIC's 851 Report -- Paragraph 21 , 10**



[2] Mr. Russell believes that he and his family are the victims of a coordinated and illegal campaign of persecution by CSIS and other government actors, both foreign and domestic. He says the persecution has been ongoing for more than thirty years in Canada and the United Kingdom.

**RR Comment: on the extensive corroborative evidence made available for verification purposes.**

**127 pages in total of Sworn Affidavits from 5 separate affiants** are included in the two documents ("AAR" and "SAAR") that were filed with the Court.

These Affidavits include details of some 70 of the Zersetzen incidents and threats, and also of an extensive **Cover-up** by the Authorities. Several of these incidents - like the no-answer phone calls - are of a repetitive nature and as such were treated as if there was only one incident, even though there were, for example approximately 1,000 no answer calls.

Many of the incidents, on Mr. Russell's own Affidavit and on the 3rd party Affidavits, are corroborated by the sworn testimony of the other Affiants. The Attorney General chose not to cross examine any of these affiants.

Mr. Russell mentioned to the Court that details of a significant number of additional incidents (including their sources of proof) are included on the Website Https://www.roderickrussell.ca under the caption "Russell Zersetzen Report"

[3] Mr. Russell requested access to CSIS' records under s 6 of the *Access to Information Act*, RSC 1985, c A-1 [ATIA]. CSIS refused his request by letter dated July 4, 2014 [Refusal Letter], invoking exemptions found in ss 15(1), 16(1)(a) or 16(1)(c) of the ATIA. These exemptions are available only if the actual or hypothetical records pertain to a valid exercise of CSIS' mandate to investigate and prevent threats to Canada's national security, national defense, or international relations.

**CSIS second Refusal Letter - Changes the goalposts 5 years later**

In their Refusal Letter dated July 4 2014 (Exhibit A on Page 29 of AAR) CSIS, citing sub-section 10(2) of the Act, simply chooses to neither "**confirm nor deny"** whether the requested records exist.. Quoting from Page 1 of the Refusal Letter in relation to CSIS's Investigational Records (CSIS PPU 045) the letter says – **"Pursuant to subsection 10(2) of the Act, we neither "confirm nor deny" that the records you requested exist**".

On Jan 28 2019, five years later and two business days after I had filed the AAR with the Court, I received an unsolicited letter from the CSIS (SAAR page 4) that moved the goal posts.

No longer was CSIS relying on 10(2) of the Act (the neither confirm or deny clause) but instead made a straight accusation in the 3rd paragraph of their **letter -- "Portions of the material have been exempted from disclosure by virtue of one or more of sections 15(1) (as it relates to the efforts of Canada towards detecting, preventing or suppressing *subversive or hostile activities*), 19(1) or 24(1) of the act".**

**So the CSIS (not the OIC) had suddenly changed all their previously stated reasons for denying disclosure of requested records. They had changed the goalposts - five years later.**

Furthermore the 2nd paragraph of CSIS's Jan 28 2019 letter (SAAR p. 4) was unclear and without any explanation, so I asked the CSIS in writing (SAAR, p 8) to explain their comment in this 2nd paragraph -- and to this date I have never received the requested explanation, or any reply, or indeed any response from CSIS to my written request.

Reading both these letters together it is clear that the common denominator is section 15(1) which must apply to both letters if CSIS's written commentary is true and correct. Section 15 is further defined by 15 (2) of the Act. Section 15(2) defines "*subversive or hostile activities* to mean under the act one or more of: (a) espionage (b) sabotage (c) terrorism … and so on. **So espionage, sabotage, subversive and hostile activities would appear to be what CSIS are now inferring in their Jan 28 2019 letter to me. Strong stuff and absolute rubbish**

So circumstances, outside my control, had a disruptive effect on all of my argument. Firstly, CSIS issued a 2nd refusal letter where their stated reasons for refusing disclosure of requested records had changed and were completely different from the reasons stated in their 1st rt refusal letter -- just put the 2 letters side by side to see the different reasons. Secondly, they introduced new material (5 years after the 1st Refusal letter) which had the effect of making direct accusations relating to my having some sort of involvement in subversive or hostile activities, espionage etc. etc. Again I state this is absolute rubbish.

[4] Mr. Russell submitted a complaint to the Office of the Information Commissioner [OIC]. The OIC determined that CSIS' refusal to confirm or deny the existence of pertinent information in one of its Personal Information Banks [PIBs] was reasonable. The OIC also determined that CSIS' reference to PIBs in the Refusal Letter was inappropriate, and therefore concluded that Mr. Russell's complaint was well-founded and resolved.

[5] In my view, CSIS correctly found that the actual or hypothetical records requested by Mr. Russell fall within the exemptions authorized by the ATIA. CSIS' decision to apply the exemptions was reasonable. This Court has seen no evidence of a coordinated and illegal campaign of persecution by CSIS and other government actors, whether foreign or domestic, against Mr. Russell and his family.

**The sworn Affidavits (see Para 2 this document) , which are filed with the Court in support of Mr. Russell's Application, provide significant sworn testimony (127 pages) from five affiants of the threats, intimidation and harassment against Mr. Russell and his family that has been carried out over many years.**

Also filed with the Court was additional documentary evidence that Mr. Russell believes provides further **evidence of the existence of a cover-up by the Authorities** in Canada and elsewhere. For example, some facts relating to the cover-up in Canada are outlined in "Section 14 - Facts the Cover-up "on page 33.34,35 of the AAR Document that was filed with the Court.

Mr. Russell believes that the magnitude and longevity of these criminal activities could not be undertaken in Canada (and overseas) unless they were being carried out or, at the very least, **condoned**, by elements (perhaps rogue) within the five eyes.

[6] The application for judicial review is therefore dismissed.

## II. Background

[7] The Refusal Letter indicated that CSIS had searched three PIBs. CSIS found that the Security Assessments/Advice PIB [CSIS PPU 005] and the Canadian Security Intelligence Service Records PIB [CSIS PPU 015] contained no personal information pertaining to Mr. Russell.

[8] However, CSIS neither confirmed nor denied the existence of pertinent records in the Canadian Security Intelligence Service Investigational Records PIB [CSIS PPU 045], citing s 10(2) of the ATIA. The Refusal Letter also stated that, pursuant to s 10(1)(b) of the ATIA, if such records existed then they "could reasonably be expected to be exempted under one or more of sections 15(1) ..., 16(1)(a), or (c), of the [ATIA]."

[9] In his complaint to the OIC, Mr. Russell asserted that CSIS had improperly applied exemptions to unjustifiably deny him access to records. He also complained that CSIS had failed to provide him with all records that were responsive to his request.

[10] The OIC investigated Mr. Russell's complaints separately. It assigned file number 3214-00850 to his complaint concerning the exemptions claimed by CSIS, and file number 321400851 to his complaint concerning the sufficiency of the search.

**RR Comment - On Jurisdiction:**

**OIC's 850 report:**

**OIC's 851 report:**

**Mr. Russell believes that he made one complaint against the CSIS that relates to one overall file / project number. This is the number that the CSIS allocated to the complaint from day 1 and used to this day (Our File: 117-2014-163). It is the only reference no. that appears on all CSIS correspondence with me and on all OIC correspondence with me. It is the common element that links all CSIS and OIC correspondence together -- It was therefore reasonable to assume and this was the reference number that all had in common.**

[11] On August 1, 2018, the OIC issued its Report of Findings summarizing the results of its investigation regarding file number 3214-00850 [850 Report]. The OIC concluded that "CSIS' reliance on subsection 10(2) of the [ATIA] is reasonable and that the confirming or denying of the existence of records is subject to subsections 15(1); ... paragraph 16(1)(a), and paragraph 16(1)(c) of the [ATIA]."

[12] The OIC nevertheless concluded that CSIS' reference to PIBs in the Refusal Letter was inappropriate. The OIC noted that PIBs are properly referred to in responses to requests made under the *Privacy Act*, RSC 1985, c P-21 [PA], not under the ATIA. As of November 2015, CSIS no longer refers to PIBs in responses to requests made under the ATIA. The OIC therefore concluded that the complaint in file number 3214-00850 was well-founded and resolved.

[13] On February 15, 2019, after Mr. Russell had commenced this application for judicial review, the OIC issued its Report of Findings regarding file number 3214-00851 [851 Report]. The OIC found that CSIS had failed to conduct a reasonable search in response to Mr. Russell's request. As a result of the OIC's intervention, CSIS renewed its search and provided additional documents to Mr. Russell on January 18, 2019. The OIC therefore considered the complaint to be well-founded and resolved.

## III. Procedural History

[14] On November 9, 2018, the Attorney General of Canada requested, among other things, that this matter be heard by a designated judge pursuant to s 52 of the ATIA, and that the

Attorney General be permitted to file a secret supplementary affidavit and confidential submissions. Justice Richard Mosley granted these requests on November 27, 2018. The Attorney General filed the secret supplemental affidavit and confidential submissions on December 7, 2018.

**RR's Notes** re Concerns **about the Secret proceedings**

**Having received permission from the Court, the Attorney General of Canada was permitted to file a secret affidavit and make confidential submissions to the Court.**

Mr. Russell informed the Court that in this regard and in his opinion **the law was FUNDAMENTALLY** UNJUST because he himself, the Applicant had no realistic possibility to rebut in cross-examination testimony (opposing his position) that he has never been allowed to hear, read, or see in the first place**, and therefore cannot rebut.**

Clearly this secret evidence was an important factor in the Judge's decision as the following two statements by the Court in this Judgment and Reasons document would suggest.

- In paragraph 17 the Judge refers to:**" the clear and unambiguous evidence contained in the secret affidavit"**
- **I**n paragraph 31, the Judge says: "Having reviewed the public and secret evidence filed by CSIS in this application, I am satisfied that the actual or hypothetical records in question were correctly found by CSIS to be exempt from disclosure. This is a significant finding" (based, I might add, at least in part, on evidence given in secret).

**Mr. Russell does not have a clue as to what secret evidence was introduced, other than that the Judge found it useful in arriving at his decision**. While he understands that this is the Law in Canada, and has to be followed, Mr. Russell nevertheless objected to the introduction of the secret evidence by the **Attorney General** as fundamentally unjust.

As he brought to the Court's attention verbally and in writing, he knows with certainty that he has never been involved with Spy Agencies, and with Security or intelligence matters in any way, shape or form. He has nothing to hide, though Canada's Government and the CSIS clearly have

something to hide. . Consequently, there is a very real concern that what are issues of their criminality are being misrepresented by CSIS as issues of national security. In the absence of a cross-examiner who knows the facts behind the case (such as myself) and can knowledgeably dispute the facts with the secret witnesses / affiants, the CSIS is likely to adjust their testimony to suit their objectives regardless of the truth, After all **the trade craft of the CSIS** as with other Spy Agencies is **deceit, deception and lies**..

**Mr. Russell, having never done anything wrong, knows that there cannot be any "honest" evidence whatsoever, from CSIS or others, other than testimony that would support his request for an honest investigation. See argument documented on the SAAR paragraphs 17 (a), (b) (c) and (D)**

[15] The Attorney General filed a public affidavit on December 27, 2018. The affidavit explained the manner in which CSIS had conducted its searches in response to Mr. Russell's access request. Mr. Russell says this was the first time he learned that the OIC had divided his complaint into two, had assigned different file numbers to the complaints, and had investigated them separately. He appears to have been unaware that the investigation in file number 321400851 was still ongoing.

[16] On February 7, 2019, the Attorney General filed a motion in writing to adjourn these proceedings *sine die* pending the OIC's issuance of the 851 Report. As previously mentioned, the OIC issued the 851 Report one week later, on February 15, 2019, concluding that Mr. Russell's complaint was well-founded and resolved. The Attorney General withdrew his motion for an adjournment on March 6, 2019.

[17] Mr. Russell filed a requisition for a hearing on May 1, 2019. Counsel for the Attorney General did not request an opportunity to make oral representations *ex parte*, as contemplated by s 52(3) of the ATIA, but indicated the dates of their availability if the Court considered an *ex parte* hearing to be necessary. Given Mr. Russell's concern about delay in the proceedings, and in light of the clear and unambiguous nous evidence contained in the secret affidavit, I concluded that

an *ex parte* hearing was not required. The application was set down for hearing by videoconference on July 23, 2019.

## IV. Issues

[18] This application for judicial review raises the following issues:

A. What is the scope of the application for judicial review?

B. Was the refusal to confirm or deny the existence of pertinent documents in CSIS PPU 045 appropriate?

## V. Analysis

### A. *What is the scope of the application for judicial review?*

[19] Section 41 of the ATIA provides as follows:

| **Review by Federal Court** | **Revision par la Cour federate** |
|---|---|
| **41** Any person who has been refused access to a record requested under this Act or a part thereof may, if a complaint has been made to the Information Commissioner in respect of the refusal, apply to the Court for a review of the matter within forty-five days after the time the results of an investigation of the complaint by the Information Commissioner are reported to the complainant under subsection 37(2) or within such further time as the | **41** La personne qui s'est vu refuser communication totale ou partielle d'un document demande en vertu de la presente loi et qui a depose ou fait deposer une plainte a ce sujet devant le Commissaire a 1'information peut, dans un delai de quarante-cinq jours suivant le compte rendu du Commissaire prevu au paragraphe 37(2), exercer un recours en revision de la decision de refus devant la Cour. La Cour peut, avant ou apres l'expiration du delai, le proroger |

| | |
|---|---|
| Court may, either before or after the expiration of those forty-five days, fix or allow. | ou en autoriser la prorogation. |

[20] It is clear from this provision that an application for judicial review may be brought in this Court only if a complaint has been made to the OIC, and only after the OIC has issued a report of its investigation. Mr. Russell commenced this application for judicial review on September 13, 2018 in respect of the 850 Report. The OIC did not issue the 851 Report until February 15, 2019.

[21] While Mr. Russell says he was unaware that the OIC had divided his complaint into two and investigated them separately until he read the Attorney General's public affidavit filed on December 27, 2018, the fact remains that he never commenced an application for judicial review in respect of the 851 Report. This Court therefore lacks jurisdiction to engage in judicial review of that report *(Defence Construction Canada v Ucanu Manufacturing Corp,* 2017 FCA 133 at para 32; *Westerhaug v Canadian Security Intelligence Service*, 2009 FC 321 *[Westerhaug]* at para 5).

**RR Comment**: Note Judge's decision relating to 851 Report: **The Court therefore lacks jurisdiction to engage in Judicial Review of that Report"**

Quoting the Judges comments on paragraph 21 of this document -- "While Mr. Russell says he was unaware that the OIC had divided his complaint into two and investigated them

separately" …. "The fact remains that he never commenced an application for judicial review in respect of the 851 Report:

**"This Court therefore lacks jurisdiction to engage in judicial review of that report"**

It was never intended by me that what the Judge refers to as the 850 report could stand on its own without what he has referred to as ….the 851 report.

In my view **when I documented my complaint to the CSIS for disclosure of requested records it was with one request in mind** (see my comment on Para 1) and only one request and I expected this request to be dealt with as one issue. Consequently this jurisdictional issue came as a great surprise to me and effectively killed off my complaint.

**So my case was dismissed on a minor legal technicality relating to the dates that I filed a document with the OIC on, and not to the substance within that document. I accept that this is the law in Canada and that the Judge had no discretion on the matter;.**

Ironically both the CSIS and the OIC itself had been very cavalier around timing issues relating to this report and without facing any sanctions. Effectively their incompetence, if that is what it was, delayed the entire process, and neutered my complaint as their many delays slowed everything down and that created jurisdictional issues.

**This decision killed my Request for Judicial Review** as the **Judge ruled that he had no jurisdiction to review the 851 Report**. Since what the OIC calls the 851 Report is half the Project (the 850 Report being the other half) this completely neutered the Application for Judicial Review and rendered it pointless.

The 851 report was produced by the OIC shortly after its absence was first known to me (see Para 35 of this document) and the OIC made a Report on its Findings on Feb 15, 2019. The Applicant already had to revise his original Applicant's Application Record to account for the CSIS's major changes, as documented on their second refusal letter (**seen SAAR Doc page 4**) . This was a lot of time consuming work, so there was no delay in overall timing.

The CSIS's revisions came out of the blue and were very substantial indeed and completely changed the goalposts (i.e. their reasons for denial of requested records were now totally changed) five years after their refusal letter, and without any sanction. The OIC went for 3-1/2 years without an investigator for me to liaise with (which might have helped adjust technicalities around filing), again without sanction.

So my Application for Judicial Review was effectively killed because the Court lacked jurisdiction for the reasons stated. This lack of jurisdiction meant that the Judge was barred from reviewing the 851 Report; this inability to review the 851 Report (despite its production,) killed the project. I was not aware of this reasoning and decision by the Court until I read this Report - JUDGEMENT and REASONS..

I note that the documents described in the 851 Report were ultimately provided to Mr. Russell with redactions that predominantly protect the identities of CSIS employees. It is evident that Mr. Russell's primary concern is CSIS' refusal to confirm or deny the existence of pertinent documents in CSIS PPU 045.

B. *Was the refusal to confirm or deny the existence of pertinent documents in CSIS PPU 045 appropriate?*

[23] The ATIA and the PA are intended to be a "seamless code", construed harmoniously according to a "parallel interpretation model" *(Leahy v Canada (Citizenship and Immigration)*, 2012 FCA 227 at para 68). Principles developed in jurisprudence under the ATIA and PA are therefore relevant to the interpretation and application of both statutes *(VB v Canada (Attorney General)*, 2018 FC 394 *[VB]* at para 44).

[24] Judicial review of a government institution's refusal to disclose information is a two-step process. The first step requires the Court to consider if the requested information, whether actual or hypothetical, falls within the provisions that are relied upon. The second step requires the Court to consider the government's exercise of its discretion not to disclose the requested information. The first step is reviewed against the standard of correctness, while the second step is reviewed against the standard of reasonableness *(Braunschweig v Canada (Public Safety)*, 2014 FC 218 *[Braunschweig]* at para 29; *Llewellyn v Canadian Security Intelligence Service*, 2014 FC 432 *[Llewellyn]* at para 23).

[25] The ATIA permits government institutions to refuse requests for records where the records do not exist (s 10(1)(a)), or the requests for actual or hypothetical records are refused pursuant to specific provisions of the ATIA (s 10(1)(b)). Subsection 10(2) permits government institutions that refuse a request for records under s 10(1) of the ATIA not to reveal whether a record in fact exists.

[26] The Federal Court of Appeal has confirmed that CSIS may refuse access to records in accordance with a blanket policy of not disclosing the existence of requested records where "the mere revealing of the existence or non-existence of information is in itself an act of disclosure: a disclosure that the requesting individual is or is not the subject of an investigation" *(Ruby v Canada (Solicitor General),* [2000] 3 FC 589 (FCA) at paras 65-66, rev'd on other grounds, 2002 SCC 75). Numerous decisions of this Court stand for the same proposition (see *VB* at para 43; *Braunschweig* at paras 45-46; *Llewellyn* at para 37; *Westerhaug* at paras 16-21; and *Cemerlic v Canada (Solicitor General),* 2003 FCT 133 (FC) at paras 44-45).

[27] The Attorney General says this case is indistinguishable from Justice Patrick Gleeson's recent decision in *VB.* Like Mr. Russell, VB made a request to CSIS under the ATIA for records pertaining to himself. CSIS refused to confirm or deny the existence of records in CSIS PPU 045, citing ss 15(1) or 16(1)(a) and 16(1)(c). Justice Gleeson upheld CSIS's response to VB's request, and observed that "[t]he response the applicant received to the request for investigative records was ... the response every Canadian or permanent resident would receive" *(VB* at para 48).

[28] I agree with the Attorney General that the law governing this application is the same as that applied by Justice Gleeson in *VB.* However, in this case Mr. Russell alleges that he and his family have been subject to a coordinated and illegal campaign of persecution by CSIS and other government actors, both foreign and domestic. VB made no similar allegation. He simply wanted to know whether CSIS had any records that pertained to him.

[29] In his submissions to this Court, Mr. Russell recounts numerous incidents that he describes as "a wide mix of threats, harassment, intrusive surveillance, cyber-bullying, stalking, etc." These include:

(a) vehicles driven into his home and directly at him;

(b) shots fired at one of his sons;

(c) his daughter threatened and physically manhandled;

(d) his eldest son and spouse nearly driven off the road;

(e) his computer going haywire;

([1]) repeated silent telephone calls;

(g) his home overtly staked-out by hoods; and

(h) overt stalking.

**RR Comment: Sworn Affidavits - Significant Corroboration.**

**Many of the incidents described above in Comment #29 are verifiable and are corroborated by the sworn Affidavits and, indeed, testimony of the 3rd party affiants. See comment #**

**2.and 5.There is also significant evidence of a cover up by the Authorities and this was also outlined in the documentation filed with the Court (AAR).**

Given the extent of these incidents and of the cover-up (that is extensive) it is reasonable to conclude that the intelligence services were involved in this "Zersetzen" persecution which has taken place in BC, Alberta, Ontario, England, Scotland and Switzerland.. I do not state that CSIS itself is necessarily involved in these outrages, but rather that it is aware of them and condones them.

Zersetzen is designed to inflict pain and punishment on its victims while disguising it. It is well documented in Germany (where it was invented by the Stasi) and also in the United States. In the USA it is sometimes called Cointelpro and its illegal use by the FBI were investigated by the **Church Committee of the United States Senate**. Referring to the FBI's use of Cointelpro, the Church Committee said "unsavory and vicious "tactics were employed. In Canada it has been called by Intelligence Operatives - D and D, Vigorous Harassment, etc. My Website https://www.roderickrussell.ca defines Zersetzen with examples.

[30] The ATIA exemptions invoked by CSIS in this case are available only if the actual or hypothetical records in question contain:

(a) information the disclosure of which could reasonably be expected to be injurious to the conduct of international affairs, the defence of Canada or any state allied or

associated with Canada or the detection, prevention, or suppression of subversive or hostile activities (s 15(1));

(b) information obtained or prepared in the course of lawful investigations pertaining to activities suspected of constituting threats to the security of Canada (s 16(1)(a)(iii)); or

(c) information the disclosure of which could reasonably be expected to be injurious to the enforcement of any law of Canada or a province or the conduct of lawful investigations, including information that relates to the existence or nature of a particular investigation, that would reveal the identity of a confidential source of information, or that was obtained or prepared in the course of an investigation (s 16(1)(c)).

**CSIS Exemptions in Para 30 above do not relate to me**

**None of the above three categories even remotely applies to me.** I know this with absolute certainty. I have never been questioned, or accused, or charged, or involved in this sort of thing. --- Also I have never been involved with security / intelligence Agencies, except as their victim.

I have accused a company of blacklisting me for no honest reason and I have mentioned that its former (late) Chairman was quoted by the Main Stream Media (MSM) of having boasted about his relationship to the “five eyes” intelligence services. I am also aware that intelligence agencies were probably involved in blacklisting another Canadian victim of this same company.

For example: 15(1) above (see paragraph 30 (a) ) - the phrase “subversive or hostile activities” in Section 15 has a specific legal meaning under the act as defined by Section 15 (2) , being one or more of (a) Espionage (b) Sabotage (c) Terrorism ( d) Violent regime change (e) Intelligence gathering (f) Threatening the safety of Canadians.

**So essentially for CSIS to have justified non disclosure they have to have specifically accused me of some sort of involvement in activates described in paragraph 30 (a) (b) (C) above such as espionage, terrorism, etc** .

**These are very serious allegations, and yet they were made in the CSIS letter to me dated Jan 18, 2019 (see page 4 of the Supplemental AAR).** …

[31] Having reviewed the public and secret evidence filed by CSIS in this application, I am satisfied that the actual or hypothetical records in question were correctly found by CSIS to be exempt from disclosure. This is a significant finding, because records would not be exempt from disclosure if they revealed CSIS' complicity in a coordinated and illegal campaign of persecution against Mr. Russell and his family. Pursuant to ss 15(1) and 16(1)(a) and (c), CSIS may refuse disclosure of information contained in CSIS PPU 045 only if the actual or hypothetical information pertains to a valid exercise of CSIS's statutory mandate to investigate and prevent threats to Canada's national security, national defence, or international relations.

**Mr. Russell’s comment on the Statement “having reviewed the public and secret evidence filed by CSIS… I am satisfied that the actual or hypothetical records were correctly found by CSIS to be exempt from disclosure”.**

**Now from the CSIS letter to Mr. Russell dated Jan 18 2019 (page 4 of the SAAR), CSIS in its 3rd Paragraph states that "portions of the material have been exempted from disclosure by virtue of one or more of sections 15(1) (as it relates towards the efforts of Canada towards detecting, preventing or suppressing subversive or hostile activities), 19(1) or 24(1) of the Act" .**

[32] In making this finding, I am neither confirming nor denying the existence of records in CSIS PPU 045 that may pertain to Mr. Russell. I am simply stating that, by operation of law, CSIS may refuse to confirm or deny access to records only if they pertain to a valid exercise of CSIS' statutory mandate. I am satisfied that CSIS' decision to apply the exemptions in this case was reasonable.

CSIS's Mandate

Judge's comment: I am neither confirming nor denying the existence of records in CSIS PPU 045 that may pertain to Mr. Russell

This is the case in CIS f1st letter to Mr. Russell of July 4, 2014 where the CSIS states that they will "**neither confirm nor deny**" whether requested records exist.

However five years later the CSIS sent Mr. Russell a 2nd letter dated Jan 18 2019 where they clearly state in the 3rd paragraph of this 2nd letter that the material is being withheld (i.e. confirming that the records do exist) "by virtue of sections 15(1) (as it relates to the efforts of Canada towards detecting, preventing or suppressing subversive or hostile activities), 19(1) or 24 (1).

**In other words they have now (in the 2nd letter) confirmed that records in CSIS PPU 045 do exist.**

[33] While this may not give Mr. Russell complete satisfaction, he may rest assured that this Court has seen no evidence of a coordinated and illegal campaign of persecution by CSIS and other government actors, both foreign and domestic, against him and his family.

There have been several thousand incidents (intimidation, harassment, overt surveillance, threats, stalking, etc), a portion of which are documented by 3rd party affiants. In their sworn affidavits (see Roderick Russell's comments Para 2 and 5). I would respectfully suggest that the multitude of sworn affidavits is sufficient evidence to prove that there is indeed some sort

of “coordinated and illegal campaign of persecution” in operation**. The alternative is that I am lying -- in which case I should be prosecuted.**

The purpose of Zersetzen attacks, like their forerunner called Cointelpro (well documented by the Church Committee of the United States Senate) is to hide the persecution and disguise the threat which is why Zersetzen is sometimes called no touch torture. This was well documented by the Church Committee of the US Senate, It has also been admitted by senior CSIS personnel and other Canadian Intelligence Operatives that this sort of “no touch” torture approach has been used illegally in Canada -- see AAR document p. 34, and first two paragraphs of AAR Document page 35 for a few sources of this evidence and for what these senior individuals have said. Note that Zersetzen type approaches have been used in Canada and by CSIS and several of their employees have admitted to it to parliamentary committee’s in writing, in the press.etc.

There is a wad of evidence as to why Canadian and other 5 eyes intelligence agencies are involved in a planned and coordinated campaign of persecution. There is evidence of their cover up, of their consistent failure to investigate, of their willful blindness. It is not credible to believe that a Zersetzen style campaign is going on in one or more of the five eyes and that CSIS are not aware of it and therefore, at the very least, condoning Zersetzen by their inaction. As I mentioned to the Court during the hearing I have documented matters relating to the cover up by 2 governments on my Website ( https://www.roderickrussell.ca ) and these matters are summarized on  that Site.

## VI. Costs

[34] The awarding of costs is discretionary and will ordinarily follow the event, provided the proceeding does not raise an important new principle in relation to the statute (ATIA, s 53(1) and (2)). While the Attorney General has been successful in this application and no new principle has been raised, I am not persuaded that costs should be granted.

[35] The OIC divided Mr. Russell's complaints into two separate investigations, but appears not to have told him. There was excessive delay in completing the investigations, both of which found Mr. Russell's complaints to be well-founded in part. Given the Attorney General's position that the 851 Report could not form a part of this proceeding, the motion to adjourn the application *sine die* pending the issuance of that report was unnecessary and unduly complicated the conduct of the case.

## VII. Conclusion

[36] The application for judicial review is dismissed without costs.



## JUDGMENT

THIS COURT'S JUDGMENT is that the application for judicial review is dismissed without costs.

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## JUDGMENT

THIS COURT'S JUDGMENT is that the application for judicial review is dismissed without costs.

**FEDERAL COURT**

**SOLICITORS OF RECORD**

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| **DOCKET:** | T-1656-18 |
| **STYLE OF CAUSE:** | RODERICK THOMAS MCCULLOCH RUSSELL v ATTORNEY GENERAL OF CANADA |
| **PLACE OF HEARING:** | OTTAWA, ONTARIO |
| **DATE OF HEARING:** | JULY 23, 2019 |
| **JUDGMENT AND REASONS:** | FOTHERGILL J. |
| **DATED:** | SEPTEMBER 5, 2019 |

**APPEARANCES:**

| | |
|---|---|
| Roderick Thomas McCulloch Russell | FOR THE APPLICANT (ON HIS OWN BEHALF) |
| Debjani Poddar | FOR THE RESPONDENT |

**SOLICITORS OF RECORD:**

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| Attorney General of Canada<br>Edmonton, Alberta | FOR THE RESPONDENT |