

Federal Court



Cour fédérale

Date: 20240924

Docket: T-837-23

Citation: 2024 FC 1493

Ottawa, Ontario, September 24, 2024

PRESENT: The Honourable Mr. Justice Gleeson

BETWEEN:

SUKHJEET SAHOTA

Applicant

and

ATTORNEY GENERAL OF CANADA

Respondent

JUDGMENT AND REASONS

[1] The Applicant, Ms. Sukhjeet Sahota represents herself in this matter with the support of family members. Ms. Sahota very ably advanced her position in making oral submissions on this Application, and I am sympathetic to the Applicant's circumstances. However, the Applicant cannot succeed.

[2] In December 2021, Ms. Sahota submitted a *Privacy Act*, RSC 1985, c P-21 [*Privacy Act*] request to the Royal Canadian Mounted Police [RCMP] seeking all information relating to an interaction she had with an RCMP constable in March 2015, and a compliant that followed.

[3] The RCMP did not respond to the request within the time limits prescribed in the *Privacy Act* and the Applicant initiated a deemed refusal complaint with the Office of the Privacy Commissioner [OPC]. The OPC found the complaint to be well founded but conditionally resolved as the RCMP committed to provide a final response no later than May 5, 2023. On April 28, 2023, the RCMP completed the information request by providing the Applicant with two documents related to her request.

[4] However, the Applicant believes the response is incomplete because it did not include CCTV footage that the Applicant reports she had previously viewed. The CCTV footage she seeks captured at least part of the interaction she had with the RCMP constable in March 2015.

[5] The Applicant relies on section 41 of the *Privacy Act* in bringing this Application for review of the RCMP's alleged incomplete disclosure of personal information.

[6] Section 41 of the *Privacy Act* provides that an individual may apply to the Court for review of a refusal to grant access to personal information after having made a complaint that has been investigated by the Privacy Commissioner:

**Review by Federal Court
where access refused**

**Révision par la Cour
fédérale dans les cas de refus
de communication**

41 Any individual who has been refused access to personal information requested under subsection 12(1) may, if a complaint has been made to the Privacy 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 Privacy Commissioner are reported to the complainant under subsection 35(2) or within such further time as the Court may, either before or after the expiration of those forty-five days, fix or allow

41 L'individu qui s'est vu refuser communication de renseignements personnels demandés en vertu du paragraphe 12(1) et qui a déposé ou fait déposer une plainte à ce sujet devant le Commissaire à la protection de la vie privée peut, dans un délai de quarante-cinq jours suivant le compte rendu du Commissaire prévu au paragraphe 35(2), exercer un recours en révision de la décision de refus devant la Cour. La Cour peut, avant ou après l'expiration du délai, le proroger ou en autoriser la prorogation.

[7] Section 41 is available to an applicant where access to personal information has been refused, and a complaint has been made to and investigated by the Privacy Commissioner.

[8] Following the completion of the Privacy Commissioner's investigation, the Applicant was in a position to rely on section 41 of the *Privacy Act* to seek an order requiring disclosure of the personal information requested pursuant to section 48. However, the RCMP has since complied with the Applicant's request – reporting to the Applicant that the RCMP has provided to her a copy of “all the information to which you are entitled.”

[9] Having received disclosure, the Applicant now takes issue with the adequacy of the disclosure provided. This, however, is a new issue; it is not the matter the Privacy Commissioner investigated in responding to the Applicant's deemed refusal complaint. As noted by Justice

René Leblanc in *Sheldon v Canada (Health)*, 2015 FC 1385 [*Sheldon*], in the context of an application brought on the basis of a deemed refusal, it is not open to the Court to review the nature and content of the RCMP's response, however imperfect and incomplete that response may be (at para 21, see also *Cumming v Canada (Royal Mounted Police)*, 2020 FC 271 [*Cumming*] at paras 25-32).

[10] As in both *Sheldon* and *Cumming*, in this case, the Privacy Commissioner's investigation was undertaken following a complaint that the RCMP had failed to respond to the Applicant's request within the time limits prescribed in the *Privacy Act*; a deemed refusal of the Applicant's request. The RCMP has since remedied that refusal, and the controversy that properly underpins this Application has been resolved. The Applicant has already received the very relief this Court is authorized to grant an Applicant who succeeds under section 41. Therefore, the matter is moot. I have considered the criteria set out in *Borowski v Canada (AG)*, [1989] 1 SCR 342 and conclude there are no reasons that warrant consideration of this Application despite it being moot.

[11] Because a complaint to the Privacy Commissioner raising the refusal concern is a condition of a section 41 application, this matter is also premature as the Applicant has not yet made a complaint alleging a refusal to disclose the CCTV footage (*Canada (Public Safety and Emergency Preparedness) v Gregory*, 2021 FCA 33 at paras 12-13, *Khoury v Canada (Employment and Social Development)*, 2022 FC 101 at para 32; *Cumming* at para 33).

[12] While this outcome may not be what the Applicant hoped for, to the extent provided for under the *Privacy Act*, the Applicant may choose to pursue her concerns with the adequacy of the RCMP disclosure by way of a further complaint to the Privacy Commissioner.

[13] The Application is dismissed. There is no order as to costs.

JUDGMENT IN T-837-23

THIS COURT'S JUDGMENT is that:

1. The Application is dismissed.
2. There is no order as to costs

"Patrick Gleeson"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: T-837-23

STYLE OF CAUSE: SUKHJEET SAHOTA v ATTORNEY GENERAL OF CANADA

PLACE OF HEARING: VANCOUVER, BRITISH COLUMBIA

DATE OF HEARING: APRIL 22, 2024

JUDGMENT AND REASONS: GLEESON J.

DATED: SEPTEMBER 24, 2024

APPEARANCES:

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FOR THE APPLICANT
(ON HER OWN BEHALF)

Suzy Flader

FOR THE RESPONDENT

SOLICITORS OF RECORD:

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FOR THE RESPONDENT