

# FEDERAL COURT

BETWEEN

**HABEEB ALI**

F I L E D	FEDERAL COURT COUR FÉDÉRALE	D É P O S É
13-DEC-2022		
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APPLICANT

AND

**ATTORNEY GENERAL OF CANADA**

RESPONDENT

## APPLICATION FOR JUDICIAL REVIEW-FORM 301

**APPLICANT:**

Habeeb ALI  
 2 Hurst Drive  
 Ajax ON  
 L1T 0N8  
 Tel: 647-539-3563  
 Email: [mailbackali@gmail.com](mailto:mailbackali@gmail.com)

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**HABEEB ALI**

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**ATTORNEY GENERAL OF CANADA**

RESPONDENT

## **APPLICATION FOR JUDICIAL REVIEW-FORM 301**

TO THE RESPONDENT:

A PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the applicant. The relief claimed by the applicant appears below.

THIS APPLICATION will be heard by the Court at a time and place to be fixed by the Judicial Administrator. Unless the Court orders otherwise, the place of hearing will be as requested by the applicant. The applicant requests that this application be heard at Toronto, Ontario.

IF YOU WISH TO OPPOSE THIS APPLICATION, to receive notice of any step in the application or to be served with any documents in the application, you or a solicitor acting for you must file a notice of appearance in Form 305 prescribed by the *Federal Courts Rules* and serve it on the applicant's solicitor or, if the applicant is self-represented, on the applicant, WITHIN 10 DAYS after being served with this notice of application.

Copies of the *Federal Courts Rules*, information concerning the local offices of the Court and other necessary information may be obtained on request to the Administrator of this Court at Ottawa (telephone 613-992-4238) or at any local office.

IF YOU FAIL TO OPPOSE THIS APPLICATION, JUDGMENT MAY BE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU.

Date: December 13<sup>th</sup> 2022

Issued by: \_\_\_\_\_

Address of local office:

180 Queen Street West  
Suite 200  
Toronto ON  
M5V 1Z4

TO:

**RESPONDENT:**

ATTORNEY GENERAL OF CANADA  
180 Queen Street West  
Suite 200  
Toronto ON  
M5V 1Z4

**APPLICANT:**

Habeeb ALI  
2 Hurst Drive  
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Tel: 647-539-3563  
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# Application:

## The Applicant makes application for;

- a) This is an application for judicial review in respect of the decision made on August 2<sup>nd</sup> 2022 by Recourse Directorate CBSA-Canada Border Services Agency **File# 2106862-1** in a case of Proceeds of Crime (Money Laundering) and Terrorist Financing Act (S.C. 2000, c.17) -Sections 27 and 29 as unreasonable and factually incorrect.
- b) The Applicant challenges the decision of the CBSA comprised of two sections 27 and 29 dated August 2<sup>nd</sup> 2022 on the basis that it infringes the Applicant's Rights to Mobility, Equality, Enforcement, Life, Liberty and Security of a person as guaranteed by sections 6 (1), 7, 15 (1), 24 (1) of the Canadian Charter of Rights and Freedoms, part 1 of the Constitution Act, 1982. The decision has impacted the mental and physical well being of the applicant significantly.
- c) Penalty of USD \$36,450 is unreasonable and beyond normal punishment as per the Law for failure to declare funds in excess of \$10,000 as per the Cross-border currency and monetary instruments reporting regulations, SOR/2002-412 Section 18. All the documentary evidences to proof origin and source of funds as legal was submitted earlier to CBSA.
- d) CBSA seized total currency of US Dollars \$100,450 in cash on December 5<sup>th</sup> 2021. Partial amount of USD \$64,000 was returned by CBSA by converting into Canadian Dollars and returned a cheque for Canadian Dollars \$77,568 Dated August 9<sup>th</sup> 2022. As per the law, CBSA should have returned the seized currency (US dollars) in its original form rather than converting at a lower rate (Canadian Dollars) incurring huge losses to the applicant. Example: if USD \$64,000 converted in today's rate of exchange of US Dollars to Canadian Dollars is 1.36 would have been Canadian Dollars \$87,040 instead of cheque of \$77,568 returned by CBSA. By converting the currency, it was a tremendous loss to the applicant. If the CBSA is not returning the seized currency in its original form-US Dollars then todays currency conversion rate of 1.36 USD to CAD should be applied for any past, current or future currency conversion rates.
- e) The applicant was put on a record for 6 years of additional screening and checks by CBSA. The decision is unreasonable as the applicant is flagged at every travel point that leads to trauma and harassment while travelling with family, friends and colleagues. This infringes the rights of not only the applicant but also impacts the rights of the spouse and kids while travelling with the applicant.
- f) Any further relief that this Honourable Court may deem just.

### **Impact of the decision on the applicant and violation of rights;**

- 1) The seized funds were accumulating interest costs to the applicant from December 5<sup>th</sup> 2021 at the rate of 8% per annum.
- 2) The applicant had a currency conversion loss due to CBSA. At the time of returning the loan amount the applicant has to repurchase US Dollars at a higher rate.
- 3) Because of the seizure the applicant had the worst year in 4 years at work. In the past was awarded a 2 times Bravo champion with business performance. Mental health of the applicant has been impacted leading to Depression and Anxiety counselling.
- 4) The applicant was put on a record for 6 years of additional screening and checks by CBSA. The decision is unreasonable as the applicant is flagged at every travel point that leads to trauma and harassment while travelling with family, friends and colleagues. This infringes the rights of not only the applicant but also impacts the rights of the spouse and kids while travelling with the applicant. Applicant is not able to travel with family.

### **The grounds for the application are;**

- a) The Federal Court may grant relief under subsection (3) if it is satisfied that the CBSA failed to observe a principle of natural JUSTICE, procedural Fairness or other procedure that it was required by LAW to observe.
- b) The decision by the CBSA to penalise USD \$36,450 was factually incorrect. Federal Courts Act 18.1 (4) subsections (b), (c) & (d). The Penalty of USD \$36,450 imposed by CBSA is unreasonable and beyond the normal punishment for Failure to Declare excess funds of \$10,000 upon crossing the border. Federal Courts Act 18.1 (4) subsections (b), (c) & (d).
- c) CBSA seized total currency of US Dollars \$100,450 in cash on December 5<sup>th</sup> 2021. Partial amount of USD \$64,000 was returned by CBSA by converting into Canadian Dollars and returned a cheque for Canadian Dollars \$77,568 Dated August 9<sup>th</sup> 2022. As per the law, CBSA should have returned the seized currency (US dollars) in its original form rather than converting at a lower rate (Canadian Dollars) incurring huge losses to the applicant. Example: if USD \$64,000 converted in today's rate of exchange of US Dollars to Canadian Dollars is 1.36 it would have been Canadian Dollars \$87,040 instead of cheque of \$77,568 returned by CBSA. By converting the currency, it was a tremendous loss to the applicant. If the CBSA is not returning the seized currency in its original form then today's currency conversion rate of 1.36 USD to CAD should be applied for any past, current or future currency conversion rates.
- d) CBSA based its decision or order on an erroneous finding of fact that it made in a perverse or capricious manner or without regard for the material before it.



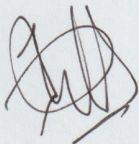
**Description of relief requested;**

- a) The Federal Court may grant relief if it is satisfied that the CBSA failed to observe a principle of natural JUSTICE, procedural Fairness or other procedure that it was required by LAW to observe.
- b) Penalty of USD \$36,450 is unreasonable and beyond normal punishment as per the Law for failure to declare funds in excess of \$10,000. First infraction of not declaring the currency is a warning or a \$250 Canadian Dollars as Penalty.
- c) CBSA is liable to return seized currency in original form-US Dollars. If the CBSA is not returning the seized currency in its original form then todays currency conversion rate of 1.36 USD to CAD should be applied for any past, current or future currency conversion rates of US Dollars to Canadian Dollars.
- d) Removing the name of the applicant from CBSA records for 6 years of additional screening and security checks. The decision to flag the name of the applicant is very distressing and traumatic as the applicant is flagged at every travel point that leads to trauma and harassment while travelling with family, friends and colleagues. This infringes the rights of not only the applicant but also impacts the constitutional rights of the spouse and kids while travelling with the applicant.

**The following documentary evidence will be used at the hearing of the application**

- (a) Copy of CBSA Decision.
- (b) Proof of Extension of time-Federal Court.
- (c) The affidavit of Habeeb Ali.
- (d) Promissory note of the lender.
- (e) Bank Statements.
- (f) Articles of Incorporation document.
- (g) Confirmation of Business Loan by US SBA.
- (h) Any other evidence this Honourable Court may deem proper.

Date: December 13<sup>th</sup> 2022



*(Signature of applicant)*

**APPLICANT:**

Habeeb ALI  
2 Hurst Drive  
Ajax ON  
L1T 0N8  
Tel: 647-539-3563  
Email: mailbackali@gmail.com