

F I L E D	FEDERAL COURT COUR FÉDÉRALE	D È P O S É
21-Oct-2024		
Lucia Tardioli		
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~~CONFIDENTIAL~~

Court File No.: DES- 18 -24

FEDERAL COURT

BETWEEN:

ATTORNEY GENERAL OF CANADA

Applicant

– and –

**~~RESPONDENT(S) TO BE NAMED BY THE COURT PURSUANT
TO SECTION 38.04(5) OF THE CANADA EVIDENCE ACT~~**

NICOLAS MOORES

– and –

THE DIRECTOR OF PUBLIC PROSECUTIONS

Respondents

**APPLICATION UNDER SUBSECTION 38.04(1) OF THE
CANADA EVIDENCE ACT**

AMENDED NOTICE OF APPLICATION

TO THE RESPONDENT(S):

A PROCEEDING HAS BEEN COMMENCED by the Applicant. The relief claimed by the Applicant appears on the following pages.

THIS APPLICATION will be heard by the Court at a time and place to be fixed by the Judicial Administrator. The Applicant requests that this Application be heard at Ottawa.

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 prepare a notice of appearance in Form 305 prescribed by the *Federal Courts*

Rules, 1998 and serve it on the Applicant's solicitor WITHIN 10 DAYS after being served with this Notice of Application.

Copies of the *Federal Courts Rules, 1998*, 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, JUDGEMENT MAY BE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU.

Date: _____

Issued by: 
(Registry Officer)

Amended: 21 - OCT - ,2024

TO: MS. ALEXANDRA K. SEAMAN
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Counsel for Mr. Nicolas Moores

AND TO: THE DIRECTOR OF PUBLIC PROSECUTIONS
C/O Jared Bialowas
160 Elgin Street – 12th Floor
Ottawa, ON K1A 0H8

APPLICATION

THIS IS AN APPLICATION under s. 38.04(1) of the *Canada Evidence Act* R.S.C., 1985, c. C-5 (as amended by S.C. 2001, c. 41, s. 43) (CEA), for an order regarding disclosure of information referred to in a notice given on October 2, 2024, to the Attorney General of Canada (AGC) under s. 38.01(1) of the CEA. In the notice, Jared Bialowas, Senior Counsel with the Public Prosecution Service of Canada (PPSC), advised that the PPSC was required to disclose sensitive information pursuant to *R. v. Stinchcombe* in the prosecutions of Mr. Nicolas Moores, currently before the Alberta Court of King's Bench (court file no. 210372819Q1) .

THE APPLICANT MAKES APPLICATION FOR:

- (a) An order under s. 38.06(3) of the CEA confirming the prohibition from disclosure of the information referred to in the notices, except as previously authorized by the AGC under s. 38.03(1), but subject to conditions that the judge considers appropriate such as a summary of the information or an order permitting disclosure of the information to the judge in the underlying proceeding; and
- (b) Such further and other relief as the Applicant may request and this Honourable Court deems just.

THE GROUNDS FOR THE APPLICATION ARE:

- (a) The underlying proceeding in this case is a criminal prosecution in Alberta.
- (b) In June 2019, members of the Alberta Law Enforcement Response Team conducted a drug trafficking investigation in St. Albert and Edmonton, Alberta. Information received from a confidential informant indicated that Nicolas Moores and Garreth Curry-McCallum were trafficking in cocaine.

- (c) Further investigation, warranted searches and production orders, revealed a pattern of calls to correctional facilities, and the likelihood that Mr. Moores and Mr. Curry-McCallum, among others, were involved in the importation of drugs into Alberta correctional facilities, namely the Bowden Federal Institution.
- (d) During the investigation, with the assistance of the Royal Canadian Mounted Police (RCMP), investigators attempted to deploy an On Device Investigative Tool (ODIT) onto a device linked to Mr. Curry-McCallum. The attempt was unsuccessful, and no evidence was gathered as a result.
- (e) Mr. Moores, as well as several co-accused, were arrested and charged with two counts of conspiracy to traffic in a controlled substance (cocaine), contrary to s. 465(1)(c) of the *Criminal Code* and s. 5(1) of the *Controlled Drugs and Substances Act* (CDSA); and one count of participate in or contribute to the activities of a criminal organization for the purpose of enhancing the ability of said organization to traffic in a controlled substance (cocaine), contrary to s. 467.11 of the *Criminal Code* and s. 5(1) of the CDSA.
- (f) Mr. Moores' co-accused have all resolved their charges. Mr. Moores' trial is scheduled to begin on November 18, 2024.
- (g) On October 2, 2024, a notice was provided by Jared Bialowas to the AGC under s. 38.01(1) of the CEA that he will be required to disclose sensitive information contained in 14 documents in the above noted proceeding. On October 2, 2024, the AGC authorized disclosure of the fact that notice was given;
- (h) The AGC may receive future notices pursuant to s. 38 of the CEA covering additional documents in connection with the underlying proceeding that will become part of this application; and

- (i) Further and other grounds as the Applicant may advise and this Honourable Court may permit.

THE ATTORNEY GENERAL MAKES THE FOLLOWING REPRESENTATIONS UNDER SECTION 38.04(5) OF THE CEA:

- (a) An *ex parte* hearing may be necessary;
- (b) Nicolas Moores and the Director of Public Prosecutions (DPP) are parties whose interests are affected by the information in the documents subject to this proceeding and must be named as Respondents to these proceedings;
- (c) A copy of the Notice of Application, amended to include Nicolas Moores, and the DPP as Respondents, shall be served on the Respondents or their counsel;
- (d) The Notice of Application should remain confidential. The amended Notice of Application including the name of the Respondents in the style of cause will be served on counsel for the Respondents;
- (e) The next steps in these proceedings must be decided by the judge seized of the matter, including the naming of an *amicus curiae*, if one is necessary; and
- (f) Further and other grounds as the Applicant may advise and this Honourable Court may permit.

THE APPLICATION WILL BE SUPPORTED BY THE FOLLOWING MATERIAL:

- (a) The amended Notice of Application; and

- (b) Affidavits and other material as counsel may advise and this Honourable Court may permit.

Date: October 18, 2024



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