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Court File No: T-2436-24

**FEDERAL COURT**

BETWEEN:

**EMMA BRIANT**

Applicant

AND:

**ATTORNEY GENERAL OF CANADA**

Respondent

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**RESPONDENT'S MOTION RECORD**

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Court File No. T-2436-24

## FEDERAL COURT

BETWEEN:

EMMA BRIANT

APPLICANT (RESPONDING PARTY)

AND:

ATTORNEY GENERAL OF CANADA

RESPONDENT (MOVING PARTY)

## NOTICE OF MOTION

TAKE NOTICE THAT the Attorney General of Canada, on behalf of the Respondent, will make a motion to the Court in writing under Rule 369 of the [Federal Court Rules](#).

## THE MOTION IS FOR:

- (a) An Order converting this application to focus solely on judicial review pursuant to section [41](#) of the *Privacy Act*, [RSC 1985, c P-21](#) and to strike reference to section [18.1](#) of the *Federal Courts Act*,
- (b) An Order that the Applicant's Notice of Application dated September 20, 2024 be struck out and dismissed for mootness, without leave to amend; and
- (c) Such further and other relief as to this Honourable Court may seem just.

## THE GROUNDS FOR THE MOTION ARE:

1. On February 28, 2024, the Applicant filed a request for access to personal information under subsection [12\(1\)](#) of the *Privacy Act* with the Department of National Defence.
2. On May 16, 2024, the Applicant filed a complaint to the Office of the Privacy Commissioner related to her outstanding request with the Department of National Defence.
3. On August 5, 2024, the Office of the Privacy Commissioner issued an investigation report finding that the Applicant's request to the

Department of National Defence was deemed to have been refused, pursuant to subsection [16\(3\)](#) of the *Privacy Act*.

4. On October 18, 2024, the Department of National Defence sent the Applicant a response package containing the relevant personal information related to her February 28, 2024 request. This disclosure renders the underlying application for judicial review moot, based on the Court's limited jurisdiction on an application under section 41 of the *Privacy Act*. There is no longer any live issue for the Court to adjudicate.
5. The Court should decline to exercise its discretion to hear this moot matter. Judicial economy does not favour this application proceeding. It would serve no practical benefit to the Applicant and judicial resources should be used to resolve live disputes between parties. The matter is also in a preliminary stage.

**THE FOLLOWING DOCUMENTARY EVIDENCE** is relied upon in support of this motion:

- (a) The Affidavit of Anne Bank, affirmed October 29, 2024

**DATED** at the City of Vancouver in the Province of British Columbia, this 19<sup>th</sup> day of November, 2024.



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**ATTORNEY GENERAL OF CANADA**

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Counsel for the Respondent

Court File No. T-2436-24

**FEDERAL COURT**

BETWEEN:

**EMMA BRIANT**

APPLICANT

AND:

**ATTORNEY GENERAL OF CANADA**

RESPONDENT

**AFFIDAVIT OF ANNE BANK**

I, Anne Bank, of the City of Ottawa, in the Province of Ontario, AFFIRM THAT:

1. I am the Executive Director, Directorate of Access to Information and Privacy ("**DAIP**"), Department of National Defence ("**DND**") and as such I have personal knowledge of the underlying request made on February 28, 2024 (File: P-2023-06238), which forms the subject matter of this application for judicial review (Court file number: T-2436-24) pursuant to section 41 of the *Privacy Act*, RSC 1985, c P-21 ("**Privacy Act**"), and the facts deposed to in this affidavit. Where my affidavit is based on information and belief, I have identified the source of that information and believe it to be true.

2. DAIP is responsible for acting on behalf of the Minister of National Defence in all matters relating to the *Privacy Act* and the *Access to Information Act*, RSC 1985, c A-1. DAIP's authority in this regard extends to all elements of the Canadian Forces and DND, except for the following organizations: the Military Police Complaints Commission, the Military Grievances External Review Committee, the Communications Security Establishment, the Office of the National Defence and Canadian Forces Ombudsman, the Director of

Defence Counsel Services, and the Canadian Forces Morale and Welfare Services.

3. In cases where a request made under the *Privacy Act* indicates that records would be found in a specific office or with a specific individual, the task to collect the information is directed to that specific office or person. The request made by Emma Briant on February 28, 2024 (File: P-2023-06238) concerned individuals that were no longer employed with DND. As such, it took longer than anticipated to locate records responsive to this request.

4. On October 18, 2024, a response package was sent electronically to Emma Briant at [emmalbriant@protonmail.com](mailto:emmalbriant@protonmail.com). Attached hereto and marked as **Exhibit "A"** is a copy of the electronic communication enclosing the response package.

5. The response package referred to in paragraph 4 of this affidavit included a letter addressed to Emma Briant. This letter outlined that all available records were located and processed for release in accordance with the *Privacy Act* in response to Dr. Briant's request of February 28, 2024 (File: P-2023-06238). Attached hereto and marked as **Exhibit "B"** is a copy of this letter.

6. As of the date of this affidavit, DAIP has not received a request for correction due to an error or omission in the personal information provided in response to Dr. Briant's request. Dr. Briant has made no requests for clarification or assistance to DAIP regarding the request.

7. Following the production of the response package referred to in paragraph 4 of this affidavit, Dr. Briant's request (File: P-2023-06238) referred to in paragraph 1 of this affidavit is considered complete.

8. I make this affidavit in support of the Respondent's response to this litigation and for no other or improper purpose.

**AFFIRMED BEFORE** me at the City of )  
Ottawa, in the Province of Ontario, this )  
29<sup>th</sup> day of October 2024. )



\_\_\_\_\_  
Commissioner for Taking Affidavits )



\_\_\_\_\_  
**Anne Bank**

**SAFEERA GILLANI,**  
Commissioner for Taking Affidavits  
Province of Ontario,  
Licensed Paralegal. LSO #P18642

This is Exhibit "A" referred to in the  
affidavit of ANNE BANK  
Affirmed before me at Ottawa, Ontario,  
this 29th day of October, 2024



---

A Commissioner for taking Affidavits  
within Ontario

**SAFEERA GILLANI,**  
a Commissioner for Taking Affidavits  
Province of Ontario,  
Licensed Paralegal. LSO #P18642



**national defence – atip request p-2023-06238.**

atip-aiprp@forces.gc.ca - National Defence

**Conversation Participants:** ➤ [emmalbriant@protonmail.com](mailto:emmalbriant@protonmail.com) 🕒**national defence (atip-aiprp@forces.gc.ca)****Sent:** Oct 18, 2024 - 14:30:56 EDT**Expires:** Dec 17, 2024 - 14:30:56 EST**Message:***Good day,**Please find below the link(s) to Canada Post Connect to access the release package for your request P-2023-06238.**Note that this link will be active and accessible to you for 60 days.**Kind regards,**Jani Muhandiramalage***Attachments:**[Response Letter P-2023-06238.pdf](#) (249.89 KB)[P-2023-06238.pdf](#) (5.39 MB)

This is Exhibit "B" referred to in the  
affidavit of ANNE BANK  
Affirmed before me at Ottawa, Ontario,  
this 29th day of October, 2024



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A Commissioner for taking Affidavits  
within Ontario

**SAFEERA GILLANI,**  
a Commissioner for Taking Affidavits  
Province of Ontario,  
Licensed Paralegal. LSO #P18642



National Defence

Défense nationale

National Defence Headquarters  
Ottawa, Ontario  
K1A 0K2Quartier général de la Défense nationale  
Ottawa (Ontario)  
K1A 0K2Our file: P-2023-06238  
Your file: EP2024\_0096930Emma Briant  
3- 16 Gordon Ave  
Elwood, Victoria 3184  
AUSTRALIA

Dear Emma Briant:

This is response to your request submitted under the *Privacy Act (Act)* received February 28, 2024 for:

*Records, including any communications or other documents, that contain any references to myself, Dr. Emma Briant, Dr. Emma Bryant or any other variation of my name and my work or my media engagement, or discussions and analysis of it and responses to it, held by: Maj Kirk Sullivan, Col Paul Doucette, Jessica Lamirande, Chris Henderson, Col Holly Apostoliuk, Richard Perreault, Maj. JM Mercier, Daniel Le Bouthillier, Jay Janzen This should include the details of whom any such data was shared with or received from and who holds the data. For the period of June 24, 2020 - October 30 2020.*

Enclosed please find a copy of the processed information that could be located using the Department's best efforts, within the constraints of the Act. You will note that certain information has been withheld from disclosure pursuant to section 26 of the Act.

If you believe there is an error or omission in the personal information you have received, you may request a correction by completing and returning the Record Correction Request Form available on the Treasury Board Secretariat of Canada at:  
[www.tbs-sct.gc.ca/tbsf-fsct/350-11-eng.asp](http://www.tbs-sct.gc.ca/tbsf-fsct/350-11-eng.asp)

Please be advised that you are entitled to complain to the Privacy Commissioner concerning the processing of your request. In the event you decide to avail yourself of this right, your notice of complaint should be addressed to:

Office of the Privacy Commissioner of Canada  
30 Victoria Street  
Gatineau, Quebec K1A 1H3  
Toll-Free: 1-800-282-1376  
Tel: 819-994-5444

Canada

Should you require clarification or assistance regarding your request, please contact Tina-Lyne Hand of my staff by e-mail at [Tina-Lyne.Hand@forces.gc.ca](mailto:Tina-Lyne.Hand@forces.gc.ca).

Yours truly,

HAND, TINA-  
LYNE 968

Digitally signed by  
HAND, TINA-LYNE 968  
Date: 2024.10.18  
11:11:53 -04'00'

D. Anne Bank  
Executive Director  
Access to Information and Privacy

Enclosures: Release package

c.c. Office of the Privacy Commissioner (PA-067793)

Court File No. T-2436-24

## FEDERAL COURT

BETWEEN:

EMMA BRIANT

APPLICANT (RESPONDING PARTY)

AND:

ATTORNEY GENERAL OF CANADA

RESPONDENT (MOVING PARTY)

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**RESPONDENT'S WRITTEN REPRESENTATIONS**  
**(Motion to Strike)**

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**OVERVIEW**

1. The Applicant, Emma Briant, seeks judicial review of a deemed refusal by the Department of National Defence to disclose information she requested under subsection [12\(1\)](#) of the *Privacy Act*, [RSC 1985, c P-21](#) ("**Privacy Act**"). The Department of National Defence has now provided the relevant personal information to the Applicant, rendering this application moot.

2. The Applicant is improperly seeking relief pursuant to paragraph [18.1\(3\)\(a\)](#) of the *Federal Courts Act*, [RSC 1985, c F-7](#). The Applicant's sole recourse with respect to the underlying deemed refusal, which the Office of the Privacy Commissioner found to be well-founded, was to bring an application to this Court pursuant to section [41](#) of the *Privacy Act*. It is well-established that this Court's jurisdiction on a section 41 application is narrow and limited to

issuing a disclosure order where appropriate. As the Applicant has received the relevant personal information from the Department of National Defence, this Court lacks jurisdiction to further entertain her application, including with respect to her sought declaratory relief.

### **PART I: STATEMENT OF FACTS**

3. On February 28, 2024, the Applicant filed a request for access to personal information under subsection [12\(1\)](#) of the *Privacy Act* with the Department of National Defence .

Notice of Application at para 1

4. On May 16, 2024, the Applicant filed a complaint related to her request with the Office of the Privacy Commissioner.

Notice of Application at para 2

5. On August 5, 2024, the Office of the Privacy Commissioner issued an investigation report finding that the Applicant's request to the Department of National Defence was deemed to have been refused and was well-founded, pursuant to subsection [16\(3\)](#) of the *Privacy Act*.

Notice of Application at para 3

6. On September 18, 2024, the Applicant filed the underlying application for judicial review concerning the Department of National Defence's deemed refusal of her request.

7. On October 18, 2024, the Department of National Defence sent the Applicant a response package containing the relevant personal information related to her February 28, 2024 request.

Respondent's Motion Record ("**RMR**"), Tab 2, Affidavit of Anne Bank, affirmed October 29, 2024 ("**Bank Affidavit**") at paras 4-5

RMR, Tab 2, Electronic Communication Enclosing Response Package,  
Bank Affidavit, Exhibit "A"

RMR, Tab 2, Cover Letter, Bank Affidavit, Exhibit "B"

8. The Department of National Defence considers the Applicant's request to be complete.

RMR, Tab 2, Bank Affidavit at paras 6-7

### **PART II: POINTS IN ISSUE**

9. The issues to be decided on this motion include:
- a) Should this application be converted into a sole section 41 *Privacy Act* judicial review application?
  - b) Should this application be dismissed as moot?

### **PART III: SUBMISSIONS**

#### **Issue 1 – The Applicant cannot seek judicial review under section 18.1 of the *Federal Courts Act***

10. The Applicant has brought this application pursuant to section 41 of the *Privacy Act* and section 18.1 of the *Federal Courts Act*. However, section 18.1 of the *Federal Courts Act* is not applicable in these circumstances due to section [18.5](#) of the *Federal Courts Act*, which reads:

#### **Exception to sections 18 and 18.1**

**18.5** Despite sections 18 and 18.1, if an Act of Parliament expressly provides for an appeal to the Federal Court, the Federal Court of Appeal, the Supreme Court of Canada, the Court Martial Appeal Court, the Tax Court of Canada, the Governor in Council or the Treasury Board from a decision or an order of a federal board, commission or other tribunal made by or in the course of proceedings before that board, commission

or tribunal, that decision or order is not, to the extent that it may be so appealed, subject to review or to be restrained, prohibited, removed, set aside or otherwise dealt with, except in accordance with that Act.

11. Section [41](#) of the *Privacy Act* provides a mechanism for the Federal Court's review of refused access to personal information requests that have been investigated by the Office of the Privacy Commissioner:

**Review by Federal Court where access refused**

**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.

12. Sections [48](#) and [49](#) of the *Privacy Act* set out the remedies available where the Court determines that the refusal to disclose personal information was not authorized. When considering a section 41 application, the Court is limited to making a disclosure order. Declarations and damages cannot be awarded under section 41.

See *Cumming v Canada (Royal Mounted Police)*,  
[2020 FC 271](#) at paras [23-25](#) [**Cumming**];

*Frezza v Canada (National Defence)*, [2014 FC 32](#) at paras [56-59](#)

13. In *Gregory*, this Court converted an application for judicial review pursuant to section 18.1 of the *Federal Courts Act* into an application under section 41 of the *Privacy Act* on the basis of section 18.5 of the *Federal Courts*



*Act*. That application also concerned a government institution's deemed refusal to provide access to information sought by the applicant.

*Gregory v Canada (Public Safety and Emergency Preparedness)*, [2020 FC 667](#) at paras [10-11](#) [**Gregory**]; overturned on other grounds in *Canada (Public Safety and Emergency Preparedness) v Gregory*, [2021 FCA 33](#)

14. In *Sandiford*, Justice Rochester considered whether subsection [18.4\(2\)](#) of the *Federal Courts Act* was available to convert an application under section 41 of the *Privacy Act* into an application or action where damages may be claimed as a result of a government institution's refusal to disclose personal information. In determining it was not, the Court emphasized its limited jurisdiction on an application under section 41 of the *Privacy Act*, and that attempts to open its doors through the *Federal Courts Act* seek for the Court to do, "indirectly what [it] cannot do directly":

[36] In *Gregory*, the Federal Court converted an application for judicial review pursuant to [section 18.1](#) of the *Federal Courts Act* into an application under [section 41](#) of the *Privacy Act* (at para 1). The application concerned a government institution's refusal to provide access to information sought by the applicant. At first instance, the Respondent Minister brought a motion seeking the conversion of the proceedings as the application ought to have been brought under section 41 of the *Privacy Act* rather than section 18.1 of the *Federal Courts Act*, which the Court granted (*Gregory v Canada (Public Safety and Emergency Preparedness)*, [2020 FC 667](#) at para [11](#)). The only dispute at the Court of Appeal was, once the judicial review was converted to an application under section 41, whether the Federal Court had jurisdiction to consider the merits of the government institution's response to the applicant (*supra* at paras 3, 11, 13).

[37] I am also mindful of the wealth of jurisprudence on the limited jurisdiction of this Court in the context of an application under [section 41](#) of the *Privacy Act*, as discussed in Section A of this judgment above. **Given the Court’s jurisdiction is limited to ordering the disclosure of information that has been requested (*Freeza* at paras 56-57; *Cumming* at para 25), if I were to utilize [subsection 18.4\(2\)](#) of the *Federal Courts Act* to open the door to damages in a section 41 application - I would in effect be doing indirectly what I cannot do directly.** As confirmed by Justice David Stratas in *Brake*, even under subsection 18.4(2) of the *Federal Courts Act* there is no “conversion” and the notice of application remains at all times the operative originating document (at para 43). As such, subsection 18.4(2) does not present an avenue for the present application to be “converted” into something fundamentally different.

[Emphasis added]

*Sandiford v Canada (Attorney General)*,  
[2023 FC 1711](#) at paras [34-38](#)

15. As this application concerns the Department of National Defence’s deemed refusal of the Applicant’s request for personal information under the *Privacy Act*, the Applicant is limited to seeking this Court’s review pursuant to section 41 of the *Privacy Act* (per section 18.5 of the *Federal Courts Act*). She is precluded from seeking additional relief pursuant to section 18.1 of the *Federal Courts Act*. As such, this application ought to be converted to solely focus on the Applicant’s request for judicial review pursuant to section 41 of the *Privacy Act*, including the narrow relief available on an application of this nature.

## **Issue 2 – The application is moot and should be struck**

### **a) *Tests for a motion to strike and mootness***

16. This matter became moot when the Applicant received the personal information relevant to her request on October 18, 2024, and ought to be struck on this basis.

17. In *Boland* – a similar case where this Court was tasked with striking a section 41 application concerning a deemed refusal decision on the basis of mootness – Justice Turley recently set out the test for a motion to strike in these circumstances:

[10] While the *Rules* do not contemplate a motion to strike in the context of applications, the Court has the plenary jurisdiction to strike an application to restrain the misuse or abuse of the court process: *Wenham v Canada (Attorney General)*, [2018 FCA 199](#) at para [33](#) [*Wenham*]; *JP Morgan Asset Management (Canada) Inc v Canada (National Revenue)*, [2013 FCA 250](#) at paras [47-48](#).

[11] In order to succeed on a motion to strike an application for judicial review, the moving party must demonstrate that the application is “so clearly improper as to be bereft of any possibility of success”: *David Bull Laboratories (Canada) Inc v Pharmacia Inc*, [1994 CanLII 3529 \(FCA\)](#), [1995] 1 FC 588 (CA) at 600. In that respect, the threshold question is whether it is “plain and obvious” that the pleading discloses no reasonable cause of action or that the application is “doomed to fail”: *Wenham* at para [33](#).

[12] The jurisprudence makes clear that an application may be doomed to fail and thus struck out on the basis of mootness: *Wenham* at para [36](#)(l); *Cardin v Canada (Attorney General)*, [2017 FCA 150](#) at para [8](#); *Lukács v Canada (Transportation Agency)*, [2016 FCA 227](#) at para [6](#); *Adams v Canada (Parole Board)*, [2022 FC 273](#) at para [32](#) [*Adams*]; *1397280 Ontario Ltd v Canada (Employment and Social Development)*, [2020 FC 20](#) at para [11](#).

*Boland v Canada (Attorney General)*, [2024 FC 11](#) at paras [10-11](#) [**Boland**]

18. Justice Turley went on to summarize the test for mootness:

[13] Mootness is assessed based on the two-part test set out in *Borowski v Canada (Attorney General)*, [1989 CanLII 123 \(SCC\)](#), [1989] 1 SCR 342 [*Borowski*]. The first question is whether the proceeding is moot, particularly “whether a live controversy remains that affects or may affect the rights of the parties”: *Democracy Watch v Canada (Attorney General)*, [2018 FCA 195](#) at para [10](#) [*Democracy Watch*].

[14] If there is no live controversy, then the second question arises: whether the court should exercise its discretion to nevertheless hear the matter: *Democracy Watch* at para [10](#).

[15] In deciding whether to hear a moot case, three factors guide the Court’s exercise of discretion: (i) the absence or presence of an adversarial context; (ii) the concern for judicial economy; and (iii) the Court’s proper law-making role: *Borowski* at 345, 346; *Hakizimana v Canada (Public Safety and Emergency Preparedness)*, [2022 FCA 33](#) at para [20](#) [*Hakizimana*]; *Democracy Watch* at para [13](#).

[16] The application of these factors is not “a mechanical process”: *Borowski* at 345. Indeed, the extent to which each of the three factors is engaged depends on the circumstances of the case and one may outweigh the others: *Sinclair v Canada (Attorney General)*, [2023 FC 750](#) at para [18](#); *NNS Organics Limited v Canada (Health)*, [2020 FC 819](#) at para [40](#); *Canada (Public Safety and Emergency Preparedness) v Allen*, [2019 FC 932](#) at para [14](#) [*Allen*]. As emphasized by Justice Norris, “the ultimate question is what is in the interests of justice”: *Allen* at para [14](#).

*Boland* at paras [13-16](#)

***b) This application is moot and ought to be struck***

19. It is well-established that a deemed refusal application for judicial review becomes moot once disclosure has been made, regardless of how complete or adequate the disclosure is.

See *Sahota v Canada (Attorney General)*, [2024 FC 1493](#) at paras [8-10](#);

*Boland* at paras [18](#), [23](#);

*Cumming* at paras [27-32](#)

20. It follows that this matter became moot when the Applicant received the personal information relevant to her request from the Department of National Defence on October 18, 2024. There is no more live controversy between the parties. The Court has no further jurisdiction to review this matter absent additional pre-requisites being met under section 41 of the *Privacy Act*, including a further investigation from the Office of the Privacy Commissioner.

See *Boland* at paras [20-22](#)

***c) Factors militate against this Court exercising its discretion to hear this moot application***

21. In addition, the Court should not exercise its discretion to hear this moot application based on the relevant factors set out in *Borowski*.

***i. No adversarial context remains***

22. The first factor concerns whether an adversarial context remains. An appropriate adversarial context may persist where the “litigants have continued to argue their respective sides vigorously”.

*Boland* at para [25](#)

23. The Court should not exercise its discretion regarding this factor as there is no legally relevant adversarial context remaining with respect to the issue for which relief is sought. In other words, the only relief the Court could offer in this situation – a disclosure order – would have no practical effect on the Applicant’s rights.

*Boland* at paras [26-27](#)

24. While the Notice of Application specifies that the Applicant seeks both disclosure related to her February 28, 2024 request and declaratory relief, it is again emphasized that the Applicant cannot seek declaratory relief on a section 41 *Privacy Act* application, nor can she seek relief under section 18.1 of the *Federal Courts Act* due to section 18.5.

*Cumming* at paras [23-25](#);

*Gregory* at paras [10-11](#)

## **ii. Judicial economy militates against hearing the application**

25. The second factor related to judicial economy strongly militates against hearing the application, particularly given the Federal Court of Appeal’s recent conclusion that “mootness in judicial reviews has assumed new prominence in light of the recent encouragement given to reviewing courts to avoid needless hearings”.

*Public Service Alliance of Canada v Canada (Attorney General)*,  
[2021 FCA 90](#) at para [6](#);

*Boland* at para [29](#)

26. There would be no practical utility in the Court hearing this application on its merits. The litigation is in its very early stages, with neither party having filed a record. Proceeding with this moot application would not be an efficient

use of the Court's resources, given the preliminary stage of the application and that it would have no practical effect on the Applicant's rights.

*Boland* at para [30](#);

*Adams v Canada (Parole Board)*, [2022 FC 273](#) at para [49](#)

27. There are also no issues of broad public importance that would warrant the Court hearing this application, as deemed refusal applications are very factually specific and there is significant jurisprudence concerning section 41 of the *Privacy Act*.

*Boland* at para [31](#);

*Burlacu v Canada (Public Safety and Emergency Preparedness)*,  
[2022 FC 1290](#) at para [24](#)

### **iii.No question of general importance**

28. The third factor questions whether the Court would be departing from its proper law-making role if it heard the application. As in *Boland*, it is the Respondent's position that this factor is not engaged in the circumstances in this case because there is no question of general importance to be determined.

*Boland* at para [32](#)

### **Conclusion**

29. This application is moot and ought to be dismissed. The Applicant has already received the available relief on this application and this Court lacks jurisdiction to provide further review. There is no basis on which the Court should exercise its discretion to hear this moot application.

### **PART IV: ORDERS SOUGHT**

30. The Respondent respectfully requests the following relief:

- a. An Order converting this application to solely focus on judicial review pursuant to section 41 of the *Privacy Act* and to strike reference to section 18.1 of the *Federal Courts Act*;
- b. An Order striking out the Notice of Application in its entirety, without leave to amend;
- c. Without costs to either party.

**ALL OF WHICH IS RESPECTFULLY SUBMITTED.**

**DATED** at the City of Vancouver, in the Province of British Columbia, this 19<sup>th</sup> day of November, 2024.



---

**ATTORNEY GENERAL OF CANADA**

Department of Justice Canada  
British Columbia Regional Office  
900 – 840 Howe Street  
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V6Z 2S9

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Counsel for the Respondent



## **PART V: LIST OF AUTHORITIES**

### **Legislation**

1. *Federal Courts Act*, [RSC 1985, c F-7](#)
2. *Privacy Act*, [RSC 1985, c P-21](#)

### **Jurisprudence**

3. *Adams v Canada (Parole Board)*, [2022 FC 273](#)
4. *Boland v Canada (Attorney General)*, [2024 FC 11](#)
5. *Burlacu v Canada (Public Safety and Emergency Preparedness)*, [2022 FC 1290](#)
6. *Cumming v Canada (Royal Mounted Police)*, [2020 FC 271](#)
7. *Frezza v Canada (National Defence)*, [2014 FC 32](#)
8. *Gregory v Canada (Public Safety and Emergency Preparedness)*, [2020 FC 667](#)
9. *Public Service Alliance of Canada v Canada (Attorney General)*, [2021 FCA 90](#)
10. *Sahota v Canada (Attorney General)*, [2024 FC 1493](#)
11. *Sandiford v Canada (Attorney General)*, [2023 FC 1711](#)