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Docket: CR 25-01-40931
(Winnipeg Centre)
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COURT OF KING'S BENCH OF MANITOBA

B E T W E E N:

THE ATTORNEY GENERAL OF CANADA ON BEHALF OF THE UNITED STATES OF AMERICA, applicant,	)	Jeff D. Pniowsky Matthew Dalloo for the applicant
- and -	)	
AJAY SINGH, respondent/person sought.	)	Brenna Dixon for the respondent
	)	Judgment Delivered: September 28, 2026

KOTLER J.

INTRODUCTION

[1] Ajay Singh is facing extradition proceedings in relation to allegations that he participated in a bank fraud and money laundering scheme involving companies he owned in the United States. The federal Minister of Justice (the "Minister") has issued an authority to proceed ("ATP") pursuant to s. 15 of the ***Extradition Act***, S.C. 1999, c. 18 (the "***Act***") and Mr. Singh has been arrested. He seeks a stay of proceedings pursuant to s. 24(1) of the ***Charter of Rights and Freedoms*** ("***Charter***"), arguing that the

Attorney General of Canada's ("Attorney General") failure when seeking the arrest warrant to identify the specific charges facing Mr. Singh in the United States – or even to state explicitly that there are charges – violated his right to life, liberty and security of the person guaranteed by ***Charter*** s. 7.

[2] For the reasons that follow, the application is dismissed.

FACTS

[3] On May 28, 2025, the United States issued a "Record of the Case for Prosecution" ("Record of Case"), in relation to Mr. Singh. It requested his extradition to stand trial and alleged that "Singh, a Canadian citizen, participated in a bank fraud and money laundering scheme to obtain Covid Paycheck Protection Program (PPP) monies in years 2020 and 2021 related to his three U.S.-based companies[.]" It contained detailed descriptions of the conduct underlying these allegations, including the names of witnesses and documents suggesting that Mr. Singh had applied for payroll protection loans on the basis of inflated or artificial employee numbers and had diverted some of this money to personal bank accounts and jewellery for his wife. It did not identify specific charges Mr. Singh was facing in the United States, however, nor did it describe any criminal process that had already been undertaken. (See Affidavit of Ajay Singh, affirmed May 15, 2026, Exhibit D)

[4] A "Supplement to Record of the Case for Prosecution" was filed on June 24, 2025. It contained additional information about one of the alleged loan applications, but, again, did not identify pending U.S. charges.

[5] On June 12, 2025, pursuant to s. 15 of the ***Act***, the Minister issued an ATP authorizing the Attorney General to seek an order for Mr. Singh's committal in this court. Pursuant to s. 16 of the ***Act***, the Attorney General applied for an arrest warrant, which was granted by this court on November 27, 2025.

[6] Mr. Singh was arrested pursuant to the warrant on December 10, 2025. He received judicial interim release on December 18, 2025. On May 15, 2026, he filed this motion to stay his proceedings.

ISSUES

[7] In their submissions before me, the parties helpfully clarified the points in issue. Mr. Singh is not challenging the Minister's decision to issue the ATP, nor is he seeking additional disclosure in relation to his pending charges. Rather, he is challenging the Attorney General's application for an arrest warrant pursuant to s. 16 of the ***Act***. He raises two issues:

- Did the Attorney General's failure to identify the nature and status of U.S. charges facing Mr. Singh when applying for an arrest warrant violate his rights under ***Charter*** s. 7?
- If so, should his extradition proceedings be stayed pursuant to ***Charter*** s. 24(1)?

THE LAW

[8] This is not an extradition hearing. I am not being asked whether to send Mr. Singh to the United States to face trial and thus need not apply the statutory procedures and

criteria applicable to that proceeding. That said, a brief description of the applicable legislative and jurisprudential context for Mr. Singh's request is appropriate.

[9] As Professor Robert Currie has observed, extradition represents both an important element of international comity and a significant interference with individual liberties:

> The extradition process allows Canada to participate in international efforts to suppress crime, an important public policy goal. It is to the benefit of Canadians and foreign citizens that extradition systems run smoothly and efficiently, with generous doses of reciprocity, comity and respect for differences between our system and the criminal laws of Canada's partner countries. On the other hand, if extradition is not strictly a criminal process, it nevertheless has a criminal law goal, which is to facilitate prosecutions – and potentially imprisonment – of individuals under foreign legal systems[.] This demands that the rights of individuals sought for extradition be respected and procedural protections be rigorous.

(Robert J. Currie, K.C., "A Primer on Extradition – Committal, Surrender and common Evidentiary Issues" (paper delivered at the 51st National Criminal Law Program, Charlottetown, 6 July 2026) [unpublished])

[10] These principles are balanced by the ***Act***, which effectively creates a three-stage process for extradition proceedings. The first stage is ministerial – after receiving a request from an extradition partner, the Minister decides whether to issue an ATP, which authorizes the Attorney General of Canada to begin committal proceedings on behalf of the extradition partner and provides notice to the person whose extradition has been requested. Pursuant to s. 3(1) of the ***Act***, the Minister must be satisfied as to two basic requirements:

- First, subject to a relevant extradition agreement, the offence in respect of which extradition is requested must be punishable by the extradition partner by imprisonment or other deprivation of liberty for at least two years. (See s. 3(1)(a))

- Second, the conduct of the person, had it occurred in Canada, must have constituted an offence punishable in Canada by imprisonment for at least two years, or at least five years in the case of a request based on a specific agreement. (See s. 3(1)(b))

[11] Pursuant to s. 3(2) of the ***Act***, "it is not relevant whether the conduct [in question] is named, defined or characterized by the extradition partner in the same way as it is in Canada." It is also worth noting that while s. 3(1) refers to a term of imprisonment of at least two years, this is reduced to one year by Article 2 of the *Extradition: treaty between Canada and the United States of America (amended by an exchange of notes)*, 3 December 1971, Can TS 1976, no. 3, (instruments of ratification exchanged March 22, 1976. In force March 22, 1976) (the "*Treaty*").

[12] Where the Minister is satisfied that these conditions are met, an ATP may be issued pursuant to s. 15 of the ***Act***. The ATP identifies the individual whose extradition is sought, the extradition partner making the request and the offence under Canadian law that corresponds to the individual's alleged conduct. In Mr. Singh's case, this was fraud under ***Criminal Code*** s. 380, which, given the amounts alleged, carries a maximum term of imprisonment of 14 years.

[13] Pursuant to s. 16(1) of the ***Act***, once the Minister has issued an ATP, the Attorney General may "apply *ex parte* to a judge in the province in which the Attorney General believes the person is … for the issuance of a summons to the person or a warrant for the arrest of the person." The judge hearing the application shall issue a summons or

warrant in accordance with ***Criminal Code*** s. 507(4), modified as necessary in the circumstances.

[14] The second stage of proceedings is judicial – the subject of the extradition request is brought before a judge for determination whether:

(a) there is admissible evidence of conduct that, had it occurred in Canada, would justify committal for trial in Canada on the offence set out in the ATP; and

(b) the judge is satisfied that the person is the person sought by the extradition partner. (See s. 29(1)(a) of the ***Act***)

[15] Where both of these conditions are satisfied, the judge shall order the committal of the person into custody to await surrender. Otherwise, the judge shall order the person discharged. (See s. 29(3) of the ***Act***)

[16] Notably, evidence is often presented at these hearings through a "record of the case," a summary of the evidence available to the requesting state for use in its prosecution of the person sought. It is certified by the requesting state, who states that the evidence referenced in the summarizing document is available for trial and is either (i) sufficient under the law of the requesting state to justify prosecution, or (ii) gathered according to the law of the requesting state. (See s. 33 of the ***Act***) In this case, the United States certified that the evidence contained in the Record of the Case was sufficient under U.S. law to justify prosecution. This certification creates a presumption of reliability rebutted only where the evidence is "'so defective or appears so unreliable' or 'manifestly unreliable' that it would be 'dangerous or unsafe' to act on it." (***M.M. v.***

United States of America, 2015 SCC 62, para. 63, quoting ***United States of America v. Ferras***, 2006 SCC 33, paras. 40 and 54).

[17] The final stage of proceedings is ministerial – the matter returns to the Minister, who decides whether to order that the person be surrendered to the extradition partner. (See s. 40 of the ***Act***) This is predominantly a diplomatic decision, but s. 44(1) requires the Minister to refuse to make a surrender order where doing so would be "unjust or oppressive" in all the circumstances, where the extradition request was based on one of several protected characteristics (*e.g.*, race or religion) or where the person's position may be prejudiced because of that characteristic, where a prosecution in the requesting state would be statute-barred, or where extradition is sought for a non-criminal military offence or a political offence. The Minister may also refuse for a number of other reasons. (See ss. 44-47) Where a surrender order is not made, the individual shall be discharged. (See s. 48)

ANALYSIS

[18] As noted above, Mr. Singh does not challenge the Minister's decision to issue an ATP in his case. Nor has he yet undergone a committal hearing, let alone a decision to surrender him to the United States. His challenge is solely to the Attorney General's application for a warrant pursuant to s. 12 of the ***Act***. He argues that the failure to provide adequate information to the issuing judge violated his rights under ***Charter*** s. 7 and abused the court's process.

[19] It is common ground between the parties that the material placed before the issuing judge included:

- The ATP, which identified the Canadian offence that corresponded to the conduct alleged by the United States – *i.e.*, fraud contrary to ***Criminal Code*** s. 380.
- The certified Record of the Case and supplement to the Record of the Case, which described in detail Mr. Singh's alleged improper loans and diversion of the proceeds. The Record of the Case stated that Mr. Singh was being sought "to stand trial", alleged that he had "participated in a bank fraud and money laundering scheme" and certified that "the U.S. prosecution will be" based on the evidence it contained. (See affidavit of Ajay Singh, affirmed May 15, 2026, Exhibit D)
- An affidavit from an RCMP officer attaching these documents along with materials pertaining to the identification of Mr. Singh. Having reviewed "materials forwarded by authorities in the United States of America … as well as my personal knowledge of investigative files and information provided to me by fellow law enforcement officers, as well as information from officials of the Department of Justice Canada," the affiant stated that Mr. Singh was "wanted in the United States of America … for prosecution of charges" but did not identify them. (See Affidavit of Andrew Carter, affirmed November 26, 2025, paras. 3 and 9, Exhibit B to Affidavit of Ajay Singh, affirmed May 15, 2026)

[20] Mr. Singh argues that without specification of the foreign charges he is facing, it is impossible to ensure that the principle of "double criminality" has been respected –

that is, that the conduct for which extradition is sought constitutes an offence punishable by a minimum term of imprisonment in both the requesting country and Canada. As Charron J. observed in ***Canada (Justice) v. Fischbacher***, 2009 SCC 46, this is a fundamental principle:

> [26] … The purpose of double criminality is to safeguard the liberty of an individual whose extradition is sought by ensuring that he or she is not surrendered to face prosecution in another country for conduct that would not amount to a criminal offence in the country of refuge. This principle is internationally recognized as central to extradition law. …

[21] Double criminality is also a feature of Canada's extradition treaty with the United States, which, as noted above, requires that offences be "punishable by the laws of both Contracting Parties by a term of imprisonment exceeding one year." (*Treaty*, Article 2, Respondent Book of Authorities, Tab 1)

[22] Compliance with these requirements, Mr. Singh argues, cannot be ascertained without identifying the charges he faces in the United States. Moreover, without this information, it is not clear that any criminal process even exists in the United States and he may face extradition on the basis of "arrest him in Canada first, then figure out what to charge him with later," an unconstitutional distortion of the process contemplated by the ***Act*** and *Treaty*.

[23] The Attorney General notes that s. 16 of the ***Act*** contains no requirement that a requesting state's charging documents or warrants be provided. On the contrary, it does not refer to those documents at all, as opposed to s. 13(1)(c) which deals with provisional arrest warrants – *i.e.*, warrants issued prior to the issuance of an ATP – and requires "reasonable grounds to believe that [*inter alia*] a warrant for the person's arrest or an order of a similar nature has been issued. …"

[24] This is intentional, the Attorney General argues, because ensuring compliance with the principle of double criminality is initially the responsibility of the Minister in deciding whether to issue the ATP authorizing the initiation of extradition proceedings. Where an ATP is issued, that authorizes the warrant application.

[25] Further to that, the Record of the Case, while an important element of an extradition request, does not represent everything placed before the Minister at the first stage of proceedings. Rather, as per ***Fischbacher***:

> [30] … In making the determination required by ss. 15(1) and 3(1)(a) of the *Act*, the Minister will necessarily consider the law of the foreign state, which is provided as part of the extradition request under Article 9 of the *Treaty*. The Minister must satisfy himself that the alleged conduct described in the extradition request is criminal in the foreign jurisdiction, and that the associated penalty meets the threshold established by s. 3(1)(a), or the relevant treaty, where applicable. In other words, the Minister must determine, in accordance with s. 3(1)(a), whether the foreign component of double criminality is satisfied. If so, he will issue an ATP pursuant to s. 15.
>
> [Emphasis added]

[26] The Attorney General agrees that Mr. Singh may seek disclosure of the foreign charges he faces - he need only bring the appropriate application. But the failure to provide them to the issuing justice in a s. 16 warrant application does not violate the ***Charter*** or make Mr. Singh's arrest an abuse of process.

[27] I agree with the Attorney General. As an initial matter, Canada's approach to double criminality is centred on conduct, not the labels attached to it. That is the thrust of s. 3(2) of the ***Act***, which clarifies that it is not relevant whether the requesting state names, defines or characterizes the conduct underlying the request in the same way as Canada – what matters is that the allegations reference conduct that meets the

requirements of s. 3(1), that is, illegal behaviour punishable in both countries by a potential 12-month sentence.

[28] In that regard, the Record of the Case requested Mr. Singh's extradition to stand trial for "bank fraud" and "money laundering." One need not take judicial notice of the details of a foreign legal system to appreciate that these are serious allegations raising the spectre of significant penalties – see ***Canada (Minister of Justice) v. Stewart*** (1998), 131 CCC (3d) 423, 1998 CanLII 6226, paras. 1, 7, 13 (BCCA) (referencing a maximum sentence of 30 years for conspiracy to commit bank fraud), ***X (Re)***, 2016 CanLII 105343 (CA IRB), para. 21 (noting that bank fraud carries a maximum penalty of 30 years in the United States), and ***United States v. Savein***, 2014 BCCA 290, paras. 1 and 39 (referencing a maximum U.S. sentence of 20 years for conspiracy to launder monetary instruments).

[29] Mr. Singh points out that in many extradition decisions, the foreign charges facing the subject of the order are specified. (See, *e.g.*, ***Fischbacher***, para. 1) I take Mr. Singh's point, but note that this is not always the case. In ***United States v. Mensah***, 2014 MBQB 111, for example, Spivak J. (as she then was) issued a committal order in relation to the accused's "alleged participation in a telemarketing fraud organization." (Para. 1) The decision did not refer to any specific U.S. charges, nor did any appear to have been identified in the Record of the Case presented to the court. Rather, as Spivak J. noted:

> [2] The Record of the Case ("ROC"), summarizing the evidence available for use in the prosecution, alleges that the [accused] and 18 others participated in a telemarketing fraud organization led by an individual named John Bellini … that operated out of Montreal, Quebec, between 2004 and 2006. Names of potential victims or "leads" were purchased and supplied to telemarketers, who falsely told

> the victims that they had won a lottery or sweepstakes. The victims were induced to send money for "taxes, "insurance" or "fees" to collect their "winnings." They were instructed to send the money via Western Union or MoneyGram wire transfers, bank transfers or through the mail or commercial carriers. The ROC includes summaries of the anticipated evidence of 32 victims in the United States and Canada, believed to be induced by telemarketers of the Bellini organization to send money to claim their supposed winnings. … The [accused] is identified as one of the telemarketers involved and it is alleged that he allowed the organization to use his residence … as a boiler room or location where telemarketers got together to make calls to the victims.
>
> [Emphasis added]

[30] Based on these detailed allegations, Spivak J. had no difficulty committing the accused for surrender. Similarly detailed allegations are contained in the Record of the Case here.

[31] More fundamentally, s. 16(3) of the ***Act*** provides that "[t]he judge to whom an application is made shall issue a summons to the person, or a warrant for the arrest of the person, in accordance with subsection 507(4) of the *Criminal Code*, with any modifications that the circumstances require." That subsection of the ***Criminal Code*** reads as follows:

> Where a justice considers that a case is made out for compelling an accused to attend before him to answer to a charge of an offence, he shall issue a summons to the accused unless the allegations of the informant or the evidence of any witness or witnesses taken in accidence with subsection (3) discloses reasonable grounds to believe that it is necessary in the public interest to issue a warrant for the arrest of the accused.
>
> [Emphasis added]

[32] The threshold for considering that a "case is made out" is not high. As Mainella J.A. observed in ***Canadian Broadcasting Corporation et al. v. Morrison***, 2017 MBCA 36, it is sufficient that there be some evidence in relation to each element of the alleged offence so as to establish a *prima facie* case. (Para. 21) Significantly, where the warrant

is sought by a law enforcement officer, the judge is permitted to rely on hearsay in determining that process should issue. (Para. 60)

[33] Here, the affiant attested that based on his review of a number of materials, Mr. Singh was "wanted in the United States … for prosecution of charges[.]" (See Affidavit of Andrew Carter, affirmed November 26, 2025, para. 9) One of the documents before him – and the issuing judge – was the ATP issued in relation to Mr. Singh. As discussed above, before an ATP can issue, s. 3(1) of the ***Act*** imposes certain preconditions. One of these is that the Minister must be satisfied that the foreign component of double criminality is met – that is, that "the offence in respect of which extradition is requested" is punishable by the requesting state to the necessary degree. (See s. 3(1)(a)) Only where these statutory preconditions are met can the ATP be issued. (See ***Fischbacher***, para. 30)

[34] In my view, the affiant was entitled to rely on the ATP as *prima facie* evidence that the request for extradition had satisfied these basic requirements for initiating the extradition process. Again, Mr. Singh emphasized before me that he is not contesting the Minister's decision to issue the ATP. In the circumstances, it is hard to see how an issuing judge would not be entitled to take it at face value, at least on a *prima facie* basis.

[35] I see no violation of the ***Charter*** in the material presented by the Attorney General in seeking a warrant. This does not mean that Mr. Singh is not entitled to know what charges he is facing in the United States, or that he is not entitled to use that knowledge to challenge his extradition at the various stages of proceedings described above. But

the failure to identify these charges in the warrant application did not, in my view, represent a violation of Mr. Singh's s. 7 rights.

[36] Given my conclusion, it is not necessary to address the question of remedy. To the extent that I am wrong, however, I am also of the view that any breach does not rise to the level where a stay of proceedings is necessary.

[37] In ***United States of America v. Cobb***, 2001 SCC 19, the Supreme Court confirmed that the "clearest of cases" standard applies in relation to stays of extradition proceedings. Where, as here, an abuse of process is alleged, the three-part analysis set out in ***R. v. Babos***, 2014 SCC 16, para. 32, also applies. Mr. Singh must demonstrate:

- Prejudice to the right to a fair hearing or to the integrity of the justice system that will be "manifested, perpetuated or aggravated" through the conduct of the hearing or through its outcome;
- That there is no alternative remedy capable of redressing the prejudice; and
- In uncertain cases, that the balance of interests favour a stay rather than society's interest in a final decision on the merits.

[38] Here, with respect, I struggle to see how the ***Babos*** criteria are met, in particular, the second. Mr. Singh stressed before me that he is not pursuing disclosure of the status or nature of his United States charges. The Attorney General suggested that should Mr. Singh change his mind, a disclosure motion is available. Were Mr. Singh to obtain this disclosure, it seems to me that he would be well-placed to address the concerns raised in support of his application for a stay. If the Minister had in fact failed to observe

the requirements of s. 3(1) of the ***Act***, or if the United States was seeking his extradition in the absence of charges, he could bring this to the attention of the court at the committal hearing or of the Minister at any point. Should that prove unfruitful, he could use it in judicial review of a decision to surrender him. It is unnecessary to terminate proceedings altogether when a much less drastic remedy is available.

CONCLUSION

[39] Mr. Singh states that his arrest was a breach of fundamental justice and that continuing proceedings in his case will bring the administration of justice into disrepute. I respectfully disagree with both of these assertions. The motion is dismissed.

_____ J.