

**In the Shalom Court of Law, Jerusalem
Judge Rivka Friedman-Feldman**

Re: Chaim Aharon Turchin, represented by
Attorney Raphael Shtub
Rechov Zerach Barnet 14
Jerusalem

The Applicant

Against:

The State of Israel
Jerusalem District Attorney
Rechov Uzi Chasun 4
Jerusalem

The Responder

**Request for the release of evidence
and/or the cancellation of the ruling of Protective Nondisclosure
Request according to paragraphs 45 of Evidences Procedures
and/r paragraph 74 of the Law of Criminal Law Procedures**

The honorable court of law is asked to direct the responder to reveal and/or to present before the applicant every relevant evidence to the accusation process for the criminal file 4875/06 in the Shalom Court of Law, Jerusalem.

This application is for the cancellation of the ruling of Protective Nondisclosure of March 26, 2007, signed by Mr. Avi Dichter, Minister of Interior Defense. That ruling determined the concealment of evidence and information relating to the applicant and to the accusation against him.

Enclosed is the ruling, Item A.

The following are the reasons for the application:

1. The responder issued a document called "a certificate in the matter of protected, undisclosed evidence, for reasons of important public interest," and the certificate relates to the evidence material connected with the applicant.

2. The certificate which the Minister signed is unsuitable and should be cancelled.
3. The certificate is sweeping in scope, relating to details and facts for whose concealment there is no fair consideration.
4. It is wrong here to impose "Protective Nondisclosure" upon the processes connected with the evidence and/or the preparations for evidence which were made and which are being requested for presentation in this process.
5. There is no suitable reason to impose "Protective Nondisclosure" upon the identity of those who gave over to the Police (5) factual reports, including their content and including the details connected to them.
6. There is no suitable reason to impose "Protective Nondisclosure" upon the investigations materials marked in the certificate "Aleph-1," "Aleph-17," "Beis-1," and "Gimel-1," and all that is connected with them.

7. **The first claim:**

The statement that "without protective nondisclosure, human safety will be endangered" is unacceptable. The accused has no criminal record, the society to which he belongs is not a criminal group, and the claim that a danger is posed to human safety is absolutely baseless and should be rejected.

8. **The second claim:**

According to this claim, without protective nondisclosure, the cooperation between the Police and the public is liable to be harmed. This claim is irrelevant with regard to the present subject. We are dealing here with one man, a veteran collaborator with the Police, and all of the public knows this. It appears that Protective Nondisclosure in this matter has come to defend the collaborator, and yet due to the wide publicity of the case, it is not relevant to speak of concealment here.

9. **The third question:**

Confidentiality of work methods or upsetting future plans for investigations. This "charge" is correct in relation to every investigation activity, and should be rejected.

10. The law courts' deliberations here waver between the consideration of "the public good" and the consideration of "the benefit to the accused," in which the benefit of the accused prevails.

In the release of the concealed material, there is a great benefit to the accused, since the matter here is one of an **economic rivalry**, in which the plaintiff activated his Police connections in order to prevail upon his "economic rival."

11. It is logical that the materials which the responder wants to conceal are exactly those evidences which prove that the collaborator activated the Police, unfairly, against his economic competitor.
12. It is to be clarified that in this accusation, there is one version opposed to another version etc., and the court of law will have to determine the question of reliability.
The activity of the plaintiff within the Police staff, his ability to put a "bill of indictment" into action and especially, his ability to prevent the presentation of a bill of indictment against himself, are details bearing great importance in this file, and especially for the need to check reliability and motive.
13. It should be noted: As has been clarified, weighty accusations have been presented against the plaintiff regarding criminal actions which he perpetrated. Yet the Police themselves closed their eyes to this, and continue to do so.
14. If it is so important to the Police to protect the collaborator, despite the fact that he is apparently a criminal offender, and therefore the evidence is concealed, then the Police should cancel the accusation against the applicant. It is not possible to continue the criminal process against him at the same time as all evidence connected to the plaintiff is concealed..

With regard to this matter, examine BS"P 8838/06, Anonymous against the State of Israel, paragraph Heh (2). The Supreme Court, by His Honor the Judge A. Rubinstein, who reviewed the verdict in the matter and write that there is precedence in the considerations for the matter of "**defense of the accused**" and continued, in relation to the above mentioned consideration of the defense of the accused:

"The matter is liable to reach—and I will add that in the past, it has actually reached—the cancellation of the criminal process so as not to reveal evidence."

15. This, and more. It is strange that **everything**, whatever is connected to the same investigation details, all are concealed.
16. It is required that the Minister give details and reasons for his decision, which rules concealment in such a sweeping manner.
17. It is nearly certain, as said, that the people who are trying to cover up here with a "Protective Nondisclosure" are those who are said to testify against the applicant. The testimony of the above is important and central, and it is impossible to investigate well without knowing the details of "the hidden contact" that they have with the present process.
18. More than this—it is nearly certain that part of the "concealed material" comprises **legal agreements** between the collaborator and the Police, according to which the collaborator will testify and cause the applicant's imprisonment, while in return, he will not stand trial for his forbidden actions. Thus, all of his testimony is based upon self-interest in achieving his own success.

There is no reason to hide the names of those who give over information, for with the removal of the Protective Nondisclosure ruling, it will become clear that these are interested parties, with outstanding economic motivation in the bill of indictment. If this is the face of things, it is surely a requirement to remove the concealment and reveal what is taking place beyond it.

19. The Judgment

In the law courts' judgment, it was determined that whenever a doubt has been created in the "balances," if the concealed evidence contains

anything that could arouse **a reasonable doubt** in the guilt of the accused, then that reason is enough **to remove the concealment**.

According to 621/01, the State of Israel against Chamadan, PD"Y N"Ch (2), 823.

According to 889/96, Mazriv against the State of Israel, PD"Y, N"A (1), 433.

20. An inclusive examination should be made of the matters and of the "importance of the evidential material to the defense of the accused" (BSH"P 916/90, BSH"P 992/90, Anonymous against the State of Israel).

21. In order for justice to be done, it is necessary to check the circumstances of every single legal decision. We are dealing in an individual, specific manner. In the same way, each and every piece of evidence must be examined.

(BSH"P 1924/93. Greenberg against the State of Israel, PD"Y M"Z (4) 766).

22. If the non-release of evidence will harm the fairness of a legal process and will destroy the doing of justice to the accused, then the Protective Nondisclosure **should be cancelled**.

23. It is required that the Minister Avi Dichter should be called to an investigation about the reasons and the circumstances of his signature on the ruling of Protective Nondisclosure, and alternatively, it is required that whoever received this decision should be investigated.

24. Under these circumstances, it is required that the application should be accepted, and that the honorable Court of Law should cancel the ruling of Protective Nondisclosure and direct the responder to present all of the evidential material to the applicant.

25. Alternatively: The Minister's ruling, in such a sweeping manner, which comes to block an important layer in the defense, was invalid and without authority. It is required that the responder be obliged to reveal the evidences, according to paragraph 674 of the Law of Criminal Law Procedures.

Raphael Shtub, Attorney