



U.S. Department of Justice

Office of the Solicitor General

Washington, D.C. 20530

February 21, 2024

Honorable Scott S. Harris
Clerk
Supreme Court of the United States
Washington, D.C. 20543

Re: *Federal Bureau of Investigation v. Fikre*, No. 22-1178

Dear Mr. Harris:

The Court heard oral argument in this case on January 8, 2024. Upon reviewing the transcript, we identified a potential ambiguity in the following colloquy:

JUSTICE GORSUCH: * * * [I]s it too much to ask the federal government to share with the district court in a SCIF enough information to be able to assess the mootness question? Perhaps even share it with cleared counsel as it does in so many other circumstances under other statutory regimes. Why is that too much to ask the executive branch?

MR. JOSHI: So that is exactly what we do when these cases get to the merits. If he had remained on the No Fly List, that's what would have happened. That's what happens in the other cases.

Tr. 42-43. We write to clarify that the response above was intended to address only the initial question about "shar[ing] with the district court," *ex parte* and *in camera*, certain classified information underlying a No Fly List determination. Tr. 42. Because disclosing such information more broadly presents additional and distinct national-security concerns beyond those posed by *ex parte*, *in camera* disclosure, the government does not share classified information with cleared counsel in this context.

We would appreciate your circulating this letter to Members of the Court.

Sincerely,

Elizabeth B. Prelogar
Solicitor General

cc: See Attached Service List

22-1178

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