

23-Feb-21

REGISTRY

This is the 1st affidavit
of MOHAMMAD SHUJAATH ALI in this
proceeding
and it was made on February 22nd, 2021

File No. S 210209
Vancouver Registry

In the Supreme Court of British Columbia

Between

ALAIN BEAUDOIN, BRENT SMITH, JOHN KOOPMAN, JOHN VAN MUYEN,
RIVERSIDE CALVARY CHAPEL, IMMANUEL COVENANT REFORMED CHURCH,
and FREE REFORMED CHURCH OF CHILLIWACK, B.C.

Petitioners

and

HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA,
and DR. BONNIE HENRY IN HER CAPACITY AS PROVINCIAL HEALTH OFFICER
FOR THE PROVINCE OF BRITISH COLUMBIA

Respondents

AFFIDAVIT OF MOHAMMAD SHUJAATH ALI

I, MOHAMMAD SHUJAATH ALI, of 4162 Welwyn Street, Vancouver, in the Province of
British Columbia, MAKE OATH AND SAY AS FOLLOWS THAT:

1. I am the Mufti of Masjid-ul Haqq in Vancouver and a member of the Religious Affairs Committee of The British Columbia Muslim Association, the parent organization of Masjid-ul Haqq, and as such I have personal knowledge of the matters herein deposed to except where stated to be on information and belief and where so stated, I verily believe them to be true.
2. For a Muslim, offering ritual prayer ("**Salat**") in congregation with other Muslims is an obligatory worship that a Masjid (Mosque) facilitates, providing this essential service to the Muslim community.
3. Islam is based on five pillars which the Prophet Muhammad (peace and blessings of Allah be upon him) has explained for us, when he said:

“Islam is built upon five [pillars]: the testimony that there is no god but Allah and that Muhammad is the Messenger of Allah; establishing regular prayer (salat); paying the zakat; Hajj (pilgrimage) and fasting Ramadan.”

-- (al-Bukhari, no. 8)

Obligatory Salat:

4. The obligatory Salat is performed five times a day as was revealed in the Holy Qur'an and taught to us by Prophet Muhammad (peace be upon him).

5. Allah tells us in the Holy Qur'an (interpretation of the meaning):

“Indeed, performing Salat is a duty on the believers at the appointed times.”

-- (An-Nisa 4:103)

6. It was narrated that Anas ibn Maalik said: Abu Dharr narrated that the Messenger of Allah (peace and blessings of Allah be upon him) said:

“.... He [Allah] said, ‘(The Salat) are five but (the reward) is fifty. The Sentence that comes from Me cannot be changed [cf. Qaaf 50:29]”

-- Narrated by al-Bukhaari, 342; Muslim, 163

7. Praying Salat in congregation is obligatory, so a Muslim must pray the obligatory Salat in congregation with the Muslims.

8. Allah tells us in the Holy Qur'an (interpretation of the meaning):

“O Maryam! Submit yourself with obedience to your Lord (Allah, by worshipping none but Him Alone) and prostrate yourself and bow down [Salat] along with those who bow down [Salat].”

-- (Aal 'Imraan 3:43)

The Friday Prayer

9. For the Muslim men, attending the special Friday Prayer in congregation in Masjid is also an obligation. This religious service cannot be done online/virtually as it involves not only listening to the sermon delivered by an Imam, but also offering the Salat in congregation.

10. Allah tells us in the Holy Qur'an (interpretation of the meaning):

"O believers! When the Adhan (call for Salat) is made on Friday, then proceed 'diligently' to the remembrance of Allah and leave off 'your business'."

-- (Al- Jumu'ah 62:9)

11. It is not valid for Muslim men to offer the Friday Prayer in their homes because the Friday Prayer is prescribed for the Muslims to gather in one place to listen to the sermon and offer obligatory Salat in congregation. If a Muslim man does not attend the Masjid and misses the Friday Prayer, there is no make up of the Friday Prayer and he may be misguided.

12. On the authority of Abu Hurayrah and Ibn 'Umar (may Allaah be pleased with them both), reported that the Prophet Muhammad (peace and blessings of Allaah be upon them) said:

"People should definitely stop neglecting Jumu'ah, or else Allah will most certainly seal their hearts and they will most certainly be among the ghaafileen (negligent, heedless, misguided)."

-- (Muslim)

Spiritual and Mental Benefits of Religious Gatherings

13. Attending religious services (congregational prayers and lectures) in the Masjid is a means of keeping the Muslim community together and brings them peace of mind and consolation.
14. Since November 19, 2020, when members of the Muslim community were deprived of the ability to gather, I have observed that their morale has been adversely affected, they feel alone, estranged, and their spiritual well-being is adversely affected.

Prohibitions during Salat and Friday Prayer:

15. Allah tells us in the Holy Qur'an (interpretation of the meaning):

“Recite, [O Muhammad], what has been revealed to you of the Book and establish Salat. Indeed, Salat prohibits immorality and wrongdoing, and the remembrance of Allah is greater. And Allah knows that which you do.”

-- (Al-Ankabut 29:45)

16. Talking, eating, drinking, touching, moving, or doing any other action other than the prescribed actions to perform Salat, are prohibited during Salat. Each obligatory Salat takes between 10-20 minutes to perform in congregation.
17. During Friday sermons, the Imam is the only person who speaks when delivering the sermon and stands more than six feet away from the attendees and the attendees are required to sit down and listen attentively to the Imam and is prohibited from talking to each other, eating, drinking, or moving around. Friday sermon usually is between 30-40 minutes long.

18. If an individual does not adhere to the prohibitions for Salat and Friday Sermon, their Salat and Friday Prayer is considered invalid.

Safety Plan during COVID:

19. I believe that the risk associated with the viral transmission of COVID during the Salat and the Friday Prayer is minimal to none, due to the prohibitions of actions a Muslim must adhere during such worship.

20. I and the leadership of The British Columbia Muslim Association are committed to the health and wellbeing of our community members and the community at large. We are committed minimizing any risk of COVID transmission at our gatherings. Prior to the November 19th, 2020 prohibition on in-person religious gatherings, we met for only for obligatory Salat and Friday Sermon with extensive safety protocols, including the following:

- numbers were restricted to a maximum of 50 per room,
- the facilities were sanitized,
- physical distancing of at least 2 metres was required between each individual,
- individuals were required to bring their own prayer mats and wear masks,
- hand sanitizers were available for attendees, and
- a record of each person entering was kept.

21. I am aware that no case of COVID transmission occurred within our religious gatherings.

22. I have consulted with the leaders of the following Masjids, operated by the British Columbia Muslim Association, who have expressed to me the above beliefs we share in common as well as their concern for the well-being of their members and how the prohibition on gathering in-person for prayer harms their communities:

- Imam of Richmond Jamea MASjid (Richmond);
- Imam Yahya Momla, Imam Masjid al-Salaam and Education Centre (Burnaby);
- Qari Abdul Wahab, Senior Imam of Surrey Jamea Masjid (Surrey);
- Mohammad Muaad, Mufti of Surrey Jamea Masjid (Surrey);
- Shaharyar, Imam of Masjid Ur Rahmah (Surrey);
- Yosuf Mankakada, Imam of Masjid Ur Rahmah (Surrey);
- Sheikh Ismail Nour, Imam of Masjid Al-Iman (Victoria);
- Islamullah Khokhar, Imam of Abbotsford Islamic Center (Abbotsford);
- Imam of Islamic Centre of Nanaimo (Nanaimo); and
- Prince George Islamic Centre (Prince George).

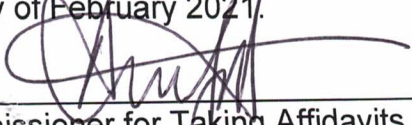
Communication with the Provincial Health Officer

23. I have been made aware by Md. Golam Rabbani, a member of our Muslim community, that on January 10, 2021, he requested Dr. Henry, the Provincial Health Officer, to open religious places with COVID-19 measures, but has not received any response from the Provincial Health Officer.

24. Attached hereto as Exhibit "A" is a copy of the email sent by Md. Golam Rabbani to Dr. Henry, dated January 10, 2021.

25. I swear this Affidavit *bona fide*, and for no improper purpose.

SWORN BEFORE ME at the City of
Burnaby, in the
 Province of British Columbia, on this
22nd day of February 2021.


 A Commissioner for Taking Affidavits
 within the Province of British Columbia

ARAFAT KALAM
 ... NOTARY PUBLIC ...
 202 - 5501 Kingsway
 Burnaby, BC, V5H 2G3
 Phone: (778) 898-5854

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 MOHAMMAD SHUJAATH ALI

Fwd: Request to open religious places with COVID-19 safety measures

Md. Golam Rabbani <g.rabbani@gmail.com>

Sun 2/21/2021 9:59 PM

To: shnadwi@hotmail.com <shnadwi@hotmail.com>

Cc: Ali Haidar <ahaidar@idrf.ca>

----- Forwarded message -----

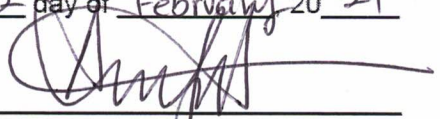
From: **Md. Golam Rabbani** <g.rabbani@gmail.com>

Date: Sun, Jan 10, 2021 at 10:57 PM

Subject: Request to open religious places with COVID-19

To: <bonnie.henry@gov.bc.ca>

This is "Exhibit A" referred to in the
Affidavit of Mohammad Shujaath Ali
sworn before me at Burnaby
this 22 day of February 20 21


A Commissioner for taking Affidavits
for British Columbia

ARAFAT KALAM

... **NOTARY PUBLIC** ...

202 - 5501 Kingsway

Burnaby, BC, V5H 2G3

Phone: (778) 898-5854

Dear Dr. Henry,

Thank you for your thoughtful leadership in addressing the pandemic situation in British Columbia. We appreciate your work and effort.

I am writing this letter to inform you about important concerns from myself as well as from my community. I am a member of Muslim community in Vancouver. Since the start of the pandemic our mosques have been following the public health guidance given by your office. However the recent order and extension to completely shut down our places of worship for any in-person gathering even with appropriate COVID-19 safety and precautionary measures is affecting the most important part of our faith.

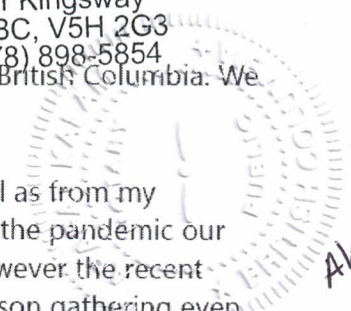
We feel a sense of distress and a sense of being left out to find that while businesses like restaurants, pubs, clubs are not closed where people spend more time, yet our mosques have to be closed where people would gather only for 5-10 minutes at a time. Furthermore, looking at the data, worship places have not been the source of the COVID-19 virus transmission.

Praying together is a core and fundamental part of our faith as well as very important for our mental health. It is mandatory in our beliefs. With appropriate safety measures taken according to guidelines as established in other places such as schools and shops, we can definitely work out a solution that can address public health concerns while our core fundamental beliefs are preserved.

I would sincerely request you to reach out to Imams and leaders in the Muslim community to work out a possible solution.

Thanks for your understanding.

Md Rabbani

 AK

Fwd: Automatic reply: Request to open religious places with COVID-19 safety measures

Md. Golam Rabbani <g.rabbani@gmail.com>

Sun 2/21/2021 10:00 PM

To: shnadwi@hotmail.com <shnadwi@hotmail.com>

Cc: Ali Haidar <ahaidar@idrf.ca>

----- Forwarded message -----

From: **Henry, Bonnie HLTH:EX** <Bonnie.Henry@gov.bc.ca>

Date: Sun, Jan 10, 2021 at 10:57 PM

Subject: Automatic reply: Request to open religious places with COVID-19 safety measures

To: Md. Golam Rabbani <g.rabbani@gmail.com>

Thank you for taking the time to write to my office. The Ministry of Health, the BC Centre for Disease Control, and my office are focused on providing thoughtful guidance to help see everyone to the other side of this pandemic. COVID-19 has demanded much from all of us, but I am grateful for the combined efforts from all British Columbians to support their families and neighbours during this difficult time. It is in all of our hands. Let's remember to wash them.

Unfortunately, due to the high volume of correspondence regarding this pandemic, it is not always possible to respond to every email; however, please be assured that my office will forward your email onto the appropriate division within the Ministry of Health for their further review and consideration. If you are writing about a personal issue or situation regarding a family member in healthcare please understand that I am not able, nor would it be appropriate for me, to intervene in any individual issue. Please contact the Patient Safety Quality council for the appropriate health authority to have your personal situation addressed.

Fraser Health Authority: 1 877 880-8823 or

pcqoffice@fraserhealth.ca <<mailto:pcqoffice@fraserhealth.ca>>

Interior Health Authority: 1 877 442-2001 or

patient.concerns@interiorhealth.ca <<mailto:patient.concerns@interiorhealth.ca>>

Island Health Authority: 1 877 977-5797 or

patientcarequalityoffice@viha.ca <<mailto:patientcarequalityoffice@viha.ca>>

Northern Health Authority: 1 877 677-7715 or

patientcarequalityoffice@northernhealth.ca <<mailto:patientcarequalityoffice@northernhealth.ca>>

Provincial Health Services Authority: 1 888-875-3256 or pcqo@phsa.ca <<mailto:pcqo@phsa.ca>>

Vancouver Coastal Health Authority: 1 877 993-9199 or pcqo@vch.ca <<mailto:pcqo@vch.ca>>

If you are writing about COVID-19, please refer to the information below for some immediate information and reference tools:

- If you or a family member believes they are displaying symptoms of COVID-19, please use the BC COVID-19 Self-Assessment Tool. If the tool advises you are demonstrating relevant symptoms, please call 811 to speak with a healthcare professional: <https://covid19.thrive.health/>

- For answers to common questions about COVID-19, please consult HealthLinkBC and the BC Centre for Disease Control at: <https://www.healthlinkbc.ca/health-feature/coronavirus-disease-covid-19> and <http://www.bccdc.ca/health-info/diseases-conditions/covid-19>
- For non-medical information about the virus, including the latest information on travel recommendations and physical distancing, as well as access to support and services from the provincial and federal governments, please call the toll-free phone line (open 7:30 am to 8:00 pm, seven days a week): 1-888-COVID19 (1-888-268-4319)
- If you are a business looking for restart information please call the WorkSafeBC hotline at 1-888-621-7233 or connect with your local public health office.

If you require immediate medical assistance, please refer to the available contacts listed below:

- If there is a medical emergency, please dial 911 from any phone.
- If you are in emotional distress or require immediate mental health support, please call the Crisis Line <<https://crisiscentre.bc.ca/>> at 310-6789 or toll-free at 1-800-784-2433, to receive an immediate response, available 24/7.

Again, thank you for writing. And please, be kind – be calm – be safe.

Sincerely,

Dr. Bonnie Henry
Provincial Health Officer

Mailing Address: PO Box 9648 STN PROV GOVT, Victoria, BC V8W 9P4