

Grievance Procedure Challenge: Victory! Breach of 'Duty to Act Fairly'

I have recently won a case in the Federal Court of Canada against CSC and the Attorney General of Canada relating to the Offender Grievance Procedure. I did so on my own, without a lawyer and from my weekly pay from CSC. The precedent my case sets needs to be published for all inmates to know and aid in strengthening our ability as inmates to benefit from such victories and force CSC to be accountable and to deal with us fairly and become more ethical in the treatment of prisoners.

Inmates who file Complaints and Grievances, predominately Grievances, are excluded from participation in the Grievance Process beyond their submission. The Analyst who investigates the nature of the Grievance prepares an 'Executive Summary' of his or her findings and forwards it to the Decision Maker who then decides to uphold, deny or reject the Grievance and then forwards the Decision to the inmate.

Inmates who are deprived opportunity to view the 'Executive Summary' completed by the Analyst of his/her Grievance prior to the Decision by the Decision Maker (Inst. Head, Head of Region or Commissioner) are deprived a fair hearing and a breach of 'Duty to Act Fairly'. Inmates are entitled to know the Executive Summary contents and opportunity to add new submission to the Decision Maker to make answer and defence to the Analyst's findings prior to the Decision being made.

In my Case, the Judge upheld that the CSC deprived me of opportunity to adequately State my Case to the Decision Maker:

1. Copy of Executive Summary completed by the Third Level Grievance Analyst prior to Decision being taken
2. Opportunity to participate 'audi alteram partem' and bring forth submissions to the Analyst's Executive Summary to the Decision Maker Assistant Commissioner of Policy prior to his Decision being made on my Grievance

I really wish to raise awareness for other inmates so that they know when CSC does not share the Executive Summary with them prior to the Decision being made on his/her Grievance that CSC has erred in law and breached the 'Duty to Act Fairly' and breached a legal principle known as 'audi alteram partem'. This also applies to other Decisions such as Security Classifications.

My Case Heading is:

Jason Lewis vs. Assistant Commissioner Ian McCowan of Correctional Service of Canada and Attorney General of Canada [Court file # T-241-10]

* Judgement filed October 31, 2011 by Mr Justice Martineau of Federal Court of Canada

Jason Lewis