

## Canadian Inmates Sue Government over T-shirt Ban



Lawyers Shane Martinez, left, and Davin Charney display controversial prisoner-designed T-shirts with an upside down maple leaf, which are at the centre of a \$1.25-million class-action lawsuit.

With so many of their rights restricted, Canadian prisoners are fighting to hang on to one: they want to wear T-shirts with an upside down maple leaf.

Some 150 inmates have filed a \$1.25 million class-action lawsuit against the Attorney General of Canada to wear the T-shirts on Prisoners Justice Day. The shirt also shows two hands grasping jail bars.

The prisoners in Joyceville Institution, 20 kilometres northeast of Kingston, brought the shirts into the prison two years ago, but they were banned shortly after Public Safety Minister Vic Toews condemned the “misuse” of Canada’s national symbol.

Toews said the design “dishonours those who have upheld Canadian laws in the line of duty and fought in support of Canadian values at home and abroad.”

Inmates wore the shirts on Prisoners Justice Day, Aug. 10, 2010, to demonstrate that Canada is in a state of “political and social distress,” the lawsuit states.

Their lawyers, Shane Martinez and Davin Charney, say the government’s ban violates the inmates’ freedom of expression, among other abuses.

“It’s critical for people who aren’t incarcerated to know and remember that people do not — and should not — automatically lose all their rights simply because they are incarcerated,” Martinez said.

“Those rights can only be restricted in a way that is reasonable and justified in a free and democratic society. People’s ability to engage in free expression is very important.”

The lawyers filed the class-action lawsuit Aug. 17 and served the papers to the office of the Attorney General of Canada in downtown Toronto on Thursday.

Martinez said turning the maple leaf upside down has symbolic importance. For instance, it indicates distress at sea.

However, Toews has said the inmates have no excuse for their action.

“Any distress felt by inmates at Joyceville Institution pales in comparison to the real trauma felt by law-abiding Canadians who have been victimized by those incarcerated there,” he said in a 2010 published report.

Martinez argues prisoners wanted to express their opposition to the federal government’s law-and-order agenda, specifically Bill C-10 which is expected to put more people in prison.

The lawyers say prisoners deserve the same rights as anyone else, and suggest that a more informal means to resolve the issue has been met with roadblocks.

“This (class action) promotes access to justice,” Martinez said. “What we’re dealing with is a vulnerable group of people who are incarcerated and have difficulties accessing lawyers as easily as the rest of us.”

Each federal prison’s T-shirt design has an approval process, but just where the process broke down remains unclear.

Prisoners Justice Day has been celebrated by federal inmates since 1976 to remember those who have died in penitentiaries and other penal institutions.

The lawsuit’s representative plaintiffs are serving life terms on murder convictions: Jason Lauzon, 41, for second-degree murder in 1997 and John Chaif, 57, for first-degree murder in 1983.

The lawsuit’s claims have not been proven in court.

The Attorney General of Canada has 20 days to file a statement of defence.

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