

Segregation & Involuntary Transfers

Currently CSC is using hypothetical threats to detain inmates in Segregation or Involuntary Transfer to higher levels of security and I want all inmates to know the following:

In 1985 Miller, Moran and Cardinal trilogy made writs available to free inmates from a “prison within a prison” more restrictive forms of custody. To free inmates from Administrative Segregation, Special Handling Unit (SHU) and transfers to higher forms of Security.

May v. Ferndale Inst. [2005] S.C.J. no. 84 “As a general rule a fair hearing must include an opportunity for the parties to know the opposing party’s case so that they may address evidence prejudicial to their case and bring evidence to prove their position...” CSC must disclose all information CCRA S.27(1) or provide explanation why information is withheld pursuant to CCRA 27(3) [paragraph 95 of May v. Ferndale]

CSC has burden of proof on them to prove guilt of accusations where there is no charge, just an allegation:

Abdelrazik v. Canada [2009 F.C.J. no. 656 [paragraph 53, line 11] “One cannot prove that Fairies and Goblins do not exist any more than Mr. Abdelrazik or any other person could prove they are not an Al-Quaida associate. It is a fundamental principle of Canadian and International justice that the accused does not have the burden of proving his innocence; the accuser has the burden of proving guilt.

Parole Officers, Security, Managers of Assessment Intervention, all try to mislead inmates that we must prove our innocence to their allegations but this is a lie, they are responsible:

In Tehranh-ari v. Canada [2000] F.C.J. 400.495 [par. 46, 51] The CSC was held to have used erroneous and faulty information contrary to law and Parliaments intentions, the staff are responsible for their reports and information they relied upon.

Par. 46 Subsection 24(1) creates a statutory duty on the CSC to take “all reasonable steps to ensure that any information about an offender that it uses is as accurate, up to date and complete as possible”.

The ordinary meaning of the words ‘accurate’, ‘up to date’ and ‘complete’ are:

- i) Accurate – exact or correct; confirming exactly to the fact.
- ii) Complete – entire; full; total; entire, absolute.
- iii) Up to date – right up to the present time; contemporary

Par. 51 The purpose of Subsection 24(1) seems clear. Parliament has said in plain words that reliance on erroneous and faulty information is contrary to proper prison administration, incarceration, and rehabilitation. Counsel for the respondent focussed on the limitation in the subsection “the information must be used by the service.

There is hope for us all! Check these cases and try to build legal libraries at each institution. Use this information to fight the system:

May v. Ferndale Inst. [2005] S.C.J. 84
Caruana v. Canada [T-1889-05]
Singh v. Minister of Employment and Immigration [1985] 1 S.C.R. 177
Dunsmuir v. New Brunswick [2008] 1 S.C.R. 190
Martineau v. Matsqui Inst. [1980] 1 S.C.R. 602
Bonamy v. Canada [2000] S.J. 588
Abdelrazik v. Canada [2009] F.C.J. 656
Brown v. Canada [2006] F.C.J. 571
Russel v. Canada [2006] F.C.J. 1508
Tehranh-ari v. Canada [2000] F.C.J. 495
Demaria v. Regional Classification Board [1987] 1 F.C. 74
Coscia v. Canada [2005] F.C.J. 607
Ruby v. Canada [2002] 4 S.C.R. 3
Re Section 94(2) of the Motor Vehicle Act of BC [1985] 2 S.C.R.
Lewis v. Canada [T-925-11]
The Queen v. Drybones [1970] S.C.R.
Jason Lewis v. Assistant Commissioner Ian McCowan of Correctional Service of Canada and
Attorney General of Cannada [T-241-10]