

Judge certifies class-action lawsuit launched by former inmates of London, Ont. jail

A class-action lawsuit launched by former inmates of a London, Ont., detention centre over the conditions of the facility has been given the green light to proceed.

Superior Court Justice A. Duncan Grace certified the lawsuit against the Ontario government on Tuesday, rejecting a number of the arguments the province made against the legal action.

"Certifying the proceeding will promote access to justice," Grace wrote in his ruling. "In my view, a class action is the most fair, efficient and manageable method of advancing the claim."

The lawsuit, launched in 2013, is being brought on behalf of all people incarcerated at the Elgin-Middlesex Detention Centre between Jan. 1, 2010 and Aug. 25, 2013.

The representative plaintiffs in the lawsuit - Glenn Johnson and Michael Smith - allege the detention centre was violent and overcrowded, and claim their Charter rights were violated during their time in the facility.

Johnson alleged in his statement of claim that he endured threats, assaults, inadequate medical attention and overcrowding between May and December of 2012.

Smith alleged he was threatened and assaulted while at the facility in July 2012.

Both noted that they accepted prisons are stressful and difficult places to live in, but alleged in their statement of claim that the Ontario government failed to ensure basic, minimum standards for humane treatment of prisoners were maintained.

Province argues against action

The province had argued that the claims did not raise enough common issues for a class action, but Grace disagreed.

"The plaintiffs do not suggest a correctional institution is a vacation destination. Nor does the statement of claim contemplate a review of operations on an inmate by inmate or day to day basis," he wrote.

"The plaintiffs maintain that Ontario was obligated to exercise reasonable care in implementing policies designed to prevent inmates from suffering physical and psychological harm while in the province's care and control and that there was a systemic failure to do so."

Grace also noted that the province had "attacked every aspect" of the plaintiffs' motion for certification.

"At this preliminary stage it appears to me the plaintiffs are challenging operational implementation of Ontario's policies and not the policies themselves," Grace wrote. "The plaintiffs allege Ontario developed policies and procedures to protect the health and safety of inmates but failed to exercise reasonable care in their implementation."

The lawsuit's original statement of claim sought damages of more than \$300 million, as well as a declaration that the conditions in the detention centre violate certain Charter rights and freedoms.

After the suit was certified, a lawyer for the plaintiffs said it was too early to quantify the claims of the class members if the action was successful, but noted that the amount would be "significant."

The detention centre at the heart of the case opened in 1977 and is a maximum security remand facility.

Last year, the province announced it was building a 112-bed facility on the grounds of the detention centre to address capacity issues and improve safety for inmates and staff.

Overcrowding in Ontario's jails has been a growing concern in recent years, particularly as it appears to have been accompanied by a rise in cellblock violence.

Diana Mehta
The Canadian Press
Aug 24, 2016