

Class action alleges prison staff conducting illegal strip searches

Two former federal prison inmates are trying to bring a class-action lawsuit against the federal government to argue strip searches represent a "serious deprivation of liberty."

Under federal law, prison staff can strip search inmates if they have reasonable grounds to suspect an inmate has contraband on their body. They can also perform routine strip searches when an inmate enters or leaves a "structured intervention unit," which replaced solitary confinement cells.

But the two plaintiffs, Michael Farrell and Kim Major, allege their bodies - including their genitals and buttocks - were inspected indiscriminately and without any suspicion of wrongdoing, according to the statement of claim, which was served to the federal government Monday morning.

"These are not trivial intrusions. The class members were forced to remove all of their clothing, bend over, spread open their buttocks, manipulate their genitalia, remove soiled tampons, and/or cough while squatting naked in front of others," says the claim, which is being represented by Abby Deshman of the Canadian Civil Liberties Association and Kent Elson of Elson Advocacy.

The lawyers say this situation has been repeated "hundreds of thousands of times" on inmates "and has thus violated their rights under the common law and the Canadian Charter of Rights and Freedoms."

The claims have not been proven in court. A class-action lawsuit must be examined and certified by a judge before it can proceed.

Farrell, 51, was incarcerated for drug-related offences after becoming addicted to opioids following a back injury, the statement of claim says.

He alleges staff forced him to bend over and spread open his buttocks and ordered him to move his penis so that staff could look under and around it.

This traumatized Farrell, who was sexually and physically abused as a child during stints in foster homes, the claim says.

The lawyers say Farrell was unnecessarily strip searched every time he was transferred from one prison to another - each time he left the first prison and again when he arrived at the second prison - though he had no opportunity to access contraband.

Major, 55, was also sexually abused as a young child and then later on by her husband, according to the statement of claim. She served time on fraud charges and now lives in southern Ontario.

According to the statement of claim, she was forced to strip naked, including removing her dentures, whenever she left prison to attend medical appointments, was transferred to other prisons and upon her release, and risked being penalized or face physical force if she objected.

"These strip searches have caused deep emotional scars and exacerbated her pre-existing trauma," the claim says.

Deshman and Elson argue that strip searches are intrusions on individual liberty.

"The strip searches also engaged the right to security of the person," said the claim. "The strip searches violated the class members' physical and psychological integrity and caused significant harm."

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