

Federal Prisoner Mental Health Class Action: Updates

In 2015, Koskie Minsky LLP commenced a class action against the Attorney General of Canada ("Canada") on behalf of all inmates incarcerated in Federal correctional institutions who were seriously mentally ill. The case alleges, among other things, that Canada breached sections 7, 9 and 12 of the Canadian Charter of Rights and Freedoms by subjecting mentally ill inmates to periods of administrative segregation. The action was certified as a class proceeding in December 2016.

The court has ordered an amendment to the class definition to exclude those seriously mentally ill prisoners who were never in administrative segregation.

The claim now covers the following class:

All offenders who were placed in administrative segregation, who were diagnosed by a medical doctor with an Axis I Disorder (excluding substance use disorders), or Borderline Personality Disorder, who suffered from their disorder, in a manner described in Appendix A, and reported such during their incarceration, where the diagnosis by a medical doctor occurred either before or during incarceration in a federal institution between 1992 and present.

Appendix A refers to:

- Significant impairment in judgment (including inability to make decisions; confusion; disorientation);
- Significant impairment in thinking (including constant preoccupation with thoughts, paranoia; delusions that make the offender a danger to self or others);
- Significant impairment in mood (including constant depressed mood plus helplessness and hopelessness; agitation; manic mood that interferes with ability to effectively interact with other offenders, staffs or follow correctional plan);
- Significant impairment in communications that interferes with ability to effectively interact with other offenders, staff or follow correctional plan;
- Significant impairment due to anxiety (panic attacks; overwhelming anxiety) that interferes with ability to effectively interact with other offenders, staff or follow correctional plan;
- Other symptoms: hallucinations; delusions; severe obsessional rituals that interferes with ability to effectively interact with other offenders, staff or follow correctional plan;
- Chronic and severe suicidal ideation resulting in increased risk for suicide attempts;
- Chronic and severe self-injury; or,
- A GAF score of 50 or less.

Please note that the class no longer includes inmates incarcerated in Federal correctional facilities who suffer from a mental illness but were not placed in administrative segregation. If you suffer from a mental illness but were not placed in administrative segregation, you are no longer covered by the class action, and, in accordance with section 28 of the Class Proceedings Act, 1992, all applicable limitation periods will resume with respect to your claim after April 11, 2019 (45 days after publication of this notice).

For inquiries, please contact Koskie Minsky LLP:

Toll Free Hotline: 1-866-777-6343

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Justice Perell awarded \$20 million in base level damages to the Class. A distribution protocol is to be determined.