

Prisoners allege pandemic rules 'wreaked havoc' on minds in class-action lawsuit

Federal prison inmates who allege they were subjected to inhumane treatment during the COVID-19 pandemic have cleared a crucial legal hurdle to move forward with a class-action lawsuit filed five years ago against the Canadian government.

The British Columbia Supreme Court last week certified the class of inmates who claim they were "subject to inhumane rights restrictions" during the pandemic, including being confined to cells for 20 hours or more each day without meaningful contact with other people.

Plaintiff Dean Roberts, a multiple murderer incarcerated at B.C.'s Mission Institution, said in an affidavit the pandemic brought "chaos" as pandemic measures sent prisoners into despair, including one who sewed his lips together.

Roberts' affidavit said the early days of the outbreak caused prison authorities to establish procedures that "wreaked havoc" on his mind, as inmates' routines were upended by shifting pandemic procedures.

"Routine is consistent and practically sacrosanct in a prison environment," Roberts' affidavit said. "Every day the predictable and understood is relied upon. But in the chaos of COVID every day was unknown."

Roberts said the isolation of solitary confinement and the uncertainty around when it might end contributed to "wild emotional swings, unexplainable rage, despair and soul-crushing confusion."

He said he brought "grave concerns" to prison officials as chair of the prison's inmate wellness committee, protesting the practice of allowing people out of their cells for just 20 minutes a day.

He said many fellow inmates began self-harming, with some slamming their heads into walls, others cutting themselves and one man sewing his mouth shut.

"The loneliness and despair was evident on nearly every inmate's face," his affidavit said.

The Attorney General of Canada opposed certifying the lawsuit as a class action for several reasons, arguing the Correctional Service of Canada's response to the pandemic was medically necessary.

The ruling said arguments over the "unprecedented and unexpected nature of the pandemic" are issues to be decided by a trial, rejecting the federal government's claim that inmates should pursue individual lawsuits instead of banding together as a class.

"Class proceedings are often the only realistic means by which a group of plaintiffs, such as federal prison inmates, can pursue claims related to conditions of confinement," Justice Michael Tammen's ruling said. "Those serving sentences in the federal prison system frequently face inordinate hurdles in accessing the courts and pursuing claims against those responsible for administering the federal prison system."

The judge agreed with the plaintiff's framing of the case as an examination of the Correctional Service of Canada's "policies, practices and systems" that may have led to systemic breaches of inmates' rights.

"There is much merit to the plaintiff's position that (the Correctional Service of Canada) is a 'top-down' organization, and that the failings, if such there were, at a national level inevitably bled into the management of inmates at the regional and institutional level," Tammen ruled.

The inmates' lawyer, Patrick Dudding, said he welcomed the decision and he and his associates are now tasked with "getting the word out" to current and former inmates to join the class, which he said could potentially involve thousands of people.

"It's our intention to have it tried as soon as it's possible, but that depends on a lot of moving parts," Dudding said Wednesday.

The Correctional Service of Canada said in a statement Wednesday that it was reviewing the court's ruling and "it would be inappropriate to comment on specifics."

"During the pandemic, the Correctional Service of Canada (CSC) was committed to reducing the risks of COVID-19 in all its operations and keeping offenders, employees and the public safe," the statement said.

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