

**ONTARIO
SUPERIOR COURT OF JUSTICE**

THE HONOURABLE

)

MONDAY, THE 29TH

)

DAY OF AUGUST, 2019

JUSTICE PERELL

)

)

BETWEEN:

JULLIAN JORDEA REDDOCK

Plaintiff

- and -

ATTORNEY GENERAL OF CANADA

Defendant



Proceeding under the *Class Proceedings Act, 1992*

JUDGEMENT

THIS MOTION for summary judgement brought by the Plaintiff was heard on July 22, 23, 24, 25, and 26, 2019 at Osgoode Hall, 130 Queen Street West, Toronto, Ontario, in the presence of counsel for all parties, with judgement having been reserved until this day.

ON READING THE motion records, facta, authorities, transcript briefs, undertaking briefs, and additional materials of the parties, and on hearing the submissions of the lawyers for the parties;

1. **THIS COURT ORDERS AND ADJUDGES** that the Plaintiff's motion for summary judgement is granted.

2. **THIS COURT ORDERS AND ADJUDGES** that this judgement inures to the benefit of the “Class”, which is composed of “Class Members”, and which is defined as follows:

All persons, except Excluded Persons, as defined below, who were subjected to a period of Prolonged Administrative Segregation, as defined below, at a Federal Institution, as defined below, after November 1, 1992, and were alive as of March 3, 2015.

Excluded person are:

- i. All offenders incarcerated at a Federal Institution who were diagnosed by a medical doctor with an Axis I Disorder (excluding substance abuse disorders), or Borderline Personality Disorder, who suffered from their disorder in a manner described in Appendix “A”, below, and reported such during their incarceration, where the diagnosis by a medical doctor occurred either before or during incarceration in a Federal Institution and the offenders were incarcerated between November 1, 1992 and the present and were alive as of July 20, 2013; and
- ii. All persons who were subjected to Prolonged Administrative Segregation, as defined below, exclusively at a Federal Institution situated in the Province of Quebec, and exclusively after February 24, 2013. Persons who were subjected to Prolonged Administrative Segregation at Federal Institutions in both Quebec and another Canadian province or Territory, or at a Federal Institution situated in Quebec prior to February 24, 2013, are not Excluded Persons.

“Administrative Segregation” is defined as sections 31 to 37 of the *Corrections and Conditional Release Act*, S.C. 1992, c. 20.

“Prolonged Administrative Segregation” is defined as the practice of subjecting an inmate to Administrative Segregation for a period of more than fifteen consecutive days.

“Federal Institutions” are defined as the system of Federal correctional facilities across Canada that is administered by the Correctional Service of Canada, a Federal Government body.

Appendix “A”

- *Significant impairment in judgement (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 or staff, or ability to 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.*

3. **THIS COURT ORDERS AND ADJUDGES** that by its operation and management of the Federal Institutions from November 1, 1992 to present the Defendant breached the Class Members' rights under s. 7 of the Canadian *Charter of Rights and Freedoms* (the "**Charter**") by detaining them in Administrative Segregation without an adequate review process.

4. **THIS COURT ORDERS AND ADJUDGES** that by its operation and management of the Federal Institutions from March 3, 2011 to present the Defendant breached the Class Members' rights under s. 7 of the *Charter* by detaining them in Administrative Segregation for more than fifteen consecutive days.

5. **THIS COURT ORDERS AND ADJUDGES** that by its operation and management of the Federal Institutions from March 3, 2011 to present the Defendant breached the Class Members' rights under s. 12 of the *Charter* by detaining them in Administrative Segregation for more than fifteen days.

6. **THIS COURT ORDERS AND ADJUDGES** that the Defendant's contraventions of ss. 7 and 12 of the *Charter* are not saved by s. 1 of the *Charter*.

7. **THIS COURT ORDERS AND ADJUDGES** that the Defendant is obliged to pay damages to Class Members pursuant to s. 24 (1) of the *Charter* for the breaches of their rights under ss. 7 and 12 of the *Charter*.

8. **THIS COURT ORDERS AND ADJUDGES** that:

- (a) the Defendant owed Class Members a duty of care in its operation and management of the Federal Institutions from March 3, 2011 to the present;
- (b) From March 3, 2011 to the present the Defendant was negligent, and it breached its duty of care to Class Members in its operation and management of the Federal Institutions;
- (c) The Defendant's breach of its duty of care caused damages to all Class Members who were or are detained in Administrative Segregation in a Federal Institution for more than 15 consecutive after March 3, 2011; and
- (d) Each Class Member detained in Administrative Segregation in a Federal Institution for more than 15 consecutive days after March 3, 2011 suffered a base level of compensable damages.

9. **THIS COURT ORDERS AND ADJUDGES** that it is possible to make an aggregate assessment of part of the damages suffered by the Class from March 3, 2011 to present, and the value of the Class's partial award of damages, ~~whether under s. 24(1) of the *Charter* or in negligence,~~ is \$20,000,000 (the "Aggregate Award"). SRMP

10. **THIS COURT ORDERS AND ADJUDGES** that the Aggregate Award, less court-approved counsel fees and disbursements, and less amounts owing to the Law Foundation of Ontario, shall be distributed equally to those Class Members who were detained in administrative segregation in a Federal Institution for more than 15 consecutive days between March 3, 2011 and the present. The procedure for the

identification of eligible class members and the distribution of the Aggregate Award will be decided on a motion before this Court.

11. **THIS COURT ORDERS AND ADJUDGES** that the Aggregate Award represents only a part of the Defendant's liability to Class Members, and it is made without prejudice to individual Class Members' right to seek additional damages, ^{* VPMB.} but Class Members must credit the amount of their participation in the Aggregate Award against any subsequent award of damages.

12. **THIS COURT ORDERS AND ADJUDGES** that the procedure for the determination of individual Class Members' right to damages will be settled by agreement between the parties or decided on a motion before this Court.

13. **THIS COURT ORDERS AND ADJUDGES** that by its operation and management of the Federal Institutions from November 1, 1992 to the present the Defendant did not breach the Class Members' rights under s. 11(h) of the *Charter* by placing them in administrative segregation for their own protection.

14. **THIS COURT ORDERS AND ADJUDGES** that the Plaintiff has discontinued his claim that by its operation and management of the Federal Institutions the Defendant breached the Class Members' rights under s. 9 of the *Charter*, and said claim is discontinued with leave and without costs.

15. **THIS COURT ORDERS AND ADJUDGES** that the Plaintiff has discontinued his claim that by its operation and management of the Federal Institutions the Defendant is liable to the Class in waiver of tort, and said claim is discontinued with leave and without costs.

16. **THIS COURT ORDERS AND ADJUDGES** that the Class Members' claims are subject to six-year limitation period. Without prejudice to the right of any Class Member to rebut the running of the limitation period, claims for damages caused by a placement in Administrative Segregation prior to March 3, 2011 are presumptively statute-barred.

*For (a) punitive damages, and (b) additional Charter damages for the contraventions of the Charter or for systemic negligence, ✓ PMP.

17. **THIS COURT ORDERS AND ADJUDGES** that the procedure to rebut the presumptive limitation period will be decided on a motion before this Court.

18. **THIS COURT ORDERS AND ADJUDGES** that the Defendant is not liable for punitive damages on a class-wide basis, but the Defendant may be liable to any given Class Member for punitive damages after its liability for *Charter* damages or negligence damages is determined.

19. **THIS COURT ORDERS AND ADJUDGES** that costs and disbursements of the motion for summary judgement and the action shall be settled by agreement between the parties or on the basis of submissions to this Court.

20. **THIS COURT ORDERS AND ADJUDGES** that notice of this judgement shall be given to the Class in a manner to be decided on a motion before this Court.

21. **THIS COURT ORDERS AND ADJUDGES** that the legal fees and disbursements payable to Class Counsel shall be determined on a motion before this Court.

22. **THIS COURT ORDERS AND ADJUDGES** that the amounts owing to the Law Foundation of Ontario under the *Law Society Act* shall be determined on a motion before this Court, on notice to the Law Foundation of Ontario.

23. **THIS COURT ORDERS AND ADJUDGES** that pre-judgement interest and post-judgement interest shall be determined on a motion before this Court.

ENTERED AT / INSCRIPT A TORONTO
ON / BOOK NO:
LE / DANS LE REGISTRE NO:

Paul J.

OCT 22 2019

PER/PAR



JULLIAN REDDOCK and **ATTORNEY GENERAL OF CANADA**
Plaintiff and Defendant

Court File No.: CV-17-570771-00CP

ONTARIO
SUPERIOR COURT OF JUSTICE

Proceeding commenced at Toronto

Proceeding under the *Class Proceedings Act*, 1992

JUDGEMENT

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