

Federal Court



Cour fédérale

**Date: 20151216**

**Docket: T-1445-13**

**Citation: 2015 FC 1391**

[UNREVISED ENGLISH CERTIFIED TRANSLATION]

**Montréal, Quebec, December 16, 2015**

**PRESENT: The Honourable Madam Justice St-Louis**

**BETWEEN:**

**RICHARD TIMM**

**Plaintiff**

**and**

**HER MAJESTY THE QUEEN**

**Defendant**

**JUDGMENT AND REASONS**

I. Introduction

[1] Richard Timm, the plaintiff, is an inmate at the La Macaza Institution. On September 6, 2013, he brought an action (amended statement of claim) against the defendant, whom he holds responsible for alleged faults by five servants or agents employed by

Correctional Service Canada (CSC) and from whom he seeks the payment of a total of \$1.2 million in damages.

[2] On October 20, 2014, the defendant brought a motion for summary judgment dismissing Mr. Timm's action in its entirety, relying on Rules 213 and 215 of the *Federal Courts Rules*, SOR/98-106 (Rules).

[3] On January 2, 2015, a Federal Court judge allowed that motion and dismissed the action of Mr. Timm, who then appealed the decision to the Federal Court of Appeal. The Federal Court of Appeal determined, in particular, that the Federal Court judge's reasons were inadequate and that that determination was sufficient to dispose of the appeal. Therefore, on October 27, 2015, the Federal Court of Appeal allowed Mr. Timm's appeal, set aside the Federal Court judgment allowing the motion for summary judgment and referred the matter back to the Chief Justice of the Federal Court for redetermination of the motion by another judge.

[4] The Court is therefore again hearing the defendant's motion for summary judgment dismissing Mr. Timm's action in its entirety.

## II. Relevant facts

[5] In September 2013, Mr. Timm brought his action (amended statement of claim) against the defendant, relying on section 17 of the *Federal Courts Act*, RSC, 1985, c F-7 and on subparagraph 3(a)(i) of the *Crown Liability and Proceedings Act*, RSC, 1985, c C-50 (CLPA), both of which are reproduced in the appendix.

[6] The facts on which Mr. Timm bases his action relate to two series of events. The first is two comments written by his parole officer (PO), Valéry Beaulieu-Guibault, and one comment made by the Aboriginal liaison officer (ALO), Yves Maillé, between September 2012 and January 2013, comments that Mr. Timm considers harassment and discrimination against him. The second constitutes actions by three administrative decision-makers, who Mr. Timm alleges [TRANSLATION] “turned a blind eye” in the performance of their duties.

[7] In fact, again according to the amended statement of claim, Mr. Timm is unsatisfied with the conduct of his PO and the ALO, against whom he filed a harassment and discrimination grievance, and the conduct of the three administrative decision-makers who were called upon to determine the outcome of that grievance.

[8] In the grievance, filed on February 15, 2013, the facts of which are not in dispute, Mr. Timm first notes two comments noted by his PO in the offender management system (OMS). Those comments, each taken from an entry in the system, read as follows:

- i. OMS record for Richard Timm dated September 14, 2012: [TRANSLATION] “I informed him that I find it difficult to connect with him and that it is hard to trust him given the many complaints he has filed against staff”.
- ii. OMS record for Dave Roy dated January 11, 2013: [TRANSLATION] “Also, I note that it was not him who prepared the [escorted temporary absence] request, but actually another very legalistic inmate. I immediately told him that he should be careful whom he associates with and that that inmate would only harm him”.

[9] Mr. Timm then mentioned the ALO, whom he criticizes for telling another inmate, Dave Roy, that associating with Mr. Timm could harm him as his case progresses. While the

parties agree that that conversation took place, they do not agree on the exact comments of the ALO, or if other people could hear or could be affected by the conversation.

[10] Again in his grievance, Mr. Timm relies on paragraph 23 of the Commissioner's Directive (CD) 081, which states that every offender must have complete access to the grievance process without negative consequences, and section 91 of the *Corrections and Conditional Release Act*, SC 1992, c 20 (CCRA), which states that "[e]very offender shall have complete access to the offender grievance procedure without negative consequences". He cites definitions of the terms harassment and discrimination as stated in annex A of CD 081, reproduced in the appendix.

[11] Finally, in the grievance, Mr. Timm requests that CSC acknowledge that his PO and the ALO violated paragraphs 10, 12 and 23 of CD 081 and section 91 of the CCRA.

[12] On March 5, 2013, the Acting Deputy Director of La Macaza, Yves Guimont, denied the grievance at the first level and found that the PO and ALO did not commit harassment according to the definition in CD 081. He noted that the casework records may also raise certain questions, but found in that respect that the PO acted transparently to assist Mr. Timm, who he told in passing about the possibility of filing a complaint that does not include harassment.

[13] On March 8, 2013, Mr. Timm filed a grievance at the second level, reiterating his allegations of harassment and discrimination and adding an allegation against the Acting Deputy Director, whom he criticizes for denying his grievance and violating provisions 6k, 11 and 12a of

CD 060, reproduced in the appendix, by condoning him being targeted and by failing to take appropriate action against his PO and the ALO.

[14] On April 17, 2013, the Regional Deputy Commissioner (Quebec), Réjean Tremblay, denied the grievance at the second level. He found, essentially, that the situations raised by Mr. Timm do not constitute harassment according to the definition in CD 081 and that the decisions rendered at the first level and the steps taken by the staff members were appropriate. Furthermore, Mr. Tremblay specified, in particular, that the correctional plan developed for Mr. Timm states that he must learn to develop a relationship of trust with his CMT (case management team) and to collaborate with staff members because that is central to the assessment of his risk.

[15] On May 6, 2013, Mr. Timm filed a grievance at the third level in which he reiterated the previous grievance allegations and added an allegation against the Regional Deputy Commissioner (Quebec), who he criticizes of violating provisions 6k, 11 and 12a of CD 060, above, by condoning him being targeted and by failing to take action against his PO and the ALO.

[16] On August 12, 2013, the Senior Deputy Commissioner, Anne Kelly, upheld Mr. Timm's grievance at the third level because it was not handled in accordance with the provisions of CD 081 and the Guidelines (GL) 081-1 – *Offender Complaint and Grievance Process*.

[17] The Senior Deputy Commissioner specifically cited paragraph 28 of GL 081-1, which states that the decision-maker is responsible for “deciding if the submission, if proven, would constitute harassment” when reviewing the allegations, even before determining whether such acts actually occurred, and paragraphs 50 and 51 of CD 081, which stipulate, in particular, that the decision-maker must determine whether the allegations, if proven, would constitute harassment. The Senior Deputy Commissioner found that the Acting Deputy Director did not carry out that step and failed to consider whether the situation corresponded to the definition of harassment.

[18] The Senior Deputy Commissioner did not find, however, that Mr. Timm was harassed or discriminated against and did not grant the corrective action requested, but instead ordered the La Macaza Institution Head (1) to remind all staff about the provisions set out in section 91 of the CCRA and in paragraph 54 of CD 081 and (2) to correct the record to make it compliant.

### III. Mr. Timm’s action

[19] The Court understands from Mr. Timm’s amended statement of claim that he criticizes the servants and/or agents employed by CSC of voluntarily and deliberately harassing him and discriminating against him, of acting in violation of CD 060 and 081 and section 91 of the CCRA, thus violating federal and provincial laws governing the conduct of employees who have committed contractual, delictual and extra-contractual faults.

[20] He also criticizes the Senior Deputy Commissioner of committing a fault by failing to respond to all of the corrective action requested and by failing to transmit him, before rendering her decision, a true copy of the written recommendations by the analyst on the case.

[21] The conduct by the five servants and/or agents of the Crown purportedly also caused him harm, which he does not, however, specify the nature of.

[22] It is helpful to mention that Mr. Timm's amended statement of claim devotes 11 of its 18 pages to reproducing his grievance at the third level and reiterates that it was upheld by "Ottawa". Mr. Timm then relies on sections 4, 10, 10.1, 24 and 49 of the *Charter of Human Rights and Freedoms*, CQLR c C-12 and, based on what the Court understands from his comments, he submits in respect of the notion of fault that [TRANSLATION] "the breach of a duty flowing from the conduct required of a reasonable person in society is the basis of extra-contractual liability" and that an individual is at fault when he or she [TRANSLATION] "displays social conduct that does not correspond to the model expected of him or her".

[23] Mainly, Mr. Timm argues that the alleged fault of the CSC servants and agents was recognized because his grievance was upheld at the third level. He is seeking, as relief, a series of declarations against each of the five already named people, \$800,000 for exemplary and punitive damages and \$400,000 for moral damages and loss of reputation.

IV. Defendant's motion for summary judgment

[24] The defendant first reviewed the rules and principles in connection with the summary judgment and reiterated that she must demonstrate, in her motion, that there is no genuine issue of material fact requiring a trial.

[25] The defendant argues that that requirement was met because (A) the facts alleged against the PO and the ALO do not constitute a civil fault, (B) Mr. Timm does not allege any fact that could establish a fault against the three decision-makers of his grievances and (C) Mr. Timm did not suffer any damages.

A. *The facts alleged against the PO and the ALO do not constitute a civil fault*

[26] The defendant submits that CSC officers are servants of the Crown. Thus, in accordance with the combined effect of paragraph 3(a)(i) of the CLPA and article 1463 of the *Civil Code of Québec* (CCQ), the Crown is only liable if it can be shown that servants of the Crown committed a fault in the performance of their duties.

[27] The defendant states that she understands from Mr. Timm's statement of claim that he refers to contractual, delictual and extra-contractual faults on the part of the servants and/or agents, but she contends that Mr. Timm's allegations are too vague to understand their nature. In addition, Mr. Timm refers to "provincial laws", apart from the CCQ, without specifying which ones, while the relationship between CSC servants and inmates in an institutional environment is not subject to provincial laws.



[28] Because the alleged faults involve the conduct of servants, the defendant submits that the legislative provisions and CSC's internal directives are relevant because they define the standard of conduct of a reasonable person in the same circumstances. Furthermore, an actual violation of those rules would not support, according to the defendant, a finding of fault.

[29] Mr. Timm raises discrimination, however, given the definition of that term, the defendant submits that his recourse is best analyzed under his allegations of harassment or retaliation. The defendant therefore reiterates the definition of "harassment" and the provisions on retaliation.

[30] In connection with the conduct of his PO and the comment noted in the OMS on September 14, 2012, the defendant argues that the account that Mr. Timm himself provided of the meeting that preceded the entry in the record during his cross-examination after defence is inconsistent with his allegations of harassment. In fact, Mr. Timm could not remember the comments that were made, stated that the tone was not aggressive and also stated that the meeting had ended on good terms. The defendant argues that, read in context, the OMS entry demonstrates good faith on the part of the PO to improve the relationship of trust between Mr. Timm and his case management team.

[31] Regarding the ALO's comments to the inmate Dave Roy, the defendant argues that they are not part of an attempt to encourage other inmates to not communicate with Mr. Timm, but instead represent an isolated conversation with one inmate. In addition, inmates continued to communicate with Mr. Timm.

[32] The defendant argues that this case is not one in which there was harassment or retaliation for the filing of a grievance, but instead a case where two CSC servants expressed concern about the plaintiff's habit of filing multiple complaints, which were often unfounded. The comments were made in good faith and in isolation, which cannot constitute a civil fault of the Crown. They are instead actions made professionally, meeting the standard of a reasonable person in the same circumstances.

B. *Mr. Timm does not allege any fact that could establish a fault against the three decision-makers of his grievances*

[33] In respect of the alleged fault by the three administrative decision-makers, the defendant argues that Mr. Timm does not allege any fact in support of his statement that they all [TRANSLATION] "turned a blind eye" except the decisions themselves, which are unfavourable to him.

[34] Mr. Timm's allegation is unfounded because his PO and the ALO did not themselves commit a fault and because there is no allegation of fact that would support the finding that the decision-makers voluntarily turned a blind eye, resulting in their liability.

[35] In the absence of a material fact supporting the allegations made against the decision-makers at the first and second level, those allegations do not show any genuine issue for trial.

[36] Regarding the alleged fault of the Senior Deputy Commissioner, the defendant submits that Mr. Timm misunderstood the nature of the decision that she rendered and the applicable directives.

[37] Indeed, because the Senior Deputy Commissioner found that there was no harassment, her response to the requested corrective action was obviously the refusal to grant it. Regarding the analyst's recommendations, the defendant submits that Mr. Timm is not entitled to receive analysis documents or internal summaries used in decision-making.

C. *Mr. Timm did not suffer any damages*

[38] Finally, regarding damages, the defendant maintains that Mr. Timm did not identify any fact that would justify the \$1.2 million in damages that he claims, that he did not provide details regarding the claim of \$800,000 for exemplary and punitive damages during his cross-examination after defence and that there is no evidence justifying the claim of \$400,000 for moral damages and loss of reputation. In short, the defendant argues that Mr. Timm did not suffer any injury in connection with the alleged facts.

V. Mr. Timm's position in response to the motion for summary judgment

[39] Mr. Timm contends that his action contains genuine issues for trial that must be argued before the Court to ensure fair and equitable treatment of the case.

[40] Mr. Timm reiterates the facts and argues that (A) summary judgment is not the appropriate remedy, (B) a contradictory interpretation of the response to the third-level grievance requires a full hearing, (C) the defendant's evidence relies on the responses that he provided in examination, which does not make it possible to properly assess his credibility, (D) he was not given the opportunity to carry out his own examinations and (E) there is thus a genuine issue for trial.

A. *Summary judgment is not the appropriate remedy*

[41] Mr. Timm reiterates the principles that must guide the Court in summary judgment matters and states that in this case, all of the relevant evidence is not in the record and that, in particular, testimony from the various participants in the decision-making process that led to his grievance being upheld is missing. Furthermore, Mr. Timm contends that the judge must hear the totality of the oral testimony.

B. *A contradictory interpretation of the response to the third-level grievance requires a full hearing*

[42] Mr. Timm points out that his initial action was an action in damages against the defendant and that it follows the decision of the Senior Deputy Commissioner, Ms. Kelly, to uphold his grievance. He argues that the alleged actions are not vague, but clearly described, namely in his third-level grievance.

[43] Furthermore, Mr. Timm claims that the Senior Deputy Commissioner, by upholding his grievance, maintained his allegations of harassment, retaliation and discrimination and that the

deputy commissioner's decision to uphold his grievance in its entirety is also sufficient to establish delictual faults. Ambiguity on this issue justifies a hearing.

C. *The defendant's evidence relies on responses that he provided in examination, which does not make it possible to properly assess his credibility*

[44] Mr. Timm argues that the defendant addressed the fault and damages issues citing passages from his examination after defence, but by interpreting them and truncating them, which does not make it possible to assess the true credibility of the comments that he made. Mr. Timm thus submits the more complete passages of that examination to put the excerpts in context. Mr. Timm refers to, instead, the problem that existed between him and his PO, which the defendant failed to address or even to rebut.

[45] Mr. Timm contends that the issue here is the assessment of his credibility, and that the case must consequently proceed to trial.

D. *Mr. Timm was not given the opportunity to carry out his own examinations*

[46] Mr. Timm argues that he was not able to question the relevant interveners, which is necessary considering the questions identified by the defendant regarding the interpretation to be given to the third-level decision. The parties should continue with the proceedings and so resolve the genuine issues.

E. *There is a genuine issue for trial*

[47] Therefore, Mr. Timm states that the action in damages is based on the Senior Deputy Commissioner's decision to maintain his third-level grievance in its entirety, a decision that acknowledges the fault of the officers and thus does not require any additional evidence on his part. According to Mr. Timm, the continuation of the action comes down to assessing damages and determining the quantum.

VI. Analysis

[48] Rules 213 to 219 deal with summary judgment and summary trial and their purpose is to allow the Court to summarily dispense with cases which ought not proceed to trial because there is no genuine issue to be tried in respect of the claim (*Old Fish Market Restaurants Ltd. v. 1000357 Ontario Inc. et al.* (1994), 58 CPR (3d) 221 (FCTD)). Rule 215 states that the Court shall grant summary judgment if it is satisfied that there is no genuine issue for trial with respect to a claim or defence. The Court set out the principles in, notably, *Granville Shipping Co v Pegasus Lines Ltd SA*, [1996] 2 FC 853.

[49] The moving party has the burden of establishing that there is no genuine issue for trial and that it is entitled to judgment. The plaintiff must thus put his or her best foot forward to enable the Court to determine whether there is an issue that should go to trial (*Collins v Canada*, 2014 FC 307 at para 31). As the Federal Court of Appeal stated in *TPG Technology Consulting Ltd v Canada*, 2013 FCA 183 at para 4, "[t]he burden on a plaintiff responding to a motion for summary dismissal of a claim is not . . . as onerous as the plaintiff's burden in a trial. . . . The

question for the judge on a summary judgment motion is whether the plaintiff has met the ‘evidentiary burden to put forward evidence showing that there is a genuine issue for trial’”.

[50] Given these principles, and for the following reasons, the Court is satisfied that Mr. Timm’s statement of claim does not raise a genuine issue for trial and will thus grant the motion for summary judgment.

[51] Indeed, Mr. Timm’s action relies on the Senior Deputy Commissioner’s decision to uphold his grievance at the third level and, he claims, to acknowledge that the actions by the CSC staff constitute harassment, retaliation and discrimination. Thus, according to Mr. Timm, the actions of his PO and the ALO, and those of the decision-makers who refused to sanction them, constitute faults, resulting in Crown liability. Mr. Timm thus claims that the decision to uphold his third-level grievance confirms that he was a victim of harassment and discrimination at the hands of CSC servants, which constitutes a fault that the administrative decision-makers disregarded by turning a blind eye. That interpretation of the Senior Deputy Commissioner’s decision therefore constitutes the basis of his action in damages.

[52] However, contrary to what Mr. Timm alleges, even though the Senior Deputy Commissioner did uphold his grievance, she did not find that Mr. Timm was a victim of harassment and discrimination. Instead, she found that the decision-maker at the first level failed to determine whether the allegations, *if proven*, and whether the actions, *before determining whether they actually occurred*, would constitute harassment or discrimination, a review

prescribed by paragraph 28 of the GL 081 and paragraphs 50 and 51 of CD 081 (page three of the third-level decision).

[53] In her analysis, the Senior Deputy Commissioner did not find that Mr. Timm was a victim of harassment or discrimination. She even instead agreed with the conclusion of the investigation completed by the management of the Institution that the PO and the ALO did not engage in harmful behaviour towards Mr. Timm.

[54] Thus, the very basis of the allegations of fault made against the agents or servants by Mr. Timm is not supported by the record.

[55] Furthermore, the Court has the benefit of the transcript of Mr. Timm's examination after defence and is able to contextualize the passages cited by each party.

[56] Ultimately, the Court agrees with the position of the defendant that Mr. Timm did not suffer any damage in connection with the alleged facts.

[57] The Court is satisfied that there is therefore no genuine issue for trial and that the conditions for recourse to summary judgment have been met.



**JUDGMENT**

**THIS COURT'S JUDGMENT is that:**

1. The motion for summary judgment is allowed.
2. The plaintiff's action is dismissed in its entirety.
3. With costs.

“Martine St-Louis”

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Judge

Certified true translation  
Janine Anderson, Translator

## APPENDIX

*Federal Courts Act,*

RSC 1985, c F-7 s 17:

17. (1) Except as otherwise provided in this Act or any other Act of Parliament, the Federal Court has concurrent original jurisdiction in all cases in which relief is claimed against the Crown.

(2) Without restricting the generality of subsection (1), the Federal Court has concurrent original jurisdiction, except as otherwise provided, in all cases in which

(a) the land, goods or money of any person is in the possession of the Crown;

(b) the claim arises out of a contract entered into by or on behalf of the Crown;

(c) there is a claim against the Crown for injurious affection; or

(d) the claim is for damages under the *Crown Liability and Proceedings Act*.

(3) The Federal Court has exclusive original jurisdiction to hear and determine the following matters:

(a) the amount to be paid if the Crown and any person have agreed in writing that the Crown or that person shall pay an amount to be determined by the Federal Court, the Federal Court — Trial Division or the Exchequer Court of Canada; and

(b) any question of law, fact or mixed law and fact that the

*Loi sur les Cours fédérales,*

LRC 1985, c F-7 art 17 :

17. (1) Sauf disposition contraire de la présente loi ou de toute autre loi fédérale, la Cour fédérale a compétence concurrente, en première instance, dans les cas de demande de réparation contre la Couronne.

(2) Elle a notamment compétence concurrente en première instance, sauf disposition contraire, dans les cas de demande motivés par :

a) la possession par la Couronne de terres, biens ou sommes d'argent appartenant à autrui;

b) un contrat conclu par ou pour la Couronne;

c) un trouble de jouissance dont la Couronne se rend coupable;

d) une demande en dommages-intérêts formée au titre de la *Loi sur la responsabilité civile de l'État et le contentieux administratif*.

(3) Elle a compétence exclusive, en première instance, pour les questions suivantes :

a) le paiement d'une somme dont le montant est à déterminer, aux termes d'une convention écrite à laquelle la Couronne est partie, par la Cour fédérale — ou l'ancienne Cour de l'Échiquier du Canada — ou par la Section de première instance de la Cour fédérale;

Crown and any person have agreed in writing shall be determined by the Federal Court, the Federal Court — Trial Division or the Exchequer Court of Canada.

(4) The Federal Court has concurrent original jurisdiction to hear and determine proceedings to determine disputes in which the Crown is or may be under an obligation and in respect of which there are or may be conflicting claims.

(5) The Federal Court has concurrent original jurisdiction (a) in proceedings of a civil nature in which the Crown or the Attorney General of Canada claims relief; and (b) in proceedings in which relief is sought against any person for anything done or omitted to be done in the performance of the duties of that person as an officer, servant or agent of the Crown.

(6) If an Act of Parliament confers jurisdiction in respect of a matter on a court constituted or established by or under a law of a province, the Federal Court has no jurisdiction to entertain any proceeding in respect of the same matter unless the Act expressly confers that jurisdiction on that court.

*Crown Liability and Proceedings Act*, RSC 1985, c C-50 para 3(a)(i):

3. The Crown is liable for the damages for which, if it were a person, it would be liable

b) toute question de droit, de fait ou mixte à trancher, aux termes d'une convention écrite à laquelle la Couronne est partie, par la Cour fédérale — ou l'ancienne Cour de l'Échiquier du Canada — ou par la Section de première instance de la Cour fédérale.

(4) Elle a compétence concurrente, en première instance, dans les procédures visant à régler les différends mettant en cause la Couronne à propos d'une obligation réelle ou éventuelle pouvant faire l'objet de demandes contradictoires.

(5) Elle a compétence concurrente, en première instance, dans les actions en réparation intentées :

a) au civil par la Couronne ou le procureur général du Canada;

b) contre un fonctionnaire, préposé ou mandataire de la Couronne pour des faits — actes ou omissions — survenus dans le cadre de ses fonctions.

(6) Elle n'a pas compétence dans les cas où une loi fédérale donne compétence à un tribunal constitué ou maintenu sous le régime d'une loi provinciale sans prévoir expressément la compétence de la Cour fédérale.

Loi sur la responsabilité civile de l'État et le contentieux administratif, LRC 1985, c C-50 para 3a)(i) :

3. En matière de responsabilité, l'État est assimilé à une personne pour :

(a) in the Province of Quebec,  
in respect of  
(i) the damage caused by the  
fault of a servant of the Crown,  
or

a) dans la province de  
Québec :  
(i) le dommage causé par la  
faute de ses préposés,

Commissioner's Directive 081,  
annex A:

**Discrimination:** when an  
offender believes that actions,  
language or decisions of CSC  
staff were made in a  
discriminatory manner based  
on gender, race, ethnicity,  
language, sexual orientation,  
religion, age, marital status, or  
a physical or mental disability.  
The category includes staff  
behaviour that constitutes a  
violation of the offender's  
human rights or the *Canadian  
Charter of Rights and  
Freedoms*.

**Harassment:** any improper  
conduct by a CSC staff  
member, that is directed at and  
offensive to an offender, and  
that the individual knew or  
ought reasonably to have  
known would cause offence or  
harm. It comprises any  
objectionable act, comment or  
display that demeans, belittles,  
or causes personal humiliation  
or embarrassment, and any act  
of intimidation or threat. It  
includes harassment within the  
meaning of the *Canadian  
Human Rights Act*.

Directive du commissaire 081,  
annexe A :

**Discrimination :** des actes,  
des paroles ou des décisions du  
personnel du SCC qui incitent  
le délinquant à s'estimer  
victime de discrimination  
fondée sur le sexe, la race,  
l'ethnie, la langue, l'orientation  
sexuelle, la religion, l'âge,  
l'état civil ou une déficience  
mentale ou physique. Sont  
inclus les comportements du  
personnel qui enfreignent les  
droits de la personne ou la  
*Charte canadienne des droits  
et libertés*.

**Harcèlement :** tout  
comportement inapproprié de  
la part d'un membre du  
personnel du SCC à l'égard  
d'un délinquant, et dont  
l'auteur ou les auteurs savaient  
ou auraient raisonnablement dû  
savoir qu'il serait offensant ou  
préjudiciable. Le harcèlement  
comprend tout acte, propos ou  
exhibition répréhensible qui  
diminue, rabaisse, humilie ou  
embarrasse une personne, ou  
tout acte d'intimidation ou de  
menace. Il comprend  
également le harcèlement au  
sens de la *Loi canadienne sur  
les droits de la personne*.

Commissioner's Directive 060, sections 6k, 11 and 12a:

6. An employee has committed an infraction, if he/she:

k. as a supervisor, or as one in authority, condones or fails to take action when an employee has committed an infraction of the Standards of Professional Conduct, a breach of discipline or any other irregularity coming to his/her attention;

11. Staff must actively encourage and assist offenders to become law abiding citizens. This includes establishing constructive relationships with offenders to encourage their successful reintegration into the community. Relationships shall demonstrate honesty, fairness and integrity. Staff shall promote a safe and secure workplace, free of mistreatment, harassment and discrimination, and respect an offender's cultural, racial, religious and ethnic background, and his/her civil and legal rights. Staff shall avoid conflicts of interest with offenders and their families.

12. An employee has committed an infraction, if he/she:

a. maltreats, humiliates, harasses, discriminates and/or is abusive, by word or action, to an offender or the offender's friends or relatives;

Directive du commissaire 060, dispositions 6k, 11 et 12a :

6. Commet une infraction l'employé qui :

k. en tant que superviseur ou responsable, ferme les yeux ou omet de prendre des mesures lorsqu'un employé commet une infraction aux Règles de conduite professionnelle, un manquement au Code de discipline, ou toute autre irrégularité dont il prend connaissance;

11. Les employés doivent aider et encourager activement les délinquants à devenir des citoyens respectueux des lois, notamment en établissant avec eux des relations constructives en vue de faciliter leur réinsertion dans la collectivité. Ces relations seront empreintes d'honnêteté, d'intégrité et d'équité. Les employés contribueront à créer un lieu de travail sûr et sécuritaire, exempt de mauvais traitements, de harcèlement et de discrimination, et respecteront la culture, la race, les antécédents religieux et ethniques des délinquants ainsi que leurs droits. Les employés éviteront les conflits d'intérêts avec les délinquants et leurs familles.

12. Commet une infraction l'employé qui :

a. par ses paroles ou ses actes, maltraite, humilie, harcèle, discrimine et/ou se montre injurieux à l'égard d'un délinquant ou de la famille ou des amis d'un délinquant;

**FEDERAL COURT**  
**SOLICITORS OF RECORD**

**DOCKET:** T-1445-13

**STYLE OF CAUSE:** RICHARD TIMM v HER MAJESTY THE QUEEN

**MOTION IN WRITING CONSIDERED AT MONTRÉAL, QUEBEC, PURSUANT TO RULES 213, 215 AND 369 OF THE *FEDERAL COURTS RULES***

**JUDGMENT AND REASONS:** ST-LOUIS J.

**DATED:** DECEMBER 16, 2015

**WRITTEN REPRESENTATIONS BY:**

Pierre Tabah FOR THE PLAINTIFF

Erin Morgan FOR THE DEFENDANT

**SOLICITORS OF RECORD:**

Pierre Tabah FOR THE PLAINTIFF  
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