Federal Court  Cour fédérale

Date: 20200124

Docket: T-672-19

Citation: 2020 FC 126

Ottawa, Ontario, January 24, 2020

PRESENT: The Honourable Mr. Justice Mosley

BETWEEN:

WILLIAM FENWICK WEST

Applicant

and

PAROLE BOARD OF CANADA APPEAL DIVISON
AND
ATTORNEY GENERAL OF CANADA

Respondents

JUDGMENT AND REASONS

I. Introduction

[1] The Applicant, Mr. William Fenwick West, represented himself in this application for judicial review. Mr. West contends that he has been unfairly treated by the criminal justice system in the Province of Nova Scotia, notably in his convictions for two armed robberies and related offences and his lack of success on appeal of those convictions. He maintains his

innocence with respect to those offences. His objective is to seek leave to appeal to the Supreme Court of Canada and, should leave be granted, introduce fresh evidence that the convictions were the result of a conspiracy against him by the investigating officers.

[2] Mr. West says that he has been thwarted in achieving that objective by decisions of the Parole Board of Canada (the Board or the PBC); in particular, the Board's decision on November 24, 2018 to impose a residency condition upon him in the context of his statutory release. That decision was affirmed by the Appeal Division of the Board on March 21, 2019. While Mr. West's written and oral submissions covered a wide range of topics, it is the Appeal Division's decision which is the subject of this application.

II. **Background**

[3] According to the Board's decision, Mr. West's criminal history began in 1967 with a theft conviction. In 1981 he received a sentence of six years for armed robbery, abduction and the use of a firearm in the commission of an indictable offence.

[4] The index offences for which Mr. West remains under the supervision of the Board occurred in 1998 and involved the armed robbery of two banks in Mahone Bay and Bass River, Nova Scotia during which bank employees were forcibly confined at gun point. Mr. West's initial conviction for the Mahone Bay incident was overturned by the Nova Scotia Court of Appeal in 2003 and a new trial ordered (*R v West*, 2003 NSCA 137). He was convicted on the retrial and at trial for the Bass River robbery. His appeal of the latter conviction was dismissed by the Nova Scotia Court of Appeal in 2010 (*R v West*, 2010 NSCA 16).

[5] Mr. West was also convicted in March 2007 of the offence of intimidation of a justice system participant. That conviction apparently arose from threats Mr. West made to shoot the Crown Prosecutor and police witnesses during his retrial for the Mahone Bay robbery. In total, he received a cumulative sentence of almost nineteen years. His warrant expiry date is April 1, 2025.

[6] Mr. West was denied parole when eligible. In conducting a review prior to his eligibility date for statutory release at two-thirds of this sentence, December 3, 2018, the Board accepted the recommendation of the Correctional Service of Canada (CSC) that a residency condition, among other conditions, be imposed. Among the reasons provided in the CSC appraisal was his failure to take steps to mitigate his risk of violence. The author of the assessment, a Parole Officer, considered that a residency requirement was necessary and proportionate to manage the Applicant's risk in the community. This was based in part on the Applicant's refusal to acknowledge responsibility for the 1998 robbery offences.

[7] In supporting that conclusion, the Board made the following comments:

> In reviewing your case against the criteria for residency condition during statutory release, the Board notes a clearly demonstrated potential for future violent behavior. Your offence history reflects a repeated pattern of using firearms and direct and/or implied threats to gain compliance of victims, and physical handling and bindings to restrain them. In one instance you abducted and held captive a victim for a lengthy period of time. You also have issued threats to shoot and/or harm other individuals involved in the justice process and correctional systems over a period of many years. When viewed against your continued assertions to have not committed most of the offenses for which you have been convicted, the Board assesses a clear absence of any accountability on your part for your criminal actions, and an utter disregard for,

> and indifference towards, the impact that your serious criminal offending has had on the victims.
>
> You have acquired no discernible insight into your criminal offending or the risk factors that have contributed to your involvement in violent crime. Although you have participated in programming, your motivation and efforts have been thoroughly lacking. Your behavior towards correctional staff charged with assisting in guiding you has regularly been aggressive, argumentative and dismissive.
>
> In view of all of these factors, the Board is satisfied that you have a clear potential for future violent behavior to the extent that a residency condition is considered necessary to facilitate your reintegration. Furthermore, the Board concludes that in the absence of such a condition, you will present an undue risk to society by committing an offence listed in Schedule 1 before the expiration of your sentence according to law. As a result, you must reside at a Community Correctional Center or a Community Residential Facility or other residential facility (such as private home placement) approved by CSC, until your warrant expiry date.

[8] The Applicant provided some written submissions to the Board on November 1, 2018 asserting that his claims of innocence were being unfairly held against him in determining his recidivism risk and that the residency condition imposed an unfair burden on his return to the community by adding more restrictions and limitations. On November 6, 2018 he signed a declaration acknowledging that he had received the documents in the Board file and indicating his intention to provide further written comments to the Board within 15 days. On November 21, 2018 Mr. West submitted a package for mailing at the Springhill Institution to the Board by XPresspost. It was not received in time to be considered by the Board before its decision was rendered. Mr. West attributes this to a labour dispute within Canada Post at the time.

[9] Mr. West's appeal to the Appeal Division was received on February 2, 2019. The grounds of appeal included:

(1) That the Board had failed to observe a principle of fundamental justice in not considering the XPresspost package;

(2) That the Board had breached or failed to apply a PBC policy and;

(3) That the Board's decision was based on erroneous or incomplete information.

[10] On March 21, 2019, the Appeal Division affirmed the Board's decision to impose the residency condition. At the outset of its decision, the Appeal Division noted that it was the responsibility of CSC to resolve issues surrounding the correctness of information in an inmate's CSC files following the mechanism set out in s. 24 (1) of the *Corrections and Conditional Release Act* SC 1992, c 20 [*CCRA*].

[11] With regard to the late arrival of the XPresspost package, the Appeal Division stated that it was Mr. West's responsibility to ensure that his written submissions were received within fifteen days of the date on which he received the documents in his file.

[12] The Appeal Division concluded that it was reasonable for the Board to find that Mr. West had clearly demonstrated potential for future violent behavior, as demonstrated by his offence history. Having recited some of that history, the Appeal Division stated:

> The Appeal division finds that in view of all of these factors, it was reasonable for the Board to be satisfied that you have a clear potential for future violent behavior to the extent that a residency condition is considered necessary to facilitate your reintegration. The Appeal Division finds that it was reasonable for the Board to find that you had demonstrated a propensity for violence, and to be satisfied that you would present an undue risk to society by committing, before the expiration of your sentence according to law an offence set out in Schedule 1 or an offence under 467.11, 467.12 or 467.13 of the Criminal Code. In conclusion, the Appeal Division finds that the Board's decision to impose a residency

> condition is reasonable, well supported and consistent with the decision-making criteria set out in subsection 133 (4.1) of the CCRA.

[13] In closing, the Appeal Division reminded Mr. West that special conditions such as the residency requirement may be removed or modified by the Board as his situation in the community progresses upon a request from his Case Management Team (CMT).

[14] On this application, Mr. West seeks:

> A. An order directing or recommending to the Parole Board of Canada and/or Appeal Division that the "Residency Condition" imposed on Friday, November 30, 2018 upon Statutory Release be rescinded;
>
> B. An order directing the Parole Board of Canada and/or Appeal Division that under the "rule of law", it is well within their jurisdiction to consider, that when an inmate submits continuous documentation, etc. to support the fraudulent, erroneous, misleading and incomplete information that had been recorded in Correctional Service of Canada reports for which the Board considers as "Gospel", that although not corrected by CSC, the information submitted should be considered;
>
> C. An order directing the Parole Board of Canada and or Appeal Division that an inmate who has no acts of "physical violence" recorded on his record who has steadfastly maintained his innocence since 1998 and 1990 for two criminal matters, through appeals, etc., directed by the RCMP for me to take up the issues with the Supreme Court of Canada, should not have been continuously denied parole releases, or to have a "Residency Condition" imposed; allegedly possible until warrant expiry.

III. **Issues**

[15] In his application record, Mr. West sets out three questions which he wished the Court to address. These can be briefly summarized as follows:

(1) Was it constitutionally valid for the Board to deny his parole applications given the lack of physical violence on his record and given his proclaimed innocence;

(2) As compared to other inmates who have admitted their criminal activities and been violent, has the parole system treated him fairly; and

(3) Can the system expect him to have the resources and time to pursue full exoneration, thereby proving his claims of innocence?

[16] As noted above, the Appeal Division's decision was not about these questions but rather about the Applicant's residency condition. In his "Concise Statement of Submissions", the Applicant requests that the "unjustified imposed Residency Condition to be set aside and that the Applicant be granted a Full Parole release".

[17] It is well-established that a Court should generally avoid making any unnecessary constitutional pronouncement: *Tremblay v Daigle*, [1989] 2 SCR 530 at p 571. A Court is not bound to answer constitutional questions when it may dispose of the matter without doing so: *Skoke-Graham v. The Queen*, [1985] 1 SCR 106, at p 121. I see no reason to resile from these principles in Mr. West's case. He has failed to provide even a bare minimum of evidence or argument in order to support a constitutional analysis. In my view, this matter can be resolved on administrative law principles.

[18] I agree with the Respondent that the issues to be determined are as follows:

(1) Did the Appeal Division err in law by declining to resolve issues concerning the correctness of information in the CSC file;

(2) Did the Board act unfairly and did the Appeal Division demonstrate a reasonable apprehension of bias by declining to consider the substance of the XPresspost package;

(3) Was the decision to impose a residency condition reasonable?

IV. **Relevant Legislation**

[19] A number of sections in the *CCRA* are relevant to the subject matter of this judicial review:

Accuracy, etc., of information	**Exactitude des renseignements**
24 (1) The Service shall take all reasonable steps to ensure that any information about an offender that it uses is as accurate, up to date and complete as possible.	**24 (1)** Le Service est tenu de veiller, dans la mesure du possible, à ce que les renseignements qu'il utilise concernant les délinquants soient à jour, exacts et complets.
Correction of information	**Correction des renseignements**
(2) Where an offender who has been given access to information by the Service pursuant to subsection 23(2) believes that there is an error or omission therein,	**(2)** Le délinquant qui croit que les renseignements auxquels il a eu accès en vertu du paragraphe 23(2) sont erronés ou incomplets peut demander que le Service en effectue la correction; lorsque la demande est refusée, le Service doit faire mention des corrections qui ont été demandées mais non effectuées.

(a) the offender may request the Service to correct that information; and

(b) where the request is refused, the Service shall attach to the information a notation indicating that the offender has requested a correction and setting out the correction requested.

Entitlement to statutory release

127 (1) Subject to any provision of this Act, an offender sentenced, committed or transferred to penitentiary is entitled to be released on the date determined in accordance with this section and to remain at large until the expiration of the sentence according to law.

Residence requirement

133 (4.1) In order to facilitate the successful reintegration into society of an offender, the releasing authority may, as a condition of statutory release, require that the offender reside in a community-based residential facility or a psychiatric facility if the releasing authority is satisfied that, in the absence of such a condition, the offender will present an undue risk to society by committing, before the expiration of their sentence according to law, an offence set out in Schedule I or an offence under section 467.11, 467.12 or 467.13 of the *Criminal Code*.

Droit du délinquant

127 (1) Sous réserve des autres dispositions de la présente loi, l'individu condamné ou transféré au pénitencier a le droit d'être mis en liberté à la date fixée conformément au présent article et de le demeurer jusqu'à l'expiration légale de sa peine.

Assignation à résidence

133 (4.1) L'autorité compétente peut, pour faciliter la réinsertion sociale du délinquant, ordonner que celui-ci, à titre de condition de sa libération d'office, demeure dans un établissement résidentiel communautaire ou un établissement psychiatrique si elle est convaincue qu'à défaut de cette condition la perpétration par le délinquant de toute infraction visée à l'annexe I ou d'une infraction prévue aux articles 467.11, 467.12 ou 467.13 du *Code criminel* avant l'expiration légale de sa peine présentera un risque inacceptable pour la société.

Right of Appeal

147 (1) An offender may appeal a decision of the Board to the Appeal Division on the ground that the Board, in making its decision,

(a) failed to observe a principle of fundamental justice;

(b) made an error of law;

(c) breached or failed to apply a policy adopted pursuant to subsection 151(2);

(d) based its decision on erroneous or incomplete information; or

(e) acted without jurisdiction or beyond its jurisdiction, or failed to exercise its jurisdiction.

Droit d'appel

147 (1) Le délinquant visé par une décision de la Commission peut interjeter appel auprès de la Section d'appel pour l'un ou plusieurs des motifs suivants :

a) la Commission a violé un principe de justice fondamentale;

b) elle a commis une erreur de droit en rendant sa décision;

c) elle a contrevenu aux directives établies aux termes du paragraphe 151(2) ou ne les a pas appliquées;

d) elle a fondé sa décision sur des renseignements erronés ou incomplets;

e) elle a agi sans compétence, outrepassé celle-ci ou omis de l'exercer.

Decision of Vice-Chairperson

(2) The Vice-Chairperson, Appeal Division, may refuse to hear an appeal, without causing a full review of the case to be undertaken, where, in the opinion of the Vice-Chairperson,

(a) the appeal is frivolous or vexatious;

b) the relief sought is beyond the jurisdiction of the Board;

Décision du vice-président

(2) Le vice-président de la Section d'appel peut refuser d'entendre un appel sans qu'il y ait réexamen complet du dossier dans les cas suivants lorsque, à son avis:

a) l'appel est mal fondé et vexatoire;

b) le recours envisagé ou la décision demandée ne relève pas de la compétence de la Commission;

(c) the appeal is based on information or on a new parole or statutory release plan that was not before the Board when it rendered the decision appealed from; or	c) l'appel est fondé sur des renseignements ou sur un nouveau projet de libération conditionnelle ou d'office qui n'existaient pas au moment où la décision visée par l'appel a été rendue;
(d) at the time the notice of appeal is received by the Appeal Division, the offender has ninety days or less to serve before being released from imprisonment.	d) lors de la réception de l'avis d'appel par la Section d'appel, le délinquant a quatre-vingt-dix jours ou moins à purger.
Decision on Appeal	**Décision**
(4) The Appeal Division, on the completion of a review of a decision appealed from, may	**(4)** Au terme de la révision, la Section d'appel peut rendre l'une des décisions suivantes:
(a) affirm the decision;	a) confirmer la décision visée par l'appel;
(b) affirm the decision but order a further review of the case by the Board on a date earlier than the date otherwise provided for the next review;	b) confirmer la décision visée par l'appel, mais ordonner un réexamen du cas avant la date normalement prévue pour le prochain examen;
(c) order a new review of the case by the Board and order the continuation of the decision pending the review; or	c) ordonner un réexamen du cas et ordonner que la décision reste en vigueur malgré la tenue du nouvel examen;
(d) reverse, cancel or vary the decision.	d) infirmer ou modifier la décision visée par l'appel.

V. **Standard of Review**

[20] Mr. West had no observations to make in this regard.

[21] The Respondent cites *Ye v Canada (Attorney General)*, 2016 FC 35 [*Ye*] which holds that a reasonableness standard is guiding both when the Appeal Division is reviewing a decision of the Board, and when the Court reviews an Appeal Division decision. The Court in *Ye* approves of the statement made in the prior case of *Desjardins v Canada (National Parole Board)*, [1989] FCJ No. 910 (Fed TD), that as concerns matters of parole, administrative decisions must not be interfered with by the Court "failing clear and unequivocal evidence that the decision is quite unfair and works a serious injustice on the inmate" (*Ye* para 9).

[22] In applying the reasonableness standard, the Supreme Court of Canada in *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [*Vavilov*] at para 87 has clarified that judicial review is concerned with "*both* outcome *and* process". As was the case under the former administrative law framework articulated in *Dunsmuir v New Brunswick*, 2008 SCC 9, the hallmarks of reasonableness are justification, transparency, and intelligibility (*Vavilov* at paras 86-87). Under *Vavilov*, the decision under review must be justified in relation to the relevant factual and legal constraints that bear on the decision (*Vavilov* at para 99).

[23] Issues of procedural fairness attract a different standard of review; one best reflected in the correctness standard (*Vavilov* at para 23; *Canadian Pacific Railway Company v Canada (Attorney General)*, 2018 FCA 69 at para 54). Specifically, with regard to all the circumstances including the factors found in *Baker v Canada (Minister of Citizenship and Immigration)*, 1999 CanLII 699 (SCC), [1999] 2 SCR 817, a reviewing court must ask whether a fair and just process was followed.

VI. **Analysis**

A. *Did the Appeal Division err in law by declining to resolve issues concerning the correctness of information in the CSC file?*

[24] The Applicant contends that it was within the Appeal Division's jurisdiction to consider whatever documents and materials he has supplied. He believes these submissions counterbalance and correct the "fraudulent, erroneous, misleading, and incomplete information" provided by the CSC that the Board and Appeal Division accepted uncritically "as if they were typed by God himself". Further, he asserts that the Appeal Division erred in law by stating that it was the sole responsibility of the CSC to resolve the issues surrounding the correctness of various records and reports in an inmate's CSC file.

[25] Section 24(1) of the *CCRA* requires that the CSC ensure all information is accurate and section 24(2) provides an offender the ability to request that CSC correct any inaccurate information.

[26] There is authority for the proposition that an offender may petition the Court for relief when they believe that there are inaccuracies in their prison file: *Tehrankari v Canada (Correctional Service)* (2000), 2000 CanLII 15218 (FC), 188 FTR 206 [*Tehrankari*]. However, in *Tehrankari,* the applicant had initially filed a complaint pursuant to subsection 24(2) of the *CCRA,* which was denied. The applicant then grieved that decision under section 90 of the *CCRA,* and upon exhaustion of that procedure sought judicial review before the Court.

[27] The Parole Board and the Appeal Division are not empowered by Parliament to conduct the type of wide-ranging inquiry into the merits of the convictions which result in an inmate's incarceration which the Applicant seeks. That responsibility, apart from appellate review, has been vested in the Minister of Justice of Canada under Part XXI.I of the *Criminal Code* RSC, 1985, c C-46 [*Criminal Code*]. It does not appear that Mr. West has made an application for ministerial review under s. 696.1 of the *Criminal Code*. He advised the Court at the hearing that he saw that his only course of action was to seek leave to appeal and to introduce fresh evidence. I gather that the fresh evidence is that which he wished the Board and the Appeal Division to consider.

[28] I agree with the Respondent that it is not the duty or responsibility of the Board or the Appeal Division to correct or update CSC file information in the course of carrying out their statutory duties: *Eakin v Canada (Attorney General)*, 2017 FC 394 [*Eakin*] at para 29; *Reid v Canada (National Parole Board)*, 2002 FCT 741 (CanLII) at paras 19-21. The Appeal Division did not err in not addressing the Applicant's complaints about the accuracy of the information in his file. Nor was it procedurally unfair (*Eakin* at para 32). As Justice Gleeson notes in *Eakin* at para 32, "this is particularly true where the formal process provided by CSC to address concerns with the accuracy of information have not been pursued". It does not appear from the record that the Applicant chose to pursue the process set out in the Act.

B. ***Did the Board act unfairly and did the Appeal Division demonstrate a reasonable apprehension of bias by declining to consider the substance of the XPresspost package.***

[29] The Applicant contends that the police manufactured the evidence that resulted in his convictions for the 1998 offences. The Board and Appeal Division, he submits, have ignored the reality that wrongful convictions have occurred and were aware that unless the residency condition is rescinded he "will have absolutely no opportunity or a very limited opportunity" to petition the Supreme Court of Canada for redress.

[30] It was open to the Board to consider the Applicant's claims of innocence if it considered them to be relevant and reliable. Given the large volume of evidence of guilt and the thorough review of his claims by the Nova Scotia Court of Appeal it is not surprising that the Board did not consider the claims to be relevant and reliable.

[31] I understand that the Applicant has assembled a collection of documents relating to his trials and appeals which are now housed in over 80 boxes kept in a storage facility. Mr. West argues that while he could have the boxes transferred to the Jameson CCC in which he is presently resident, they would be stored there in the basement and he would not have convenient access to them. He says that he is only allowed three cubic feet of storage for his legal documents that he can easily access. This may be true but does not directly relate to the question of whether the Appeal Division reasonably upheld the Board's determination that a residency requirement was necessary in his case.

[32] In connection with the delayed XPresspost package, the Applicant states that "all claims of inaccuracy supported with documentation submitted by the Applicant to dispute the so-called 'Official Version(s)', were ignored".

[33] It is not clear from the Record what the XPresspost package contained and Mr. West was unable to assist the Court on that question at the hearing. The Respondent points to a note the Applicant included in his fax of November 26, 2018, which describes the XPresspost package as "represent[ing] the over 100 pages sent in defence of my position, although convicted, concerning the 'official Police versions'". The Respondent contends it follows from this that the contents "would not have materially affected the decision of either the Board or the Appeal Division" as it was "simply…a summary of the information already before the Board" which consisted of a total of about 1000 pages.

[34] The issue of bias is a question of law, and the test is that established by the Supreme Court of Canada in *Committee for Justice and Liberty et al v National Energy Board et al,* [1978] 1 SCR 369 [*Committee for Justice and Liberty*]. This Court, in *Boucher v Canada (Attorney General),* 2006 FC 1342 [*Boucher*] at para 16, summarized the test for a reasonable apprehension of bias as being four-fold: 1) there must be a likelihood of bias; 2) perceived by a reasonable and right minded person; 3) viewing the matter realistically and practically; and 4) having thought the matter through. Justice Noël, in *Boucher* at para 17, notes that it is not a requirement that the Board or Appeal Division refer to jurisprudence when assessing bias; however, their analysis must show that the key elements of the *Committee for Justice and Liberty* test were explicitly or implicitly taken into consideration.

[35] In its decision, the Appeal Division noted that all documents in the Applicant's file were shared with him at least 15 days prior to the Board making its decision, as confirmed by the Sharing of Information Form signed by the Applicant on November 6, 2018. The Appeal Division considered that it was the Applicant's responsibility to get documents to the Board on time. He chose to wait until near the deadline in order to mail his further submissions. In doing so he bears the risk that the material would not arrive in time. In my estimation, the Appeal Division acted according to law and did not exhibit evident signs of bias in affirming the Board's decision not to receive the Applicant's additional submissions past the deadline.

C. *Was the decision to impose a residency condition reasonable?*

[36] In his submissions, the Applicant does not conduct a reasonableness analysis but contends generally that it was unreasonable to impose a residency condition on the basis of an alleged "clear potential for future violent behaviour". Mr. West believes that the index offences, which he denies having committed, were not violent. He considers violence to be that which results in actual physical injury or death and points to instances in which other offenders convicted of assaults up to and including homicides were granted parole.

[37] It is evident from the record and, in particular, his submissions that Mr. West lacks insight into the reality of the psychological harm that can result from an armed robbery in which members of the public, the bank employees, were held at gunpoint and forced to kneel while being bound by duct tape. The Board considered victim impact statements obtained from the employees which indicated the persistence of that harm many years after the events in 1998. The Board reasonably concluded that the victims had suffered serious harm.

[38] In applying the reasonableness standard of review, the Board and Appeal Division are entitled to "considerable deference" given their expertise in conditional release-related decisions: *Chartrand v Canada (Attorney General),* 2018 FC 1183. The task of this Court is not to substitute its own determination for those of the Board and Appeal Division.

[39] In my view, the Board properly considered the Applicant's offence history, failure to demonstrate accountability or assume responsibility for his actions, persistent negative attitude towards institutional programming and problematic conduct toward correctional staff and other participants in the justice system. In reviewing these factors, the Board arrived at a reasonable conclusion that absent a residency condition, the Application would present an undue risk to society by committing a Schedule I offence before the end of his sentence. In reaching that conclusion, the Board considered whether alternatives to a residency condition, such as the use of electronic monitoring, would be sufficient and decided that they were not viable given Mr. West's history. His offences were well thought out and involved a considerable amount of pre-planning. Close daily supervision was considered necessary to manage his release into the community.

[40] The Appeal Division properly held that the Board's decision to impose a residency condition was reasonable, well supported and consistent with the decision-making criteria set out in subsection 133(4.1) of the *CCRA*.

VII. **Conclusion**

[41] Mr. West is now over 70 years old and may be considered less of a threat to public safety than he was in his younger years. He is able to leave the confines of the community correctional centre in which he is required to reside on a daily basis. Mr. West takes advantage of those opportunities to spend time with his daughters and grandchildren who reside in the Halifax area. The intent of statutory release and the conditions which may be imposed by the Board is to provide offenders with structure and support before their sentences expire to assist them to successfully reintegrate into the community. A residency requirement may provide such a structured environment. I note that the Board was prepared to consider additional leave privileges to the homes of positive community supporters such as members of his family. It may be that the Board will consider in the coming months that the residency requirement can be relaxed prior to the expiry of Mr. West's sentences.

[42] Mr. West is entitled to maintain his claims of innocence in relation to the index offences. But as I suggested at the close of the hearing, he may want to consider whether seeking a remedy for those claims is a worthwhile use of his time given his age.

[43] Based on the evidence and submissions before the Court on this application I am not prepared to interfere with the Board and Appeal Division decisions. This application will therefore be dismissed.

VIII. **Costs**

[44] While costs normally follow the cause, as the Respondent has not requested costs if the application is dismissed none will be awarded.

JUDGMENT IN T-692-19

THIS COURT'S JUDGMENT is that the application for judicial review is dismissed.

No costs are awarded.

"Richard G. Mosley"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	T-672-19
STYLE OF CAUSE:	WILLIAM FENWICK WEST v PAROLE BOARD OF CANADA APPEAL DIVISION AND ATTORNEY GENERAL OF CANADA
PLACE OF HEARING:	HALIFAX, NOVA SCOTIA
DATE OF HEARING:	JANUARY 15, 2020
JUDGMENT AND REASONS:	MOSLEY J.
DATED:	JANUARY 24, 2020

APPEARANCES:

William Fenwick West	FOR THE APPLICANT (Self-represented litigant)
Amy Smeltzer	FOR THE RESPONDENTS

SOLICITORS OF RECORD:

Attorney General of Canada Halifax, Nova Scotia	FOR THE RESPONDENTS