Federal Court  Cour fédérale

Date: 20230925

Docket: T-1315-21

Citation: 2023 FC 1282

Ottawa, Ontario, September 25, 2023

PRESENT: Mr. Justice Pentney

BETWEEN:

MARLON ROWE

Applicant

and

ATTORNEY GENERAL OF CANADA

Respondent

JUDGMENT AND REASONS

[1] The Applicant, Marlon Rowe, seeks judicial review of the decision of the Appeal Division [AD] of the Parole Board of Canada [Parole Board, or the Board] that affirmed the decision of the Parole Board denying his application for day parole.

[2] The Applicant is an inmate in a federal penitentiary, serving a life sentence for first degree murder. He is also a citizen of Jamaica, and following his conviction, a deportation order was issued against him. Therefore, when he is released, he will be sent to Jamaica.

[3] The Applicant argues that the AD decision is unreasonable because it failed to take into account the problems caused by the failures in Correctional Services Canada's [CSC] management of his case. He says the AD did not explain why it relied on the inadequate and incomplete information provided by his Case Management Team (CMT) as opposed to the other information he had provided which contradicts the negative comments in the CMT documents. Related to this, the Applicant submits that the AD reasons are inadequate, in light of the fundamental interests involved in a Parole Board decision and the nature of the information he presented.

[4] For the following reasons, the application for judicial review will be dismissed. I find that the decisions of both the Parole Board and AD reflect a consideration of the evidence and submissions presented to them, and the Applicant has not met his burden to establish a fatal flaw in the reasoning of either decision-maker.

I. Background

[5] The Applicant has been serving a life sentence for first degree murder since 2000, and will be eligible for parole after 25 years. He shot a person inside a bank during the course of a bank robbery, one of a string of robberies that he committed with several associates. While he has no other convictions, the Applicant has admitted to involvement in selling cannabis and participating in previous robberies as a getaway driver.

[6] The Applicant entered the federal penitentiary system at the age of 22, first at Millhaven with a maximum-security rating, and then at other institutions. He was transferred to

Cowansville, a medium security institution, in June 2013, and has maintained his medium-security rating since then. The Applicant has never been granted parole and has unsuccessfully applied for transfer to a minimum-security facility on two occasions.

A. *Parole Board Decision*

[7] On December 3, 2020, the Parole Board denied the Applicant's request for day parole. The Board reviewed the facts relating to his index offence, his personal history (lack of childhood trauma and indications of a personality disorder), and the motivation for his crime, namely "a desire for quick and easy access to money and the feelings of validation and power."

[8] The Parole Board then turned to the information in the file used to evaluate the Applicant's risk. The Statistical Information on Recidivism indicated that he has a low risk of general recidivism, but the CMT disagreed with that assessment. A September 1, 2020 psychological risk assessment indicated a personality disorder (antisocial and narcissistic traits) and a low to medium risk of violent recidivism on a medium- to long-term basis, which would likely increase if he associates with negative peers. The psychologist recommended that the Applicant spend time in a minimum-security institution prior to community release. The Applicant had participated in a Moderate-Intensity Multi-Target Program (MIMTP), and the Parole Board noted that the final report from January 2019 recommended that he "participate in the Maintenance Program before considering a security declassification and/or any kind of release."

[9] Turning to the Applicant's prison record, the Board summarized the history, including the various prison transfers, changes in his security rating, his history of institutional breaches and behavioural issues as well as his more recent clean record. This history includes reference to the Applicant's transfer into an Accountability Unit, where he was given greater freedom than the usual prison environment. However, the Applicant was unable to adjust successfully to this environment and was eventually removed from the Accountability Unit because of repeated breaches of the rules. The Parole Board cited the CMT's observations of progress and the positive steps the Applicant had taken, while also noting his limited contact with his CMT, his tendency to make insistent requests and habit of defying authority.

[10] The Applicant argued before the Parole Board that the CMT information should be given less weight because of the mismanagement of his case. He pointed out that he had been assigned 10 different Parole Officers in the previous few years and that his Correctional Plan had not been updated for 7 years prior to the January 2020 revision. Based on this, he argued that the information on his file from the CMT did not reflect the necessary context or insight about him.

[11] On this point, the Board stated:

> At the hearing, you and your assistant nuanced your parole officer's observations, noting you have changed parole officers 10 times in the past three years, and that your insisting demeanours was also intended to progress. For example, you stated that you had been asking since 2012 to participate in programming, a request that was finally granted in 2018. Up until recently, you were still on the waiting list for the maintenance program. Psychological counselling was granted six years after you requested it. Furthermore, your correctional plan and objectives have not been updated between 2013 and 2020, which left you

> with unclear objectives to pursue and a feeling that no progress was being achieved.

[12] The Board then described the CMT's recommendation that the Applicant should spend time in a minimum-security institution prior to release, as gradual reintegration was the safest option due to the length of his incarceration, his age when his sentence began and his resultant institutionalization. The Parole Board agreed with this assessment, noting that the Psychological Assessment supported this view. The Board's reasons for denying day parole can be summarized in the following points:

- Notwithstanding his progress, the Board found that work remained to be done in order for the risk the Applicant presents on release to be manageable;

- He displayed a form of minimization, for example when it came to his understanding of his intimidating attitude, or the number of incidents in which he breached the rules of the Accountability Units;

- His collaboration with his CMT was mitigated, and he continued to display a closed mind-set;

- His refusal to adjust to the more open environment in the Accountability Unit was indicative of adjustment issues that may arise if he was released into the community;

- Based on all of this, "the Board is of the opinion that the progress you have made at this point is not sufficient to reduce your risk of reoffending… to an acceptable level… You need to demonstrate during a more significant period your capacity to

> maintain good behaviour in a gradually less structured environment. As such, the Board is of the opinion that it is not the right moment for you to be granted parole." (Parole Board Decision, page 7).

[13] The Applicant appealed this decision, arguing that the Board breached the duty of procedural fairness by rendering an unreasonable decision based on incomplete information. The AD denied his appeal in a decision issued on May 17, 2021.

B. *The Appeal Division Decision*

[14] As with his Parole Board submissions, the Applicant's appeal centred on his claim that the Board had discounted the information he provided and instead privileged the material presented by the CMT. He argued that this was unfair and that the Board failed to provide an adequate explanation for its decision.

[15] The Applicant specifically noted that the Parole Board Decision inaccurately described a recommendation made by the Program Supervisor in the Applicant's MIMTP Final Report. While the Board Decision states "[i]t is recommended that you participate in the Maintenance Program before considering a security declassification and/or any kind of release", the Program Report states "…participation in IPM-maintenance sessions is believed to be beneficial before and/or after any type of transition (ex. security declassification, gradual release, etc.)"

[16] In addition, the Applicant argued that the Parole Board failed to provide an adequate explanation for its conclusion that his release plan was inadequate.

[17] The AD summarized the Applicant's arguments, grouping his main points under the following headings:

> Failed to observe a principle of fundamental justice:
>
> Inadequate/Unfair Risk Assessment
>
> Duty to Act Fairly: Duty to Provide Sufficient Reasons
>
> Reasonableness of the Decision
>
> Based its decision on erroneous or incomplete information:
>
> Erroneous and/or incomplete information

[18] The AD then stated that one issue raised by the Applicant was outside its jurisdiction, namely his complaints about the management of his case by CSC. The AD indicated that neither it nor the Parole Board have jurisdiction to manage his case, but "(s)hould you believe that you have been treated unfairly, you may consider submitting an institutional grievance and/or contacting the Office of the Correctional Investigator."

[19] The findings of the AD will be discussed in greater detail in the analysis portion of these reasons. At this stage it is sufficient to provide a summary. The AD concluded that the Board had conducted an adequate and fair risk assessment in accordance with the law and policy and that it had demonstrated that it considered information from both CSC and the Applicant. Furthermore, the AD found that in making findings that indicated a preference for the information provided by

CSC over that coming from the Applicant, the Board acted on reliable and persuasive information including the Psychological Assessment, MIMTP Final Report, and the Assessment for Decision.

[20] Contrary to the Applicant's submissions, the AD found that several of these reports did not contradict the comments made by the CMT, but rather all of the information reflected the information gathered from the various interactions with the Applicant. Finally, the AD agreed with the Board that the Applicant's release plan did not offer a gradual release or gradually less structured environment and it found that the Board had provided an adequate explanation for its conclusion on this point. Based on this, the AD denied the appeal and affirmed the Board's denial of day parole.

II. Issues and Standard of Review

[21] There are two main issues in this case:

A. Did the AD err in refusing to consider information regarding the CSC's handling of the Applicant's case?

B. Are the decisions made by the Board and the AD reasonable, which includes two sub-issues: (i) did the decision-makers adequately consider the Applicant's arguments on the failure of the Board to take account of the material he provided? and (ii) were their reasons adequate?

[22] The standard of review that applies to both issues is reasonableness in accordance with the framework set out in *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [*Vavilov*]. In summary, under the *Vavilov* framework, a reviewing court "is to review the reasons given by the administrative decision maker and determine whether the decision is based on an internally coherent chain of reasoning and is justified in light of the relevant legal and factual constraints" (*Canada Post Corp v Canadian Union of Postal Workers*, 2019 SCC 67 at para 2 [*Canada Post*]). The reviewing court must look for any "fatal flaws" in the reasons' overarching logic (*Vavilov* at para 102).

[23] The burden is on the Applicant to satisfy the Court "that any shortcomings or flaws relied on… are sufficiently central or significant to render the decision unreasonable" (*Vavilov* at para 100, cited with approval in *Canada Post* at para 33). It is only in exceptional circumstances that a reviewing court will interfere with a decision-maker's assessment of the evidence (*Vavilov* at para 125).

[24] Two other reference points apply to the review of a decision of the Appeal Division. First, a court reviewing an AD decision is required to ensure that he underlying Parole Board decision is lawful. As Justice Fothergill explained in *Chaif v Canada (Attorney General)*, 2022 FC 182 [*Chaif*] at para 15: "[j]udicial review of a decision by the Appeal Division affirming a decision of the Board requires the Court to ensure that both decisions are lawful (Timm v Canada (Attorney General), 2021 FC 775 at para 8, citing Cartier v Canada (Attorney General), 2002 FCA 384 at para 10)."

[25] Second, the case-law has consistently found that the decisions of the Parole Board and AD regarding release from custody are entitled to considerable deference: see *Chaif* at para 14, citing *Yassin v Canada (Attorney General)*, 2020 FC 237, which in turn cites *Ouellette v Canada (Attorney General)*, 2013 FCA 54 [*Ouellette*] and *Maldonado v Canada (Attorney General)*, 2019 FC 1393). This has been found to be consistent with *Vavilov*: *Yassin* at para 23, cited in *Chaif* at para 14.

III. Analysis

(1) Did the AD err in refusing to consider information regarding the CSC's handling of the Applicant's case?

[26] The argument on this point arises from the following passage of the AD decision:

> The issue you raise which is outside of the jurisdiction of the Appeal Division and the Board has not been addressed, namely:
>
> You provide information in regard to the Correctional Service of Canada's (CSC) management of your case. The Appeal Division nor [*sic*] the Board has jurisdiction to manage your case; CSC is responsible for the management of your case. Should you believe you have been treated unfairly, you may consider submitting an institutional grievance and/or contacting the Office of the Correctional Investigator.

[27] The Applicant argues that the AD misunderstood his submissions on this point. He was not asking it to become involved in the management of his case. Instead, he argued that the AD was required to analyze the information that had been put before the Parole Board – both from the CMT and the material he had brought forward – in the context of the history of the management of his case. He says that the law requires the Board and the AD to ensure that the

information on which the decision is based is accurate, reliable and persuasive: *Mooring v Canada (National Parole Board*), [1996] 1 SCR. 75 at para 36; *R c Zarzour*, [2000] FCJ. No 2070 at para 23.

[28] Part of the essential context for understanding his situation, according to the Applicant, is that the information presented to the Board and the AD should be based upon "the ongoing observation and assessment of the personality and behaviour of the offender during his or her incarceration… Such a process may extend over several years and lead to decisions that are… based, at least in part, on what actually happened during the incarceration of the offender" (*R v Zinck*, 2003 SCC 6, [203] 1 S.C.R. 41 at pp. 51-52).

[29] In this case, the Applicant submits that the Board and the AD failed to consider that the information presented by the CMT was not based on "ongoing observation and assessment" over a period of years, but rather simply reflected the views of the 10 different Parole Officers that he was assigned. According to the Applicant, the lack of continuity compromised the information, and therefore the Board and the AD should have preferred the evidence he put forward from other CSC officials with whom he interacted.

[30] The Respondent submits that the Board, and then the AD, examined all of the pertinent information that was provided by both CSC and the Applicant. The reasons in both the Board and AD decisions, according to the Respondent, reflect an engagement with the relevant evidence and the conclusions do not rest on a single incident or one report; instead, the decision-

makers considered the totality of the information provided. The Respondent also argues that the Board and AD did not need to list every document or address every submission.

[31] I am not persuaded that the AD wrongly ignored the information about the history of the Applicant's incarceration, or his concerns regarding the lack of continuity in his CMT. The AD's description of its jurisdiction is entirely accurate as a matter of law: the Board and the AD are not responsible for – and have no jurisdiction in relation to – the management of the Applicant's incarceration. They are to focus on whether he should be released, and if so, on what conditions. The Applicant does not take issue with this; instead, he argues that the failure of the Board and AD to discount the evidence from the CMT was unreasonable.

[32] A careful review of the AD's decision reveals the weakness in the Applicant's argument on this point. Just after making the statement about its jurisdiction, quoted earlier, the AD proceeded to analyze the grounds the Applicant put forward on his appeal, starting with his claim that the Board had breached procedural fairness because its decision was based on an "inadequate/unfair risk assessment". That analysis responds to the Applicant's submissions about the problems with his treatment by CSC, including the 10 different Parole Officers and the failure to update his Correctional Plan. This demonstrates that the AD was fully aware of the Applicant's concerns, and did not refuse to consider them because of its view of its own jurisdiction.

[33] Whether the treatment of this information was adequate and explained in a reasonable manner is discussed under the next issue. At this stage it is sufficient to state that I cannot accept

the Applicant's argument that the AD inappropriately limited its inquiry because it misunderstood his submissions. In fact, I find just the opposite. The AD indicated it could not deal with the Applicant's complaints about how his case had been managed by CSC officials, and directed him to possible avenues of redress. It then went on to examine the substance of the Applicant's appeal, taking into consideration his argument about how the management of his case had affected the assessment presented by the CMT.

[34] I therefore reject the Applicant's submissions on this point.

(2) Are the decisions of the Board and AD reasonable?

(a) *Did the Board and AD adequately consider the Applicant's arguments on the failure of the Board to take account of the material he provided?*

[35] The Applicant's arguments on this issue flow from his position on the first. He submits that the AD and the Board failed to consider the information he provided which contradicted or "nuanced" the material from the CMT. He also says that the Board and AD failed to explain their reasons for not giving more weight to his information, but this will be discussed under the next sub-issue.

[36] The crux of the Applicant's argument on this point is that while the Board and AD summarized the arguments and evidence, they did not engage in any substantive analysis of the evidence in light of the specific context of his case. The Applicant says it was unreasonable to analyze the information in light of the fact that much of it was dated and it reflected a limited interaction with him by each of the 10 Parole Officers he was assigned. Moreover, the Board and

AD should have explained why they preferred that information instead of the comments made by CSC officials and others who interacted with him on a regular basis more recently.

[37] In particular, the Applicant objects to the reference to the outdated Correctional Plan – which had not been updated in 7 years, and the reliance on the CMT assessment relating to his so-called "problematic" behaviour, especially his refusal to return to the Accountability Unit. He submits that he had provided other information that contradicted these accounts, but this was not considered. Several of the reports provided by the Applicant reflected a more recent, and more intensive interaction with him than the CMT reports, but he says these were not given appropriate consideration by the Board and AD. The Applicant argues that this information was central to the key decision the Board and the AD were required to make, namely whether his release would pose an unacceptable risk to society or whether it would contribute to the protection of society by fostering his reintegration into the community. The Board and AD were therefore obliged to confront the contradictory information directly and to explain why they preferred the other material provided by CSC: *Cepeda-Guitierrez v Canada (Minister of Citizenship and Immigration*), 1998 CanLII 8667 (FC), [1998] FCJ 1425.

[38] These failures, according to the Applicant, mean that the decision cannot stand. The decision-makers were required to analyze the information presented by both parties in the context of his particular circumstances and to consider which opinions best represented his actual experience, motivation and behaviour while in prison. He argues that the CMT information and the outdated Correctional Plan are an inadequate basis for decision, in particular when contrasted with the more specific, timely and insightful information he presented.

[39] The Respondent submits that the Board and AD performed the role assigned them by Parliament in accordance with the law and relevant policy guidance. They examined the evidence provided by CSC, as well as that submitted by the Applicant, and assessed his case in a reasonable manner. The Respondent notes that the Applicant does not challenge any of the basic information cited by the Board and AD relating to his index offence, history of incarceration, and his behaviour while incarcerated. He testified about his experience in the Accountability Unit and his difficulties in adjusting to this environment, and so the decisions were not based only on the CMT reports. The Respondent argues that the Board and the AD appropriately took all of this information into account, and that their decisions are reasonable.

[40] Although I have some sympathy for the concerns expressed by the Applicant about the information provided by CSC, I am not persuaded that the Board and AD failed to consider the information he provided about the management of his case. It is not the role of a reviewing court to re-weigh the evidence, and the decision of the Board (and, by extension, the AD) on release is deserving of significant deference in light of the experience, perspective and expertise they bring to the task and the highly discretionary nature of the decision. In light of this, I am not persuaded that the decisions are unreasonable on this ground.

[41] The Board is required to take into consideration "all relevant available information", including information provided by the incarcerated person: *Corrections and Conditional Release Ac*t, SC 1992, c 20, subsection 101(a) [*CCRA*]; and see *Mooring* at para 36. The over-arching duty of the Board is to act fairly in deciding cases and to give priority to protecting the public: *Mooring* at paras 35-36, 79; *Ouellette* at para 67; *Zarzour* at para 27.

[42] In addition, the Board is required to ensure that all information it relies on in making its decision is accurate (*CCRA*, subsection 24(1)). In *Mooring*, the Supreme Court of Canada stated that the Board is required to "make a determination concerning the source of [any information before it] and decide whether or not it would be fair to allow that information to affect [its] decision" (para 36). This duty has recently been summarized as requiring the Board to ensure that the information it uses in its decision-making is reliable and persuasive: *Nielsen v Canada (Attorney General)*, 2021 FC 1217 at paras 39, 88, citing *Mooring* at paras 29, 36, and *Ouellette* at para 68.

[43] The core of the Applicant's argument is that the Board and AD did not consider the impact of CSC's mismanagement of his case or give due weight to the other information he provided. On the latter point, I have already noted that the Board and AD referred to the Applicant's concerns; this material was not ignored. Furthermore, it is not the role of a reviewing court to re-weigh the evidence and therefore this submission cannot be accepted. However, the Applicant's submissions before both the Board and AD largely centred on this point, and in accordance with the *Vavilov* framework and its emphasis on responsive justification, the decision-makers were required to demonstrate how they took his submissions into account in reaching their decision.

[44] On this point, it must be acknowledged that both decisions could have provided more fulsome explanations about their consideration of the Applicant's arguments in reaching their decisions. However, reasons for decision do not need to be perfect; what is required is for the decision-maker to show that they were aware of the essential evidence and arguments, and to

explain their reasoning process in a reasonably fulsome manner. In my view, both the Board and AD met this standard.

[45] The decisions made by the Board and AD acknowledge the Applicant's concerns. They also do not rest entirely on the CMT's observations. The Applicant does not dispute the key facts regarding his history of incarceration, including that he had been in a prison setting since a relatively young age, and that as a result he has experienced institutionalization. He also acknowledged that he was not successful in the Accountability Unit and had refused to return there. Many of the positive comments from the psychologist and other CSC officials who dealt with the Applicant are mentioned by the Parole Board and the AD. I agree with the Respondent that the Board and AD are entitled to weigh the various pieces of information provided by the parties and to factor these into their overall assessments. That is what they did here, and I am unable to agree with the Applicant's argument that the Board and AD unreasonably discounted the more recent and in some instances more positive information he had provided, or that they failed to explain why they relied on the material provided by CSC.

[46] The decisions present a balanced picture of the Applicant, consistent with the information provided by the parties, and in particular consistent with the psychologist's report and the MIMTP Report. While it is unfortunate that the Board misquoted from the MIMTP Report, I am not persuaded that this is a fatal error. A review of the material in the record shows that most of these reports reflect some positive developments in regard to the Applicant, but they also tend to support a more gradual release back into the community. This could include a successful return to the Accountability Unit, and time spent in a minimum- security setting.

[47] The paramount consideration for the Board and AD is assessing the risk an offender poses to society if released on parole, together with the consideration of whether gradual release will facilitate his or her successful re-integration into society. The assessments of the Board and AD in this regard are entitled to considerable deference. In light of this, and having carefully considered the submissions of the Applicant, I am not persuaded that the Board and AD decisions are unreasonable because they failed to take into account the information provided by the Applicant, including his concerns regarding the way his case has been managed and the impact of that on the quality of the information provided by his CMT.

(b) *Are the reasons adequate?*

[48] There is considerable overlap between the Applicant's submissions on the issues. This aspect focuses on the question of whether the reasons provided by the Board and AD meet the *Vavilov* standard of responsive justification. The Applicant emphasizes that under the *Vavilov* framework, the reasons for decision must be more than *justifiable* in light of the record; instead, the reasons provided must *justify* the result to him: *Vavilov* at paras 133-135.

[49] The Applicant zeroes in on two aspects of the reasons. First, he says that while the Board and AD summarize the grounds he advanced, and in particular his submissions regarding the inadequacy of the information provided by CSC in light of the management of his case, they do not analyze them. Second, he argues that the Board and AD failed to provide an explanation for why they rejected his submissions and preferred the material provided by CSC. It is evident that the Applicant's submissions about the sufficiency of the reasons has many parallels with his arguments on the other issues.

[50] In support of this argument, the Applicant cites two decisions that he says involve similar situations to his case. In *Hebert v Canada (Attorney General)*, 2008 FC 969, the Court overturned a decision of the Canadian Human Rights Commission that relied on a flawed investigation report. The Court found that the claimant's arguments about the inadequacy of the investigation involved substantial aspects of his case and were supported with reference to documentary evidence in the Commission's possession. In light of this, the Court concluded that the Commission had a duty to explain why it rejected the claimant's submissions on this point, and its failure to do so amounted to a breach of procedural fairness.

[51] In *Farrier v Canada (Attorney General)*, 2020 FCA 25, the Court of Appeal found that under the *Vavilov* framework, a reviewing court must focus on justification and transparency of the reasons provided, and earlier (pre-*Vavilov*) approaches that were more forgiving of flawed reasons could no longer be sustained. In that case, the decision of the Parole Board failed to meet this standard because key issues and central arguments were not addressed.

[52] The Applicant contends that both of these decisions are directly applicable here. He had provided substantial reasons to question the assessment provided by the CMT and to prefer the opinions of other officials that were based on more recent and intensive interactions with him. However, he submits that the Board and AD failed to grapple with this or to explain why they rejected his arguments. He also says that the positive comments made about him, for example by the psychologist and MIMTP program manager, were not given appropriate consideration.

[53] On this point, I am not persuaded that the reasons fail to meet the *Vavilov* standard of responsive justification. As noted in the discussion above, the decisions demonstrate that the Board and AD were aware of the Applicant's submissions regarding his case management and the impact of that on the quality of the information from the CMT. I find that both decisions reflect a consideration of a range of information, including positive comments about the Applicant's progress and behaviour, as well as reasons for caution about the risks of releasing him without a more gradual transition to a minimum-security environment. The reasoning is clear, and it is based on the Board's and AD's assessment of the totality of the evidence.

[54] As I stated earlier, it may have been preferable for the Board and AD to explain in greater detail how their assessment of the various sources of information were – or were not – influenced by the history of the management of the Applicant's case. However, reasons do not need to be perfect, and I find that the Board and AD provided reasons that reflect the submissions and evidence, and demonstrate justification and transparency in the reasoning processes each followed.

[55] For these reasons, I am not persuaded that the reasons provided fail to meet the *Vavilov* standard.

IV. Conclusion

[56] While I have some sympathy for the Applicant's concerns about how his incarceration has been managed, I find that the reasons provided by the Board and AD are reasonable because they reflect the evidence and submissions and explain their reasoning in a transparent fashion.

[57] In the end, the Board and AD were required to consider all of the information, to assess its reliability, and to factor all of it into an assessment of the risk of releasing the Applicant on day parole. That is precisely what they did, even if the way they did it was not to the Applicant's satisfaction. I find the decisions are not entirely one-sided, and I note that the Applicant did not challenge several of the fundamental underpinnings of the reasons, including the length of his incarceration, his difficulty adjusting to the Accountability Unit, and the fact that he had become institutionalized. This supports the conclusion that his release plan was not suitable, and that he needed time to transition into a less structured environment and to demonstrate that he was ready to live outside of prison. That is what the Board and AD concluded, and I can find no basis to interfere in their decisions.

[58] For the reasons set out above, the application for judicial review will therefore be dismissed.

[59] Neither party sought costs and none are awarded. Each party will bear its own costs.

JUDGMENT in T-1315-21

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is dismissed.

2. No costs are awarded. Each party shall bear its own costs.

"William F. Pentney"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

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