

FEDERAL COURT

BETWEEN:

ROBERT LABBE

Applicant

- and -

THE ATTORNEY GENERAL OF CANADA

Respondent

AFFIDAVIT OF THE APPLICANT

I, Robert Labbe, of the City of Kingston, in the Province of Ontario, MAKE OATH AND SAY
AS FOLLOWS:

1. I am an inmate of Kingston Penitentiary. I am confined in administrative segregation and I am bringing this application for judicial review to expose to cruel and inhumane conditions to which inmates are exposed in the segregation cells and to seek a declaration from the Court that the manner in which inmates in the segregation cells are being treated is contrary to law.
2. I have been confined in the administrative segregation cells at Kingston Penitentiary since on or about November 8, 2003.

3. I was sentenced to a term of 2 years on July 8, 2003 for assault causing bodily harm. I was sent to the Millhaven Assessment Unit for security assessment and penitentiary placement. While at Millhaven Institution I was convicted and sentenced to 90 days consecutive for assaulting a peace officer.
4. On a previous incarceration at Millhaven Penitentiary I was assaulted and stabbed 62 times by inmate Wayne Latimer. When I was told that my penitentiary placement would be Kingston Penitentiary, I objected since I knew that Wayne Latimer was resident at Kingston Penitentiary. The Correctional Service of Canada refused my complaint and sent me to KP anyway. To avoid possible conflict where I had a reasonable belief that I would be physically harmed or killed, I opted to be placed in administrative segregation.
5. In the ordinary course of events, my statutory release date would be January 6, 2005. However, I have been notified by CSC that there are plans to refer me to the National Parole Board for detention until my warrant expiry date in October, 2005.
6. Even though I have the support of family living in Amprior, Ontario, I have volunteered to be transferred out of region to Kent Institution in British Columbia or to the Atlantic Institution in Renous, New Brunswick to free myself from the horrors ongoing in the KP segregation cells. I have been advised that Kent Institution will not accept my transfer and I have no indication that CSC will send me to Renous.
7. The months I have been in segregation have been months of torture. Although some of the misdeeds that I will recount herein did not happen to me personally, the happening of these events causes mental anguish to all of us who have to live in segregation. Some of the incidents I will mention are seemingly insignificant in and of themselves

but the cumulative effect creates an atmosphere of fear and neglect that amounts to torture.

8. I have tried to use the grievance procedure. I complained that there are no mirrors in the shower for shaving purposes. The grievance was upheld. I was told that mirrors would be installed by January 31. There are still no mirrors in the shower. Ignoring grievances leads to a situation where inmates feel helpless.
9. I have seen other inmates treated overly harshly. As examples I will list a few of the situations I have seen other inmates experience:
 - (a) An inmate with an allergy to beans was provided with a meal consisting of beans and was told that it was free of beans;
 - (b) Correctional Officer Potter called out that one particular inmate was a "rat" and had been convicted of rape. These are two allegations that can cause an inmate serious harm or death. It is frustrating that custodial staff would inflame a situation in a maximum security institution.
 - (c) Many inmates including myself are denied phone calls. One inmate who was served with notice he was to be transferred to the Special Handling Unit was not given the opportunity to contact counsel so that he could be advised of his legal rights in such a situation;
 - (d) One inmate was moved to a cell and had to wait three days before he was issued a mattress;
 - (e) On March 11, 2004, one inmate was handcuffed, thrown to the floor and beaten by correctional officers;
 - (f) One inmate was doused with urine by correctional staff;

(g) Some inmates have experienced the sprinkler system being turned on in their cells such that the inmates and all their property became soaked with water;

(h) One correctional officer dropped an inmate's television on the floor. The officer said, "Oops" and then proceeded to kick the television. Inmates are required to buy their own televisions and these become prized possessions in prison. No one wants to think that all an inmate's worldly possessions are at risk and without recourse to have the wrong righted;

10. I have personally experienced treatment that I believe to be wrong. Some examples are as follows:

- (a) I was repeatedly told by Correctional Officer Potter to hang myself.
- (b) My mail is constantly tampered with;
- (c) Some officers mispronounce my name and call me "LaBee" or "Labia". I am frequently mimicked or harassed.
- (d) I have been refused showers and not told of appointments.
- (e) I am refused haircuts. I have been told to shave my head if I want grooming.
- (f) Like all other inmates on the range, I am required to wear green coveralls rather than regular prison issue clothing.
- (g) Inmates are handcuffed from behind and marched through the corridor or in the exercise yard in such condition even though another inmate, uncuffed, is in close proximity and poses a threat to act out against the cuffed inmate.
- (h) In the winter, the heat was turned off and the air conditioning was activated.
- (i) The showers are filthy. Some inmates have contracted serious foot infections and I

am required to use these showers and risk getting the infection myself.

(j) The Warden does not make daily inspections of the segregation cells as she is required to by law.

(k) I have not been given daily medical visitation as required by law.

(l) The guards frequently leave the lights on at night disrupting sleep. They also make excessive noise while doing rounds.

(m) On one occasion the guards brought in a piper who played bagpipes while inmates were on the phone or trying to sleep.

(n) On one occasion the guards brought guests in for a party. Some younger women shrieked when one of the guards dressed up as an inmate and supposedly came after the young women. I do not believe the segregation area should be used for private parties of staff.

(o) On extremely cold days, guards refuse to allow entry to the prison and taunt inmates about how cold it is outside.

(p) On June 30, 2004, I was in the exercise yard and I required the use of washroom facilities. I kicked on the entrance door but my request to return inside was ignored. I waved to try to get the attention of anyone monitoring the security cameras but no one came to my assistance. In the end I was forced to defecate in a plastic bag I found in the yard. This was exceedingly embarrassing for me.

11. These events that I and others in the segregation cells have and continue to experience are creating a situation where inmates lose self respect, hope and the mental ability to hang on.

12. I swear this affidavit believing the contents to be true in support of my application for
judicial review and for no improper purpose.

SWORN BEFORE ME)
At the City of Kingston, Province of) _____
Ontario, this day of July, 2004) Robert Labbe
)

A Commissioner, etc.