

CANADA

SUPERIOR COURT

PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL

No. : 500-17-080425-138

LANCE REGAN

Plaintiff

-vs-

ATTORNEY GENERAL OF CANADA

-and-

REGIONAL RECEPTION CENTER,
SPECIAL HANDLING UNIT

Defendants

DEFENCE

IN ANSWER TO THE PLAINTIFF'S MOTION TO INSTITUTE PROCEEDINGS,
THE ATTORNEY GENERAL OF CANADA, FOR AND ON BEHALF OF THE
DEFENDANTS, STATES AS FOLLOWS:

Overview

1. The Plaintiff, Mr. Lance Regan, 28 years old, who admittedly is a high ranking member of the organized gang named "*terror squad*" has no regard for persons, law or authority and has spent his adult life committing heinous and gratuitous acts of violence both in the community and while incarcerated;
2. At all relevant times, he was a Federal inmate detained at the Special Handling Unit (SIU) in Saint-Anne-des-Plaines Québec where he was serving a lengthy sentence of seven years for violent offences;

3. The SHU houses a select group of the most dangerous offenders in this Country, who present the highest threat of safety to Correctional staff, other offenders and the public – and who are simply unmanageable within a regular security setting;
4. Plaintiff was transferred to the SHU after he repeatedly stabbed to death a fellow inmate while incarcerated at Edmonton Institution, a high security Institution;
5. Within the context of the SHU, special security measures are taken to provide for a safe environment. As such, direct contact between staff and inmates are almost non-existent. When staff and inmates need to share common areas, inmates will generally be restrained, for example with handcuffs;
6. While at the SHU the Plaintiff's consistent threatening, dangerous, impulsive and insolent behaviour lead Correctional authorities to respond with just, proportionate and reasoned security decisions and interventions in managing his risk;

ANSWER TO PLAINTIFF'S ALLEGATIONS

7. Defendants admit the allegations contained at paragraph 1 of the Plaintiff's motion to Institute Proceedings (hereinafter "motion");
8. Defendants admit the allegations contained at paragraph 2 of the motion. At all relevant times pertaining to the allegations stated in the motion to institute proceedings, Plaintiff was incarcerated at the SHU;
9. Defendants deny the allegations contained at paragraph 3 of the motion;
10. Defendants deny the allegations as drafted at paragraph 4 of the motion, and further submit that the four (4) incidents referred to were dealt with reasonably and diligently;

Plaintiff's request for pipe ceremony

11. Defendants admit the allegations contained at paragraph 5 of the motion and add that the Plaintiff was temporarily detained at Edmonton Institution (August 15, 2012 until October 25 2012) and not at the SHU at that time in order to attend court proceedings. On October 24, 2012, while at the Edmonton Institution., Plaintiff was allowed to see the institutional chaplain and to make a compassionate phone call to a family member;

12. With respect to paragraph 6, Defendants refer to exhibit P-2 and deny anything that is not consistent therewith. Defendants also confirm that Plaintiff was able to see the Elder, Mike McDonald, on November 14, 2012 and on many occasions afterwards;
13. Defendants deny paragraph 7 of the motion;
14. Defendants have no knowledge of the facts alleged at paragraph 8 of the motion. While it may be preferable to have employees wearing name tags, there is no legal obligation for SHU employees to wear them;
15. Defendants deny the allegations contained at paragraphs 9 to 11 of the motion;
16. With respect to paragraph 12, Defendants refer to exhibit P-3 and deny anything that is not consistent therewith. Defendants also confirms that the decision related to the grievance (Exhibit P-3) is Exhibit P-6;
17. With respect to paragraph 13, Defendants refer to exhibit P-4 and deny anything that is not consistent therewith;
18. Defendants admit the allegations contained at paragraph 14 of the motion;
19. With respect to paragraph 15 of the motion, Defendants refer to exhibit P-5 and deny anything that is not consistent therewith. Moreover, on or about December 11, 2012, Plaintiff received a response to his Exhibit P-5 complaint, in which the reasons for the refusal are explained, as it appears from the Offender Complaint Response dated December 11, 2012. **Exhibit D-1**;
20. Defendants deny as drafted the allegations contained at paragraph 16 of the motion. Defendants also note that the response, exhibit P-6 was rendered by the warden of the SHU, Mrs. Ninon Paquette;
21. With respect to paragraph 17 of the motion, Defendants refer to exhibit P-7 and deny anything that is not consistent therewith;
22. Defendants deny as drafted the allegations contained at paragraph 18 of the motion. Defendants also note that the response was rendered by the Deputy Commissioner for the Quebec Region, Mr. Réjean Tremblay;
23. As for the allegations contained in paragraph 19 of the motion, Defendants have no knowledge of the date of the death of Plaintiff's uncle. Defendants are aware that

Plaintiff filed a request for a pipe ceremony on or about April 2, 2013 which was denied on May 14, 2013, as it more fully appears from the Inmate's request form, **Exhibit D-2**. This request was once again refused for security reasons. It is noted in the refusal that he was again involved in a security incident on May 6, 2013 in which he threw a bottle of water in direction of an agent, that he shook the fence and showed signs of impatience towards the agent;

24. Defendants have no knowledge of the death of the person alleged in paragraph 20 of the motion. Defendants rely on exhibit D-2 which explains the reasons why a pipe ceremony was not granted;
25. Defendants deny as drafted the allegations contained at paragraph 21 of the motion;
26. Defendants deny the allegations contained at paragraph 22 of the motion;
27. Defendants deny the allegations contained at paragraph 23 of the motion. When Plaintiff was no longer considered a security threat to participate in a pipe ceremony, he was given permission to attend such ceremony;

Reasonable frisk search on Plaintiff

28. Defendants deny the allegations contained at paragraphs 24 and 25 of the motion;
29. Defendants deny the allegations contained at paragraph 26 of the motion. Plaintiff was disrespectful towards the officer doing the frisk search while no correctional officers acted in a disrespectful manner towards Plaintiff;
30. With respect to paragraph 27 of the motion, Defendants refer to exhibit P-9 and P-10 and deny anything that is not consistent therewith;
31. Defendants deny the allegations as drafted contained at paragraph 28 of the motion;
32. Defendants deny the allegations contained at paragraphs 29 and 30 of the motion;
33. With respect to paragraph 31 of the motion, Defendants refer to exhibit P-11 and deny anything that is not consistent therewith. Defendants also note that the decision at exhibit P-11 was rendered by the warden of the SHU, Mrs. Ninon Paquette;
34. With respect to paragraph 32 of the motion, Defendants refer to exhibit P-12 and deny anything that is not consistent therewith;

35. With respect to paragraph 33 of the motion, Defendants refer to exhibit P-13 and deny anything that is not consistent therewith;
36. With respect to paragraph 34 of the motion, Defendants refer to exhibit P-14 and deny anything that is not consistent therewith;
37. With respect to paragraph 35 of the motion, Defendants refer to exhibit P-15 and deny anything that is not consistent therewith;
38. With respect to paragraph 36 of the motion, Defendants refer to exhibit P-16 and deny anything that is not consistent therewith;
39. Defendants deny as drafted the allegations contained at paragraph 37 of the motion;
40. Defendants have no knowledge of the facts alleged at paragraph 38 of the motion;
41. Defendants deny the allegations as drafted contained at paragraph 39 of the motion;

Plaintiff's attempted assault on an officer during dinner service

42. Defendants deny as drafted the allegations contained at paragraphs 40 to 44 of the motion;
43. As for paragraph 45 of the motion, Defendants admit that for security reasons the Plaintiff was provided access to the shower the next day and not that evening and have no knowledge of his phone request;
44. Defendants deny the allegations contained at paragraph 46 of the motion;
45. With respect to paragraph 47 of the motion, Defendants refer to exhibit P-17 and deny anything that is not consistent therewith;
46. With respect to paragraph 48 of the motion, Defendants refer to exhibit P-18 and deny anything that is not consistent therewith;
47. With respect to paragraph 49 of the motion, Defendants refer to exhibit P-19 and deny anything that is not consistent therewith;
48. Defendants deny the allegations as drafted contained in paragraph 50 of the motion. Plaintiff was released from segregation on December 24, 2012. However, while in

segregation there was another incident on December 17, 2012 where Plaintiff was verbally aggressive towards staff of the SHU and prevented the hatch of his cell door from closing (see par. 63-79 of the motion);

49. Defendants have no knowledge of the facts alleged at paragraph 51 of the motion;
50. With respect to paragraph 52 of the motion, Defendants refer to exhibit P-20 which was rendered by the warden of the SHU, Mrs. Ninon Paquette, and deny anything that is not consistent therewith;
51. With respect to paragraph 53 of the motion, Defendants refer to exhibit P-21 and deny anything that is not consistent therewith;
52. With respect to paragraph 54 of the motion, Defendants refer to exhibit P-22 and deny anything that is not consistent therewith;
53. With respect to paragraph 55 of the motion, Defendants refer to exhibit P-23 and deny anything that is not consistent therewith;
54. Defendants deny the allegations as drafted contained at paragraph 56 of the motion;
55. Defendants deny the allegations contained in paragraph 57 of the motion. It has to be noted that it is only in April 2014, that Plaintiff was first recommended to be transferred out of the SHU to integrate a regular maximum security institution. The recommendation was based, inter alia, on Plaintiff behavior improvement from the summer of 2013 and after, as it more fully appears from an Assessment for decision dated April 25, 2014 and a referral Decision Sheet for Inst. Transfer dated May 7, 2014, "en liasse" as **Exhibit D-3**. Plaintiff was transferred to Millhaven Institution, a maximum security institution, in June 2014;
56. Defendants deny the facts alleged at paragraph 58 and 59 of the motion;

Plaintiff's assault on an officer during lunch service

57. Defendants admit the allegations contained in paragraph 60 of the motion. The offence report could not be found but Plaintiff was sentenced to a three (3) days loss of privileges in his cell on December 12, 2012, as it appears from an Inmate Request written by Plaintiff dated December 17, 2012. **Exhibit D-4**;

58. As for paragraph 61 of the motion, Defendants admit that an administrative error occurred and the power was not automatically reinstated after the third day of the sentence;
59. Defendants deny the allegations contained at paragraph 62;
60. Defendants deny as drafted the allegations as drafted contained at paragraph 63 of the motion. Defendants admit the allegations contained at paragraph 64 of the motion;
61. Defendants admit the allegations contained at paragraph 65 of the motion;
62. Defendants deny the allegations as drafted in paragraph 66, 67 and 68 of the motion;
63. Defendants deny as drafted the allegations contained at paragraph 69 of the motion. This was not a planned intervention. It was spontaneous to respond to the security breach provoked by Plaintiff. Some formalities might have been lacking but it remains that the intervention was reasonable and done in a proper manner in the circumstances;
64. Defendants deny the allegations as drafted contained at paragraphs 70 to 73 of the motion;
65. Defendants deny the allegations as drafted contained at paragraph 74 of the motion and adds that the Correctional Officers acted reasonably in the circumstances;
66. Defendants deny the allegations as drafted contained in paragraph 75 of the motion. Plaintiff was promptly escorted to the shower to be decontaminated after the incident and was also escorted for a medical examination;
67. Defendants deny the allegations as drafted contained at paragraphs 76 to 79 of the motion;
68. Defendants deny the allegations as drafted contained at paragraph 80 of the motion. Defendants will rely on the medical report to qualify the alleged injuries, **Exhibit D-5**;
69. Defendants deny as drafted the allegations contained at paragraph 81 of the motion. Plaintiff's cell as well as the range had been cleaned. Moreover, the OC spray is very volatile and its vapor doesn't last more than a few minutes when fresh air is allowed

to circulate. In the circumstances, the OC spray was vaporized mostly in the range since Plaintiff wouldn't remove his arm coming out of the hatch of his cell door. Some residues might have ended up in small amount inside his cell near the door. The range and the cell were cleaned immediately thereafter;

70. Defendants admit the allegations contained at paragraph 82 of the motion;
71. Defendants deny the allegations as drafted contained at paragraphs 83 and 84 of the motion;
72. As for paragraph 85 of the motion, Defendants admits the existence of exhibit P-26;
73. Defendants deny the allegations contained at paragraph 86 of the motion;
74. Defendants has no knowledge of the allegations contained at paragraph 87 of the motion;
75. Defendants admit the allegations contained at paragraph 89 of the motion;
76. Defendants deny as drafted the allegations contained at paragraph 90 of the motion;
77. With respect to paragraph 91, Defendants refer to exhibit P-28 and deny anything that is not consistent therewith;
78. With respect to paragraph 92, Defendants refer to exhibit P-29 and deny anything that is not consistent therewith;
79. With respect to paragraph 93, defendants refer to exhibit P-30 and P-39 but deny anything that is not consistent therewith;
80. With respect to paragraph 94, Defendants refer to exhibit P-31 but deny anything that is not consistent therewith;
81. With respect to paragraph 95, defendant refer to exhibit P-32 but deny anything that is not consistent therewith;
82. With respect to paragraph 96, Defendants refer to exhibits P-35 and P-39 and deny anything that is not consistent therewith. Moreover, Defendants do not necessarily agree with the opinion expressed in theses exhibits;

83. With respect to paragraph 97, Defendants refer to exhibits P-40 and deny anything that is not consistent therewith;
84. Defendants deny the allegations as drafted contained at paragraph 98 of the motion;
85. Defendants deny the allegations contained at paragraph 99 of the motion;

Various alleged incidents

86. Defendants deny the allegations as drafted contained at paragraph 100 of the motion. While it could be of some inconvenience for an inmate when the toilet in his cell gets clogged, unfortunately it can take some time to have a plumber come to the SHU to fix such a problem especially when it happens during the weekend;
87. Defendants deny the allegations as drafted contained at paragraph 101. On August 1, 2013, Plaintiff threatened to cut the head off Officer Pamela Poirier. A disciplinary charge concerning this threat was dismissed for technical reasons, e.g., the hearing was not held in a timely manner, as it appears from the Inmate Offence Report and Notification of Charge dated August 1, 2013, **Exhibit D-6**;
88. Defendants has no knowledge of the allegations contained at paragraph 102 of the motion;
89. With regard to paragraph 103, Defendants refer to exhibit P-41 and deny anything that is not consistent therewith;
90. Defendants admit the allegations contained at paragraph 104 of the motion;
91. Defendants deny the allegations contained at paragraph 105 of the motion;
92. Defendants deny the allegations as drafted contained at paragraph 106 of the motion. On May 6, 2013, Plaintiff became impatient while in the yard and ended up throwing a bottle of water at the catwalk's window upon having made derogatory comments towards staff. In fact, Plaintiff and other inmates were requesting to reintegrate the common room. However, as the door was malfunctioning, staff were unable to grant Plaintiff's request immediately. Plaintiff became impatient and resorted to inappropriate means to have himself heard. The whole as it more fully appears from exhibit P-37;
93. Defendants deny the allegations as drafted contained at paragraph 107 of the motion;

94. Defendants deny the allegations as drafted contained at paragraph 108 of the motion. The nurse brought pills in a plastic cup to Plaintiff even though he had none actually prescribed in his medical file;
95. Defendants deny the allegations contained at paragraph 109 of the motion;
96. Defendants have no knowledge of the allegations contained at paragraph 110 of the motion;
97. Defendants deny the allegations contained at paragraph 111 of the motion;

Damages claimed

98. As for paragraph 112 of the motion. Defendants deny the damages alleged to having been suffered by the Plaintiff and deny any liability with regards to such damages and the amounts being claimed. Moreover, in any event, the amounts claimed are grossly exaggerated;
99. Defendants deny as drafted the allegations contained at paragraphs 113 to 117 and add that Correctional Officers named in this motion acted reasonably, prudently and diligently at all material times when dealing with the Plaintiff;
100. Defendants deny paragraph 118 of the motion. The demand letter was received and a response was forwarded to Plaintiff's counsel at it appears from **Exhibit D-7**;
101. Defendants deny as drafted the allegations contained at paragraph 119 of the motion;
102. Defendants deny the allegations contained at paragraph 120 of the motion;

AND FOR FURTHER PLEA, THE ATTORNEY GENERAL OF CANADA STATES AS FOLLOWS:

Plaintiff's criminality

103. The Plaintiff, Mr. Lance Regan, 28 years old, who admittedly is a high ranking member of the organized gang named "terror squad" has no regard for persons, law or authority and has spent his adult life committing heinous and gratuitous acts of violence;

104. The Plaintiff is currently serving a seven year sentence, commencing on March 9, 2011 for extortion – use of firearm (x2), aggravated assault (x2), assault with a weapon, assault causing bodily harm, robbery – use of firearm, and forcible confinement. Those offences were committed on November 3, 2008;
105. The Plaintiff's criminal history dates back to 2002 and contains prior violent convictions for assault, assault causing bodily harm (x2), possession of a weapon, assault peace officer (x5), assault with a weapon, dangerous operation of motor vehicle, robbery with violence, careless use of firearm/weapon/prohibited device ammunition, possession of firearm or ammunition contrary to prohibition order and resist arrest. Additional convictions for traffic of illegal substances and multiple breach of trusts offences for failing to comply with court imposed sanctions, escape lawful custody and obstruct peace officer, etc.;
106. In 2005 he was involved in an offence where he bit, hit and pushed two police officers down the stairs during a struggle while trying to resist arrest;
107. In 2006, he was involved in an incident where he put his mother's boyfriend in a headlock, held a knife to his throat and hit him in the jaw. Another person was also assaulted by plaintiff and an accomplice from the Terror Squad. That person was punched in the face and kicked, he suffered cuts to his head and arm. When arrested, Plaintiff resisted being placed in the holding cell, flicked "toe jam" in the officer's face, struck him and managed to remove his knife from his vest prior to being subdued;
108. In June 2007, Plaintiff punched his girlfriend in the face twice and also assaulted another man in the head, shoulder and shoulder blade;

Plaintiff's threat to others while incarcerated

109. Plaintiff was held in federal custody prior to his first federal sentence he is currently serving under an exchange of services with provincial authorities since it was found that he was no longer manageable within the provincial system after as he had threatened staff safety and created a weapon which could have harmed staff, as it more fully appears from Plaintiff's Criminal Profile dated July 16, 2013, **Exhibit D-8** at page 16;
110. This remand resulted in his transfer from Prince Albert Correctional Facility in January 2009 to Saskatchewan Penitentiary (maximum unit);

111. While at Saskatchewan Penitentiary, Plaintiff continued to show poor and threatening behavior. For example, in March 2009, Plaintiff and two other inmates, members of the Terror Squad, assaulted another inmate causing him cuts, abrasions and a concussion.
112. In November 2009, Plaintiff was associated with another assault on a fellow inmate causing him serious physical harm including a fractured hand and a knee injury which required surgery;
113. His behaviour as well as the inherent management difficulties linked to his gang status prompted his transfer from Saskatchewan Penitentiary to Edmonton Institution, a maximum security Institution.
114. While at Edmonton Institution, Plaintiff was involved in numerous incidents involving staff and other inmates.
115. On August 16, 2011 Plaintiff poor behavior reached another level when he repeatedly stabbed to death a fellow inmate with a homemade weapon. This incident prompted his placement in administrative segregation and ultimately his transfer in December 2011 to the SHU at Ste-Anne-des-Plaines, as it more fully appears from Plaintiff's Correctional Plan dated January 29, 2014, **Exhibit D-9**, at page 7;
116. Plaintiff is currently facing charges of first degree murder for the August 16, 2011 incident;

Plaintiff Dangerous Behaviour at the SHU

117. Plaintiff's consistent threatening, dangerous, impulsive and insolent behaviour continued while at the SHU and lead Correctional authorities to respond with just, proportionate and reasoned security decisions and interventions in managing his risk;
118. The two incidents referred to by the Plaintiff that occurred during lunch distribution where he obstructed the hatch of his door cell are examples, amongst others, of situations where Plaintiff has demonstrated disruptive behavior at the SHU;
119. On March 6, 2012, Plaintiff incited other inmates to disobey orders of the correctional authorities of the SHU by invited them not to reintegrate their cells and remain in the common room at the end of a scheduled activity. Plaintiff was verbally and physically aggressive towards the staff. Because of his disruptive behaviour, he was placed in segregation. The use of force and pepper spray were necessary to escort him to the segregation unit because of his lack of cooperation, as

it more fully appears from Incident reports and various Officer's statements/Observation reports **Exhibit D-10**;

120. On February 2, 2012, he insulted an officer by calling him "fucking fool" because he was not satisfied with a response he was given by said officer, as it appears from the "Officer's Statement/Observation report" dated February 1, 2012, **Exhibit D-11**;
121. On January 18, 2013, an authorized item was found in his cell: a nail-cutter separated in two halves, as it appears from an "Officer Statement-Observation Report" dated January 18, 2013, **Exhibit D-12**;
122. On February 2, 2013, unsatisfied by the manner an officer was frisk-searching him, Plaintiff insulted him by saying: "you are a faggot", as it appears from a Statement/Observation Report dated February 2, 2013, **Exhibit D-13**;
123. On August 1, 2013, Plaintiff threatened to cut the head off an officer. Disciplinary charges were laid but dismissed for technical reasons, as it appears from an "Inmate offence report and Notification charge" dated August 1, 2013, **Exhibit D-14**;
124. On January 24 and 29, 2014, Plaintiff made an unjustified and repeated excessive use of the alarm button located in his cell, as it appears from two "Statement/Observation Reports" dated January 24 and 29, 2014, **Exhibit D-15 "en liasse"**.
125. On January 24, 2014, Plaintiff made inappropriate use of the alarm button in his cell, as it appears from an "Inmate report and Notification of Charge" dated January 24, 2014, **Exhibit D-16**;
126. On February 2, 2014, Plaintiff insulted an officer by repeatedly telling him, "you're a fuckin faggot", as it appears from an "Inmate offence report and Notification charge" dated February 10, 2014, **Exhibit D-17**;

Additional submissions on Plaintiff's allegations

127. In order to provide a more precise picture of some of the events alleged by the Plaintiff as giving rise to faults, the Defendants expresses the following:

Plaintiff's request for Pipe ceremony

128. On October 22, 2012 the Plaintiff's brother passed away;

129. At that time the Plaintiff was temporarily incarcerated at Edmonton Institution (EI) to attend criminal proceedings related to the August 16, 2011 incident where he stabbed and killed a fellow inmate ;
130. The Plaintiff informed the officers at Edmonton Institution of his brother's death and was met this same day by the Institutional Chaplain who recommended a compassionate telephone call to one of his family members, the whole as it appears at exhibit P-8;
131. Upon his return at the SHU, Plaintiff filed on or about October 28, 2012, a formal written request for a pipe ceremony which takes place outdoor on sacred ground;
132. Indeed, as an Aboriginal offender the Plaintiff could benefit from certain cultural ceremonies such as the Pipe ceremony which upon request could be coordinated with the Institutional Chaplain or Elder at the Institution;
133. However, within the context of the SHU, permission for a pipe ceremony is contingent upon security assessment, especially since access to such ceremony implies direct contact with staff with the participant inmate not being handcuffed;
134. On November 2, 2012, the Plaintiff met with his Parole officer and asked for an update concerning his pipe ceremony request, to which she replied that she would relay the information to the Elder;
135. On November 5, 2012, Plaintiff was advised that his request for a pipe ceremony had been received and was under consideration;
136. On November 21, 2012 and on December 11, 2012, he was advised that his request for a pipe ceremony was denied for security reasons, namely the high level security threat that he presented to others, the whole as it appears from exhibit P-4 and D-1.;
137. Considering the Plaintiff's impulsive and threatening behaviour to staff, Correctional authorities could not assure the safety of its staff and others present during the Pipe ceremony that takes place outdoor where participants are not handcuffed and where there is direct contact with staff;
138. During the course of this process, at no time did any Correctional officer use offensive language in their dealings with the Plaintiff;
139. Plaintiff was denied access to a pipe ceremony up until his participation in such activity was no longer considered a security risk.

140. Therefore, Defendants deny any liability with regards to the allegations of Plaintiff;

Reasonable frisk search on Plaintiff on November 15, 2012

141. In accordance with section 47 of the *Corrections and Conditional Release Act* (S.C. 1992, c. 20) (hereinafter *CCRA*), Correctional officers are vested with the power to proceed with routine frisk searches of inmates in a Penitentiary;

142. On November 15, 2012 a Correctional officer Jean-François Roussile proceeded with a routine frisk search of the Plaintiff as he was returning to his cell;

143. The professional standard or method used by Correctional officers when searching inmates is as follows;

1. The person being searched must place his hands over his head.
2. The Officer must position himself/herself closely behind the person being searched in order to react to any sudden movements and react to potential risk of harm by the person being searched.
3. The officer pats the person being searched from head to toe including inside the thigh and stomach area.

144. The Correctional officer responsible for this routine frisk search, prudently and diligently applied the professional standard noted above;

145. The Correctional officer at all times during the course of this routine frisk search was respectful towards the Plaintiff;

146. On November 16, 2012, Plaintiff's filed a sexual harassment grievance (first level) against the Correctional officer responsible for his frisk search. He alleged that the Correctional officer had squeezed his shoulder and pressed him too close from behind, the whole as it appears from exhibit P-9;

147. Following these allegations, the Security Information Officer (hereinafter SIO) at the SHU, Yves Witthom, undertook to investigate these allegations;

148. On November 28, 2012 he requested to meet privately with the Plaintiff to assure the confidentiality of his complaint and to equally assure his security;

149. The Plaintiff refused to meet privately and collaborate with the SIO;
150. Therefore, the SIO was forced to visit the Plaintiff at his cell for an interview where he once again refused to collaborate;
151. The SIO did not speak out loud so that other inmates in the range could hear the discussion;
152. Put simply, the Plaintiff refused to collaborate with the SIO in an investigation that he himself initiated;
153. Nevertheless, a thorough investigation was still conducted and his grievance at the first level was denied, the whole as it appears from exhibit P-11;
154. The Plaintiff pursued his grievance to the second level which was also denied, the whole as it appears from exhibit P-13;
155. Although the Plaintiff filed a grievance at the third level, he asked that it be deferred since he was filing legal proceedings in the present court file;

Plaintiff's attempted assault on an officer during dinner service

156. At the SHU, meal distribution is done on an individual basis for each inmate in his cell;
157. Meals are served by Correctional officers on trays that are handed to inmates in their cells through a slot (hatch) in the cell door;
158. The hatch is large enough for inmates to grab Correctional officer's arms and commit serious harm to them.
159. For this reason, inmates usually should not stand close the cell door hatch during meal distribution and blocking it and preclude it from closing constitute a security breach;
160. When a hatch is blocked in an open position, meal distribution has to be stopped until it is closed;
161. In the context of the SHU, there have been various incidents historically where inmates were using handcrafted bombs, homemade shanks or other weapons so

situations where direct contact between inmates and staff have to be carefully monitored;

162. On November 25, 2012 during dinner service the Plaintiff attempted to grab a Correctional Officer's arms through the hatch which he managed to evade by reacting quickly and closing the hatch;
163. It must be kept in mind that the Plaintiff has the capacity to seriously injure or kill at will;
164. After having failed to grab the Correctional Officer's arm, the Plaintiff began to violently kick his cell door and direct vulgar insults at the Officer;
165. Due to the Plaintiff's uncontrollable, threatening and disorderly behaviour he was ordered in deadlock (kept in his cell) and was provided his meal later. The next day, he was given his right to a shower;
166. On November 26, 2012 he was placed in segregation pursuant to section 31 (3) a) of the *CCRA* following his failed attempt to grab a Correctional Officer, the whole as it appears from exhibit E-24;
167. Indeed, this administrative measure taken in response to the Plaintiff's threatening conduct at the SHU was justified and reasonable in the circumstances;

Plaintiff's assault on an officer during lunch service

168. On December 17, 2012, while he was in the segregation range, the Plaintiff once again in a fit of rage forced Correctional authorities to respond to his dangerous and threatening conduct during the meal distribution;
169. At or around 11:15 during lunch service, the Plaintiff started screaming at the Correctional officers responsible for meal distribution and placed his left arm out of the slot;
170. Faced with this situation the Correctional officer asked the Plaintiff to remove his left hand from the slot, but the Plaintiff refused while shouting profanity;
171. The Officer remained calm and asked the Plaintiff again to remove his arm. The Plaintiff refused;

172. A third request was made by the Officer but again, he refused;
173. As the Correctional Officer was attempting to calm the Plaintiff and have him remove his arm, the latter was trying to grab him. In response, the Officer attempted to use his feet to close the slot, but to no avail;
174. The Plaintiff was fully uncooperative and out of control;
175. In the face of these failed attempts to bring the Plaintiff under control the Correctional officers used the baton which again had no effect in resolving the situation;
176. Correctional officers then resorted to the use of OC spray (pepper), which finally put an end to the situation;
177. The Plaintiff was then provided two showers for decontamination and was seen by a nurse at the infirmary, where it was noted that he suffered minor bruising to his left forearm and a small cut on a thumb;
178. The use of force applied by Correctional Officers was justified and reasonable, the whole as it more fully appears from various reports about this incident (including incident report, use of force report, officer's statement/observation report) "en liasse" as **Exhibit D-18**;
179. Although the Plaintiff points out certain formalities that were lacking during the course of this intervention (inter alia filming of incident), it remains that the Correctional Officers intervention was reasonable in the circumstances;

CONCLUSIONS

180. Plaintiff, by his actions, prompted many situations where authorities at the SHU needed to intervene or take actions in reaction to these actions which was done with just, proportionate and reasoned security decisions and interventions in managing his risk;
181. Plaintiff admittedly has a tendency to be paranoid and to feel persecuted when correctional authorities manage and control the risk he represents;

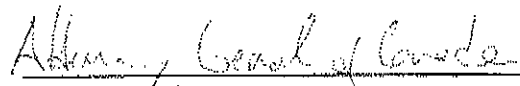
182. Up to this day, Plaintiff remains a very dangerous inmate who needs close monitoring. As such, Plaintiff was never granted any form of Parole by the Parole Board of Canada. Moreover, he was exceptionally ordered to remain incarcerated past his statutory release date after having served two-third (2/3) of his sentence. This exceptional measure was warranted as the Board concluded that Plaintiff would likely commit an offence causing death or serious harm to another person before the expiration of his sentence, as it more fully appears from the decision of the Parole Board of Canada dated August 18, 2015, **Exhibit D-19**;

FOR THESE REASONS, the Attorney General of Canada prays this Honorable Court to:

DISMISS the Plaintiff's motion;

The whole with costs.

Montreal, March 29, 2016



ATTORNEY GENERAL OF CANADA

BY : M^{RE} ÉRIC LAFRENIÈRE

Counsel for the Defendants



NOTIFICATION PAR TÉLÉCOPIEUR / NOTIFICATION BY FAX

DESTINATAIRE / ADDRESSEE		EXPÉDITEUR / SENDER	
Nom / Name: M ^o Daniel Romano		Nom / Name: M ^o Éric Lafrenière	
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N ^o du télécopieur/Fax No.:	N ^o de tél. / Tel No.:	N ^o du télécopieur/Fax No.:	N ^o de tél. / Tel No.:
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N ^o dossier de la Cour : Court File No.:	500-17-080425-138		
Notre référence : Our File No.:	Regan, Lance / 2961576		
Commentaires / Comments :			
<p>Bonjour, Les pièces suivront cet après-midi par courriel. Merci!</p>			
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