

Federal Court



Cour fédérale

Date: 20250130

Docket: T-981-23

Citation: 2025 FC 196

Ottawa, Ontario, January 30, 2025

PRESENT: The Honourable Mr. Justice Fothergill

BETWEEN:

NATHANIEL MOLL

Applicant

and

THE ATTORNEY GENERAL OF CANADA

Respondent

JUDGMENT AND REASONS

[1] Nathaniel Moll is an inmate of Mission Institute, a federal penitentiary operated by the Correctional Service of Canada [CSC]. He seeks judicial review of CSC's final response to two grievances he submitted regarding his access to adequate medical care. Mr. Moll says he has suffered discrimination on the basis of a disability.

[2] Mr. Moll asks this Court to order CSC to (a) arrange for him to see an ear, nose and throat [ENT] specialist; (b) arrange for him to see a dentist; and (c) provide him with a heating pad or electric blanket. Mr. Moll's grievances also concerned a request for a hearing aid, but this has since been provided.

[3] Mr. Moll has a persistent ear condition that began in January 2021. He says that he experiences continuous pain and a ringing sound.

[4] Before he was transferred to Mission Institution, Mr. Moll was incarcerated at Bowden Institution, where he submitted the two inmate grievances in issue (V50R00039124 and V50R00040031). Both grievances were denied at the first level.

[5] On or about August 30, 2022, Mr. Moll was transferred to Mission Institute.

[6] A final response to the grievances was provided on December 16, 2022 by the Acting Assistant Commissioner, Health Services, who found that:

- (a) Mr. Moll's allegations, if true, might constitute "discrimination", but there was no evidence that he had been denied medical treatment; and
- (b) Mr. Moll had been institutionally approved to purchase a heating pad while at Bowden Institution, but not yet at Mission Institution.

[7] The Acting Assistant Commissioner upheld Mr. Moll's grievances in part, and instructed Health Services and Operations at Mission Institution to review Mr. Moll's request for a heating pad, "taking into account health and operational considerations, to assess overall eligibility for this item." This is the decision challenged in this application for judicial review.

[8] On March 8, 2023, Mr. Moll's purchase order for a heating pad at Mission Institute was refused by the Inmate Trust Fund Board. He submitted a third grievance (V80R00051090) respecting the refusal of his purchase order, and also requested access to toothpaste for sensitive teeth. He demanded \$1,000,000 in damages for pain and suffering.

[9] The final level response to the third grievance was delivered to Mr. Moll on February 22, 2024. The response noted that both the toothpaste and heating pad had since been approved, and the request for damages was inappropriate. Mr. Moll has not sought judicial review of this decision.

[10] In lieu of a heating pad, Mr. Moll was authorized to purchase a hot water bottle on March 4, 2024. He complained that the hot water bottle was too small. He received a larger hot water bottle on May 2, 2024.

[11] Only the Acting Assistant Commissioner's final grievance response to V50R00039124 and V50R00040031 is before the Court in this application for judicial review. That decision is subject to review against the standard of reasonableness (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [Vavilov] at para 10). The Court will intervene if "there

are sufficiently serious shortcomings in the decision such that it cannot be said to exhibit the requisite degree of justification, intelligibility and transparency” (*Vavilov* at para 100).

[12] The criteria of “justification, intelligibility and transparency” are met if the reasons allow the Court to understand why the decision was made, and determine whether the decision falls within the range of acceptable outcomes defensible in respect of the facts and law (*Vavilov* at paras 85-86, citing *Dunsmuir v New Brunswick*, 2008 SCC 9 at para 47).

[13] Mr. Moll argues that he has been denied adequate medical treatment in a discriminatory manner. However, according to the decision under review:

[...] you had met with the Institutional Physician and Nurse Practitioner on several occasions between January and June 2021, were referred to the Ears Nose and Throat (ENT) specialist, had commenced a trial of Prednisone, and that a heating pad had been ordered. You were advised that should the medication be ineffective, alternative treatments would be reviewed. It was emphasized that every medical effort was being made to assist you, and that you had regular follow ups with the Nurse Practitioner and ENT specialist as required. Further, it was noted that a heating pad had been ordered.

In consideration of the above, there is no information available for review to support your allegation that staff discriminated against you on the grounds of disability by not providing you adequate treatment or accommodation measures. For the reasons presented above, this portion of your grievances is **denied**.

[14] The lengthy chronology of Mr. Moll’s medical treatments contained in the Acting Assistant Commissioner’s decision indicates that he met with health care providers at least 45 times between January 21, 2021 and October 27, 2022. Mr. Moll complains that his ear condition is not resolved. However, this cannot reasonably be attributed to a lack of access to medical care.

[15] The CSC's decision not to provide Mr. Moll with an electric blanket or heating pad is the subject of a different grievance (V80R00051090), and is not before the Court in this application for judicial review.

[16] The Acting Assistant Commissioner's determination that Mr. Moll was given access to adequate medical care, and was not discriminated against, was reasonable. In light of this conclusion, it is unnecessary to consider his request to convert this application for judicial review into an action, or his demands for remedies in the nature of mandamus or habeas corpus.

[17] The application for judicial review is dismissed.

[18] CSC seeks costs in the amount of \$250, noting that the procedural complexity of Mr. Moll's application required additional Orders of the Court regarding extensions of deadlines, CSC's preliminary objection on the ground of mootness, and redaction of the certified tribunal record [CTR]. Mr. Moll says he is an impecunious inmate and is unable to pay costs, as evidenced by his successful motion to waive Court filing fees in this proceeding.

[19] Mr. Moll's application for judicial review was trivial and needlessly complex. Having regard to all of the circumstances, I consider an award of costs in the amount of \$100 to be appropriate, if only to deter similar meritless applications in the future.

[20] Consistent with Justice Patrick Gleeson's Order of March 25, 2024, Mr. Moll's Application Record shall be redacted to omit the reference to his index offences at page 16 of the CTR.

[21] The Respondent asks to be named as the Attorney General of Canada, not Mission Institution (Correctional Service Canada). The style of cause will be amended accordingly.

JUDGMENT

THIS COURT’S JUDGMENT is that:

1. The application for judicial review is dismissed.
2. Costs are payable by Nathaniel Moll to the Attorney General of Canada in the all-inclusive sum of \$100.
3. Nathaniel Moll’s Application Record shall be redacted to omit the reference to his index offences at page 16 of the certified tribunal record.
4. The style of cause is amended to name the Attorney General of Canada as the sole Respondent, with immediate effect.

“Simon Fothergill”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: T-981-23

STYLE OF CAUSE: NATHANIEL MOLL v THE ATTORNEY GENERAL OF CANADA

PLACE OF HEARING: BY VIDEOCONFERENCE

DATE OF HEARING: JANUARY 6, 2025

JUDGMENT AND REASONS: FOTHERGILL J.

DATED: JANUARY 30, 2025

APPEARANCES:

Nathaniel Moll
(on his own behalf)

FOR THE APPLICANT

Suzy Flader

FOR THE RESPONDENT

SOLICITORS OF RECORD:

Attorney General of Canada
Vancouver, British Columbia

FOR THE RESPONDENT