Federal Court Cour fédérale

Date: 20200424

Docket: T-2563-14
T-204-15

Citation: 2020 FC 551

[UNREVISED CERTIFIED ENGLISH TRANSLATION]

Montréal, Quebec, April 24, 2020

PRESENT: The Honourable Mr. Justice Gascon

BETWEEN:

CHRISTOPHER LILL

Applicant

and

ATTORNEY GENERAL OF CANADA

Respondent

JUDGMENT AND REASONS

I. Overview

[1] Before this Court are two appeals brought by the applicant, Mr. Christopher Lill, pursuant to section 51 of the *Federal Courts Rules*, SOR/98 106 [Rules], against two orders made on November 25, 2019, by Prothonotary Tabib [Prothonotary].

[2] In the first order [Order No. 1], the Prothonotary dismissed a motion filed by Mr. Lill on September 20, 2019, in docket T-204-15, in which Mr. Lill requested documents in the possession of the Correctional Service of Canada [CSC] pursuant to section 317 of the Rules [Motion for Discovery of Documents]. Mr. Lill was seeking access to those documents in connection with a different motion he had filed in July 2019 under subsection 467(2) of the Rules for an order directing the Attorney General of Canada [AGC] to appear on behalf of CSC and respond to allegations of contempt of court [Motion for Contempt of Court]. In her second order, dated November 25, 2019, the Prothonotary dismissed the Motion for Contempt of Court that Mr. Lill had filed in dockets T-204-15 and T-2563-14 [Order No. 2].

[3] The only issue in the two appeals is whether the Prothonotary erred in dismissing Mr. Lill's two motions.

[4] For the reasons that follow, the appeals will be dismissed because Mr. Lill has not demonstrated an error of law or a palpable and overriding error of fact, or mixed fact and law, in either of the Prothonotary's two orders. In my view, Mr. Lill's argument that he could avail himself of the remedy under rule 317 to obtain documents in the context of his Motion for Contempt of Court is totally without merit, and the Prothonotary was correct in dismissing his Motion for Discovery of Documents. Moreover, the Prothonotary made no reviewable error in

dismissing Mr. Lill's Motion for Contempt of Court. The Prothonotary had jurisdiction to consider this motion as it was part of the first step in the two-stage contempt process set out in the Rules. Furthermore, there was no breach of the rules of procedural fairness, because in making her order, the Prothonotary relied solely on Mr. Lill's motion record, without considering either the AGC's response or Mr. Lill's possible reply. Finally, the Prothonotary correctly concluded that CSC had complied with all aspects of the judgment granting the applications for judicial review that gave rise to these motions, including the instructions contained in them. I therefore see no basis for intervening to overturn the two orders of the Prothonotary.

II. Background

A. *Facts*

[5] Since 2007, Mr. Lill has been serving a life sentence for first degree murder, with no possibility of parole for 25 years.

[6] On October 21, 2011, while Mr. Lill was incarcerated at La Macaza medium-security penitentiary, a violent incident occurred involving another inmate. As a result of that incident, Mr. Lill was placed in administrative segregation three days later. He remained there until November 30, 2011.

[7] On November 7, 2011, Mr. Lill's security classification was increased to maximum. On November 30, 2011, he was transferred to the maximum-security Port-Cartier Institution. Mr. Lill remained in maximum security until May 2, 2014, at which time he was transferred to a

medium-security institution, owing to the reassessment of his security classification from maximum to medium in January 2014.

[8] Following the events of the fall of 2011, Mr. Lill grieved the legality of his involuntary placement in administrative segregation, the reassessment of his security classification and his involuntary transfer to a maximum-security institution. On January 31, 2014, after reconsideration, CSC's Acting Senior Deputy Commissioner issued two decisions dismissing the substance of Mr. Lill's grievances. Mr. Lill then filed applications for judicial review of both of these decisions, under Court file numbers T-2563-14 and T-204-15.

[9] Dockets T-2563-14 and T-204-15 were heard jointly. On October 19, 2016, Justice Martineau allowed in part Mr. Lill's applications for judicial review (*Lill v Canada (Attorney General)*, 2016 FC 1151 [*Lill*]). In his judgment [Martineau Judgment], Justice Martineau set aside CSC's two January 2014 decisions and ordered that four grievances filed by Mr. Lill against CSC be redetermined. He referred the file back to CSC with instructions. The operative part of the Martineau Judgment establishes that certain specific information concerning Mr. Lill must not be taken into account by prison authorities in the redetermination of the grievances in question or in any future decision-making processes. Specifically, the conclusions of the Martineau Judgment contain the following instructions:

> a) Grievance V30R00018783 filed by the applicant concerning his placement in involuntary administrative segregation is allowed for the purpose of applying the following additional corrective measure: the information about the incident on October 21, 2011, and the maintenance of the applicant in involuntary segregation must no longer be used or taken into consideration by correctional authorities in any future decision-making process; and

> b) Grievances V30R0001876, V30R00018784 and V30R00018785 filed by the applicant concerning the reassessment of his security classification and his transfer to a maximum-security institution are allowed for the purpose of applying the following corrective measure: the security reclassification on November 7, 2011, and the applicant's involuntary transfer to a maximum-security institution on November 24, 2011, must no longer be taken into consideration by correctional authorities in future decision-making processes.

[10] Justice Martineau also stated in his conclusions that the judgment must be placed in Mr. Lill's institutional file.

[11] As Mr. Lill expressly acknowledges in his Motion for Contempt of Court and the accompanying affidavit of July 24, 2019, following its redetermination, CSC upheld Mr. Lill's four grievances in their entirety. Thus, as ordered by the Martineau Judgment, CSC indicated in Mr. Lill's file that information relating to the October 2011 incident, his involuntary placement in administrative segregation, the reassessment of his security classification and his involuntary transfer to a maximum-security institution could not be used in any future decision-making processes. Specifically, in a November 21, 2016, decision, CSC stated that [TRANSLATION] "as a corrective measure, the warden of Cowansville Institution will ensure that a memorandum is prepared in order to advise that any information related to the 2011-10-21 incident (at La Macaza Institution), and subsequent decisions related to your administrative segregation, security reclassification and involuntary transfer to Port-Cartier Institution, will no longer be considered in any future decision-making process". A note to file using the same wording is dated December 9, 2016, and was placed in Mr. Lill's file. A copy of the Martineau Judgment was also placed in Mr. Lill's file on that date.

[12] In the spring of 2019, Mr. Lill applied for escorted temporary absences [ETAs] for parental responsibility, including attending the birth of his child, which was expected in September 2019, and for family contact. Since he is serving a life sentence, authority to grant such permission lies with the Parole Board of Canada [Board], and not CSC (*Corrections and Conditional Release Act*, SC 1992, c 20 [Act], section 17.1; *Criminal Code*, SC 1985, c C-46, section 746.1). As part of the ETA approval process, however, CSC has an obligation to disclose all relevant information to the Board, and the Board must rely on this information in reaching a decision (*Mooring v Canada (Parole Board)*, [1996] 1 SCR 75 at para 21; Lill at para 16).

[13] In April 2019, CSC therefore completed a correctional plan and a psychological/psychiatric assessment report [Assessments], which it shared with the Board, and in which it recommended granting the ETAs Mr. Lill was requesting.

[14] Mr. Lill was unhappy with the content of the Assessments provided by CSC and filed a Motion for Contempt of Court in July 2019 in each of dockets T-2563-14 and T-204-15. In these two identical motions, Mr. Lill asked the Court to issue an order requiring the AGC to appear before the Court on behalf of CSC to hear evidence of the facts alleged against him and to assert any defence he might have to avoid a contempt conviction. According to Mr. Lill's allegations in his Motion for Contempt of Court, CSC failed to comply with the Martineau Judgment in that the Assessments produced by CSC for the hearing before the Board on his ETA applications made direct reference to the October 21, 2011 incident, his placement in administrative segregation, and his subsequent transfer to a maximum-security institution.

[15] After several procedural steps involving the records for Mr. Lill's Motion for Contempt of Court, on August 19, 2019, Justice Lafrenière issued an order accepting the filing of those records and establishing a timetable for the AGC's response and Mr. Lill's reply [Justice Lafrenière's Order]. In his order, Justice Lafrenière granted the AGC the right to make submissions to the effect that Mr. Lill's record did not establish a *prima facie* case of the contempt alleged of CSC, but denied his request for a hearing on Mr. Lill's Motion for Contempt of Court. Finding no factors that would justify holding such a hearing, Justice Lafrenière concluded that the Court would be able to rule fairly on Mr. Lill's motion solely on the basis of the parties' written submissions.

[16] In September 2019, a conference call was held at Mr. Lill's request. Following this conference call, and after hearing the parties' arguments regarding the production of the documents requested by Mr. Lill in support of his Motion for Contempt of Court, Justice Gagné issued an order dated September 12, 2019, establishing a timetable for the filing of the Motion for Discovery of Documents sought by Lill, the AGC's response to that motion, and Mr. Lill's reply in his Motion for Contempt of Court [Justice Gagné's Order]. Specifically, Justice Gagné's Order granted: (1) Mr. Lill, until September 20, 2019, to file his [TRANSLATION] "motion for disclosure of additional documents by the respondent"; (2) the AGC, 20 days from the filing of Mr. Lill's motion for disclosure of additional documents to file its respondent's record; and (3) Mr. Lill, 10 days from the Court's decision on his motion for disclosure of documents to file his reply record in his Motion for Contempt of Court.

[17] On September 20, 2019, Mr. Lill served and filed his Motion for Discovery of Documents. In it, Mr. Lill asks that CSC be ordered to provide [TRANSLATION] “all internal emails and memos from [CSC] mentioning the name [of Mr. Lill] or his FPS number, since the March 13, 2019 mediation conference, and specifically during the period of exchanges between the parties in T-204-15 and T-2563-14, i.e., from March 13 to July 24, 2019”.

[18] The AGC served and filed his response to the Motion for Contempt of Court on October 9, 2019. Mr. Lill served his reply a few days later, on October 15, 2019, and filed it with the Court the next day.

B. *Prothonotary’s orders*

[19] On November 25, 2019, the Prothonotary issued her two orders dismissing both of Mr. Lill’s motions, namely his Motion for Discovery of Documents and his Motion for Contempt of Court.

[20] In Order No. 1, the Prothonotary dismissed the Motion for Discovery of Documents, holding that rule 317 can only be used in the context of judicial review and that Mr. Lill had in fact used the wrong procedural vehicle. The Prothonotary concluded that, contrary to Mr. Lill’s contentions, his Motion for Discovery of Documents was not related to a judicial review of a decision of CSC, but in fact involved a case in which his main remedy was his Motion for Contempt of Court.

[21] In Order No. 2, the Prothonotary also dismissed Mr. Lill's Motion for Contempt of Court on the grounds that, on its face, the motion was without merit, [TRANSLATION] "in that it wrongly equates failure to comply with the results of the grievance with failure to comply with the [Martineau Judgment]". The Prothonotary was of the view that the Martineau Judgment was limited to setting aside the 2014 decisions subject to judicial review and referring them back to CSC for redetermination, along with certain instructions. The Prothonotary concluded that [TRANSLATION] "these instructions do not constitute an injunctive order or an order in the nature of mandamus issued by the Court" against the AGC or CSC. She also found that Mr. Lill had not demonstrated that the AGC or CSC had disobeyed a court order. Although Justice Gagné's Order provided that, in his Motion for Contempt of Court, Mr. Lill had until judgment on his Motion for Discovery of Documents to file his reply, the Prothonotary did not give Mr. Lill time to file that reply, instead deciding his Motion for Contempt of Court without considering either the AGC's response or Mr. Lill's forthcoming reply.

[22] Mr. Lill's appeals against the two orders of the Prothonotary are being dealt with by the Court in a single hearing.

C. *Standard for intervention*

[23] An appeal from a decision of a Prothonotary to a judge of the Federal Court is permitted by rule 51. Since the judgment of the Federal Court of Appeal (FCA) in *Hospira Healthcare Corporation v Kennedy Institute of Rheumatology*, 2016 FCA 215 [*Hospira*], it is well-established that the standard for intervention on appeals from discretionary orders by

prothonotaries is the standard enunciated by the Supreme Court of Canada (SCC) in *Housen v Nikolaisen*, 2002 SCC 33 [*Housen*]. Thus, on questions of law and questions of mixed fact and law where there is an extricable question of law, prothonotaries' orders will be reviewed on a standard of correctness. On all other questions, particularly questions of fact or mixed fact and law and inferences of fact, the Court may only interfere if the prothonotaries made a "palpable and overriding error" (*Housen* at paras 19–37; *Maximova v Canada (Attorney General)*, 2017 FCA 230 [*Maximova*] at para 4; *Hospira* at paras 64–66, 79).

[24] The FCA has repeatedly affirmed that the "palpable and overriding error" standard is a "highly deferential standard" (*Figueroa v Canada (Public Safety and Emergency Preparedness)*, 2019 FCA 12 at para 3; *Montana v Canada (National Revenue)*, 2017 FCA 194 at para 3; *1395804 Ontario Ltd (Blacklock's Reporter) v Canada (Attorney General)*, 2017 FCA 185 at para 3; *NOV Downhole Eurasia Limited v TLL Oilfield Consulting Ltd*, 2017 FCA 32 at para 7; *Revcon Oilfield Constructors Incorporated v Canada (National Revenue)*, 2017 FCA 22 at para 2). As Justice Stratas metaphorically stated in *Mahjoub v Canada (Citizenship and Immigration)*, 2017 FCA 157 [*Mahjoub*] and *Canada v South Yukon Forest Corporation*, 2012 FCA 165 [*South Yukon*], in order to meet this standard, "it is not enough to pull at leaves and branches and leave the tree standing. The entire tree must fall" (*Mahjoub* at para 61; *South Yukon* at para 46). Describing what is meant by "palpable" and "overriding", Justice Stratas further wrote in *Mahjoub*:

> [62] "Palpable" means an error that is obvious. Many things can qualify as "palpable." Examples include obvious illogic in the reasons (such as factual findings that cannot sit together), findings made without any admissible evidence or evidence received in accordance with the doctrine of judicial notice, findings based on improper inferences or logical error,

> and the failure to make findings due to a complete or near-complete disregard of evidence.
>
> [63] But even if an error is palpable, the judgment below does not necessarily fall. The error must also be overriding.
>
> [64] “Overriding” means an error that affects the outcome of the case. It may be that a particular fact should not have been found because there is no evidence to support it. If this palpably wrong fact is excluded but the outcome stands without it, the error is not “overriding.” The judgment of the first-instance court remains in place.

[25] A palpable and overriding error has also been described by the FCA as an error that is obvious, plainly seen and apparent, the effect of which is to vitiate the integrity of the reasons (*Madison Pacific Properties Inc v Canada*, 2019 FCA 19 at para 26; *Maximova* at para 5). In *Groupe Maison Candiac Inc v Canada (Attorney General)*, 2017 FCA 216 [*Candiac*], the FCA further noted that the standard of palpable and overriding error is particularly difficult to meet when the decision under judicial review is a procedural one (*Candiac* at para 50; see also *Boily v Canada*, 2019 FC 323 at paras 16–22 and *Curtis v Canada (Canadian Human Rights Commission)*, 2019 FC 1498 at paras 14–17).

[26] The SCC recently echoed these principles in *Salomon v Matte-Thompson*, 2019 SCC 14 [*Salomon*]: “Where the deferential standard of palpable and overriding error applies, an appellate court can intervene only if there is an obvious error in the trial decision that is determinative of the outcome of the case” (*Salomon* at para 33, citing *Benhaim v St-Germain*, 2016 SCC 48 at para 38). The SCC also referred to another metaphor used by the Quebec Court of Appeal in *J.G. v Nadeau*, 2016 QCCA 167 at para 77, where the Court affirmed that [TRANSLATION] “a palpable and overriding error is in the nature not of a needle in a haystack, but of a beam in the eye”. Simply put, “palpable” means an error that is obvious and apparent, while “overriding”

refers to an error that goes to the core of the outcome of a case and has the effect of changing the result (*Maximova* at para 5; *South Yukon* at para 46).

[27] In this case, both of Mr. Lill's appeals involve questions of mixed fact and law, and therefore can only be reviewed by the Court if there is a palpable and overriding error, unless an extricable question of law or legal principle is present *(Hinse v Canada (Attorney General)*, 2015 SCC 35 at para 180; *Mahjoub* at paras 73–74).

III. Analysis

[28] Having reviewed the Prothonotary's two orders, read the records and considered the written and oral submissions of the parties, I find that Mr. Lill has failed to demonstrate any error of law or any palpable and overriding error of fact or mixed fact and law in either of the orders.

A. *Motion for discovery of documents*

[29] With respect to his Motion for Discovery of Documents, Mr. Lill submits that the Prothonotary erred in giving rule 317 an unduly restrictive and limiting interpretation, while simultaneously ignoring the express terms of Justice Gagné's Order. According to Mr. Lill, that order is clear and unambiguous: it orders him to [TRANSLATION] "file his motion for disclosure of additional documents by the respondent". In opting for this wording, Mr. Lill notes, Justice Gagné did not use rule 41 to compel the appearance of a witness or the production of documents in a proceeding (*Lavigne v Canada Post Corporation*, 2009 FC 756 [*Lavigne*] at para 29), nor did she order the filing of material as she could have done in an action (*Jolivet v*

Canada (Justice), 2011 FC 806 [*Jolivet*] at para 25). Under these circumstances, Mr. Lill submits that he was free to use the rule 317 as a vehicle for formulating his Motion for Discovery of Documents, and that the Prothonotary erred in declaring his motion to be without merit.

[30] Mr. Lill acknowledges that a party requesting documents under rule 317 is generally only entitled to everything that was, or should have been, before the administrative decision maker at the time the decision at issue was made (*Canadian National Railway Company v Louis Dreyfus Commodities Ltd.*, 2016 FC 101 at para 26). However, he adds that the case law nevertheless establishes exceptions to this rule, and that other documents may be considered by the Court if they are intended to show that the decision maker breached procedural fairness or exceeded its jurisdiction.

[31] According to Mr. Lill, although his Motion for Contempt of Court is a remedy under Part 12 of the Rules, entitled "Enforcement of Orders", and not an application for judicial review per se under Part 5, "Applications", his Motion for Discovery of Documents under rule 317 falls within the exceptions referred to in the case law. In Mr. Lill's view, the documents requested in his Motion for Discovery of Documents are highly relevant in that they have a direct and significant impact on the decision to be rendered by the Court regarding his Motion for Contempt of Court. Indeed, Mr. Lill claims that obtaining internal CSC emails and memoranda mentioning his name or FPS number between March 13 and July 24, 2019, would have a decisive influence on the main outcome of his Motion for Contempt of Court, as they will prove that numerous exchanges took place after Mr. Lill's warnings and demonstrate that CSC knowingly and deliberately contravened the Martineau Judgment.

[32] I disagree with Mr. Lill's claims. I am of the view that, for the reasons that follow, the Prothonotary did not commit an error justifying the intervention of this Court when she held that rule 317 simply does not apply here. Indeed, it is clear that Mr. Lill's Motion for Discovery of Documents does not fall within the scope of a decision subject to judicial review, as required by rule 317.

(1) Rule 317

[33] Rule 317 is found in Part 5 of the Rules, which applies to "Applications", including applications for judicial review (rule 300). Rule 317 allows any party, in the context of an application for judicial review, to "request material relevant to an application that is in the possession of a tribunal <u>whose order is the subject of the application</u> and not in the possession of the party by serving on the tribunal and filing a written request, identifying the material requested" (emphasis added). Such a request must specify the documents or material requested. In addition to being relevant, the documents or material must relate to the "order" of the federal board, commission or other tribunal that is the subject of the application for judicial review.

[34] Rule 317 therefore requires that there be a judgment or decision of a federal board, commission or other tribunal. Indeed, there can be no production of documents under rule 317 "unless an order of the tribunal exists and is under review" (*Lavigne* at para 26).

[35] An application under rule 317 is intended to obtain documents from an administrative decision maker whose decision is under judicial review. It allows for the disclosure of documents that were before the federal board, commission or other tribunal that made a decision subject to

judicial review, so as to allow the Court to consider and decide on the merits of the judicial review with all the material that was before the administrative decision maker.

[36] Moreover, it is trite law that rule 317 can generally only permit the production of documents that were before the decision maker at the time the decision was made (*Association of Universities and Colleges of Canada v Canadian Copyright Licensing Agency (Access Copyright)*, 2012 FCA 22 at paras 19–20; *Canada (Human Rights Commission) v Pathak*, [1995] 2 FC 455 (CA), 94 FTR 80 at page 460; *Hiebert v Canada (Correctional Service)*, 1999 FCJ No 1957, 182 FTR 18 (QL) at para 10). As Mr. Lill correctly noted, however, there are recognized exceptions to the general rule that only evidence that was before the administrative decision maker is admissible in the reviewing court (*Tsleil-Waututh Nation v Canada (Attorney General)*, 2017 FCA 128 [*Tsleil-Waututh*] at paras 97–98). These include situations where an affidavit provides general background that may assist the reviewing court in understanding the issues relevant to the judicial review, or where an affidavit is necessary to bring to the attention of the reviewing court procedural defects that cannot be found in the evidentiary record of the administrative decision maker. However, such "exceptional evidence" must always be related to an order or decision of the federal board, commission or other tribunal in question (*Tsleil-Waututh* at para 100).

[37] On the other hand, rule 317 is not a general tool for the production of documents that the applicant may use unconditionally. In *Jolivet*, which was cited by Mr. Lill, the Court clearly states that rules 317 and 318 are not "equivalent to the disclosure of documents in an action" (*Jolivet* at para 25). The FCA incidentally recalled that a rule 317 request does not serve the

same purpose or function as disclosure or documentary discovery in an action (*Lukacs v Swoop Inc.*, 2019 FCA 145 [Lukacs] at para 16; *Tsleil-Waututh* at para 115; *Access Information Agency Inc. v Canada (Attorney General)*, 2007 FCA 224 at para 17). Thus, rule 317 cannot be used for discovery purposes where a party believes that there is insufficient evidence to support one of its allegations (*Lukacs* at para 19).

(2) Facts in this case

[38] In this case, the proceeding underlying Mr. Lill's Motion for Discovery of Documents is his Motion for Contempt of Court. It is not an application for judicial review of a CSC decision. Here, Mr. Lill's Motion for Discovery of Documents is ancillary to his motion alleging that the AGC and CSC committed contempt of court by failing to comply with the Martineau Judgment rendered in the context of the judicial review of two decisions issued by CSC in 2014 on certain of his grievances. As the Prothonotary noted in Order No. 1, the Motion for Discovery of Documents requests that CSC [TRANSLATION] "disclose documents in its possession that are allegedly necessary [for Mr. Lill] to prove contempt". These are not, therefore, documents that are relevant to an underlying application for judicial review.

[39] Moreover, if there were an underlying application for judicial review, it would involve applications that had already been finally adjudged in the Martineau Judgment of October 2016. As the Prothonotary correctly pointed out, the merits of the applications for judicial review at the source of the Martineau Judgment had already been determined, and there was no longer any decision or order subject to judicial review to which rule 317 could apply. Since there was no

decision or order made by a federal board, commission or other tribunal underlying Mr. Lill's Motion for Discovery of Documents, there is no possible application of rule 317.

[40] I would also point out, as I noted at the hearing, that the "order" referred to in rule 317 is an order or decision made by a federal board, commission or other tribunal or by an administrative decision maker, and not an order or decision subsequently issued by the Court on an application for judicial review. It is therefore clear that, contrary to the claims advanced by Mr. Lill, the order referred to in rule 317 can certainly not extend to the Martineau Judgment itself.

[41] Finally, even if I were to agree that the order of the federal board, commission or other tribunal that gave rise to the Motion for Discovery of Documents could include the CSC decisions that led to the Martineau Judgment, the documents requested by Mr. Lill in his motion cover a period (from March 13 to July 24, 2019) that goes well beyond the time frame of the grievances that gave rise to the CSC decisions in 2014.

[42] The Prothonotary's finding that Mr. Lill's application under rule 317 is not the proper procedural vehicle for his Motion for Discovery of Documents is not a "palpable and overriding" error; it is entirely correct in law. The Prothonotary rightly stated that rule 317 [TRANSLATION] "cannot be used as a mechanism of general application to permit the discovery of documents that might be useful or relevant to the determination of interlocutory motions or, as in this case, to obtain enforcement of orders". In concluding, I note that while Justice Gagné's Order did not in fact refer to rule 41 or any other procedural mechanisms in its conclusions authorizing Mr. Lill to

[TRANSLATION] “file his motion for disclosure of additional documents by the respondent”, she did not invite him to rely on rule 317 to do so either.

(3) Mr. Lill’s possible remedies

[43] That said, I must recognize that Justice Gagné’s Order expressly authorized Mr. Lill to [TRANSLATION] “file his motion for disclosure of additional documents by the respondent”, and that the order, as Mr. Lill argues in his submissions, must mean something.

[44] In the appeal before me, it is not my role to advise Mr. Lill on the procedural mechanism that he should or could have used to comply with what Justice Gagné’s Order otherwise permitted him to do. Mr. Lill opted for a request under rule 317, and it was the validity of that recourse that the Prothonotary (and the Court) had to rule on. For the reasons set out above, a request under rule 317 was clearly not the appropriate procedural vehicle in the particular circumstances of Mr. Lill’s proceedings against the AGC and CSC, and this is sufficient to dismiss his appeal of the Prothonotary’s decision on his Motion for Discovery of Documents. I nevertheless offer the following observations.

[45] The Rules provide for different ways of obtaining documents in the possession of a federal board, commission or other tribunal, an opposing party or a third party, whether in the context of applications for judicial review or other types of proceedings before the Court.

[46] In the specific context of orders for contempt under rules 466 *et seq.*, there are no specific rules providing a procedural mechanism for making a motion for discovery of documents.

Moreover, Mr. Lill was unable to refer the Court to any precedent recognizing the possibility of bringing a motion for discovery of documents in the context of contempt proceedings. Nor did the Court find any.

[47] The absence of a specific procedural mechanism allowing a party alleging contempt of court to obtain discovery of documents from the person accused of contempt is easily explained by the criminal and highly exceptional nature of this remedy. In *Morasse v Nadeau-Dubois*, 2016 SCC 44 [*Morasse*], the SCC recalled that the power to find an individual in contempt of court is an exceptional one (*Morasse* at para 19). Courts have consistently refused its routine use to obtain compliance with court orders. It is, in short, an enforcement power of last resort. Moreover, because of its criminal nature, "the formalities for contempt proceedings must be strictly complied with" (*Morasse* at para 20). A finding of contempt of court should only occur where it is genuinely necessary to safeguard the administration of justice.

[48] Under subsection 467(3) of the Rules, the party alleging contempt bears the burden of establishing a *prima facie* case that contempt has been committed. Once the Court is of the opinion that the plaintiff has met that burden, the judge hearing the motion may make an originating order against the defendant under subsection 467(1) of the Rules. This order requires the alleged offender to appear before a judge to hear evidence of the contempt. At that hearing, the alleged contempt must be proved beyond a reasonable doubt, as specifically prescribed by rule 469. And under rule 472, when a person is found in contempt, the Court may impose a term of imprisonment or a fine, which may be high. Given the criminal nature of contempt and the seriousness of the potential consequences for the alleged perpetrator, it is not surprising that

there is no specific procedural mechanism for ordering the alleged perpetrator to disclose potentially incriminating documents that are prejudicial to his or her rights. It bears mentioning that subsection 470(2) of the Rules provides that "a person alleged to be in contempt may not be compelled to testify".

[49] Indeed, the FCA has recognized that a procedure for proving contempt will be improper where the effect of the procedure is to infringe the right of the person accused of contempt to remain silent and place the burden of proof on the party bringing the contempt motion (*Apple Computer, Inc v Mackintosh Computers Ltd* (1988), 22 FTR 320, 20 CPR (3d) 221 at para 13.

[50] That said, there are some more general procedural mechanisms in the Rules to allow a party to have access to documents in actions or applications before the Court involving an administrative decision maker.

[51] These procedures vary depending on whether the documents are in the possession of a party to the proceedings (who may be examined without the need for judicial leave) or a third party. If the former, discovery may be obtained either through an undertaking given by the witness during examination for discovery, or through a direction to produce documents. If the documents are in the possession of a third party, discovery may be obtained by a direction for discovery of documents authorized by the Court.

[52] In the context of applications for judicial review under Part 5 of the Rules, with the exception of the provision for obtaining documents from a tribunal under rule 317, there is no

such thing as a "production order" for exceptional evidence other than evidence in the possession of the tribunal within the meaning of rule 317. However, a party may gather "exceptional evidence" through cross-examination of a witness or through a subpoena to produce documents or other material pursuant to a request under rule 41, or where an application is heard as if it were an action under subsections 18.4(2) and 28(2) of the *Federal Courts Act*, RSC 1985, c F-7 (*Tseil-Waututh* at para 148). In appropriate circumstances, the Court may also require undertakings from a witness to compel the production of exceptional evidence. The power of subpoena conferred by rule 41 applies to a "proceeding", and according to rule 300, an application for judicial review constitutes such a "proceeding".

[53] In actions under Part 4 of the Rules, in addition to this remedy under rule 41, rules 222 to 233 dealing with discovery of documents also provide that every party is required to serve an affidavit of documents relevant to the case. The Court may order disclosure of relevant documents (*Abdelrazik v Canada*, 2015 FC 548 at para 26), relevance being the test for determining which documents a party can request (*Khadr v Canada*, 2010 FC 564 at paras 9–11). Similarly, rules 234 to 248, which deal with examinations for discovery, may lead to orders for disclosure of documents following an examination.

[54] Finally, I note that section 4 of the Rules, commonly referred to as the "gap rule", allows a party to bring an unnamed motion where the Rules do not expressly provide for the remedy sought, asking the Court to fill in the gaps where the Rules or federal legislation is silent and to determine the procedure that could be applicable by analogy or by reference to the practice of a superior court of a province. However, this section is a last resort, and its use cannot amount to

an indirect amendment of the Rules (*R v CAE Industries Ltd*, [1977] 2 SCR 566). As such, the FCA has interpreted this section restrictively, stating that it is not open to the Court to use it to create rights (*Ignace v Canada (Attorney General)*, 2019 FCA 239 at paras 22–24; *Exeter v Canada (Attorney General)*, 2016 FCA 234 at paras 9–14).

[55] I am not required to determine whether, in the present case, Mr. Lill could have successfully availed himself of any of these procedural mechanisms to frame the motion for discovery of documents that Justice Gagné's Order authorized him to file. However, the Prothonotary certainly did not commit any error of law, or any overriding and palpable error of fact, or mixed fact and law, in determining that Mr. Lill's Motion for Discovery of Documents under rule 317 was without merit and should be dismissed.

B. *Motion for Contempt of Court*

[56] With respect to his Motion for Contempt of Court, Mr. Lill asked the Court to set aside Order No. 2 of the Prothonotary and to allow him to present his reply, the filing of which had been authorized by both Justice Lafrenière and Justice Gagné in their respective orders.

[57] Mr. Lill first alleges that the Prothonotary did not have jurisdiction to deal with his Motion for Contempt of Court given that it had reached the second step of the contempt process under the Rules. Mr. Lill submits that his motion is entitled [TRANSLATION] "Motion by the applicant for a special order to appear on a charge of contempt of court under subsection 467(2) of the Rules" and that, by ordering the filing of his motion under that rule in his August 2019 order, Justice Lafrenière implicitly acknowledged that the first step of the contempt process had

already been completed. Indeed, Mr. Lill argues that Justice Lafrenière ordered the AGC to be prepared to present a defence pursuant to rule 467(1)(c), which would imply that the requirement for the appearance notice had already been met. However, rule 50(1)(d) provides that a Prothonotary may not make an order relating to a motion for contempt following a notice for appearance ordered under rule 467(1)(a).

[58] Secondly, Mr. Lill maintains that the Prothonotary erred in issuing Order No. 2 solely on the basis of his motion record. In so doing, Mr. Lill says, the Prothonotary improperly exercised her discretion and ignored Justice Lafrenière's Order, which provided for the submission of a response by the AGC and a reply by Mr. Lill, such that, [TRANSLATION] "thanks to the written submissions of the parties", the Court would be in a position to rule fairly on the motion for contempt of court without holding a hearing. In Mr. Lill's view, in acting as she did, the Prothonotary breached the *audi alteram partem* rule and his right to an actual hearing, by depriving him of his right to respond to all matters that will affect the Court's decision.

[59] Lastly, Mr. Lill submits that the Prothonotary erred in her interpretation of the Martineau Judgment and adopted an overly restrictive interpretation of the concepts of "judgment" and "instruction". Relying on *Mikail v Canada (Attorney General)*, 2011 FC 674, Mr. Lill argues that courts tend to extend the scope of judicial review to encompass broader issues rather than apply a restrictive conception of the words "decision" or "order". He maintains that rule 2 establishes that an order includes "a decision or other disposition of a tribunal" and that these terms can easily be associated with the instructions set out in the Martineau Judgment, which he submits the AGC and CSC failed to comply with. In Mr. Lill's view, the instructions form part of the

judgment rendered by Justice Martineau, and cannot be treated as mere recommendations. Mr. Lill argues that in concluding that [TRANSLATION] "the judgment cannot have the effect of confirming and giving effect, as if it were a judgment of the Federal Court, to the decision on the grievance rendered in accordance with the judgment", the Prothonotary interpreted the word "judgment" too restrictively.

[60] I am not persuaded by Mr. Lill's arguments. Whether on the issue of jurisdiction, procedural fairness, or the scope of the Martineau Judgment, I am of the opinion that the Prothonotary did not commit any error warranting the intervention of this Court. CSC complied fully with the Martineau Judgment, as Mr. Lill himself acknowledges, and this is sufficient to render Mr. Lill's Motion for Contempt of Court [TRANSLATION] "without merit" on its face, as the Prothonotary concluded. Nor did the Prothonotary err in fact or in law when she found that Mr. Lill had not met his burden of proving a *prima facie* case that anyone had disobeyed an order or judgment of the Court.

[61] Once again, Mr. Lill has not demonstrated any error of law or any palpable and overriding error in the Prothonotary's dismissal of the Motion for Contempt of Court.

(1) Prothonotary's jurisdiction

[62] There is no doubt that paragraph 50(1)(d) of the Rules excludes from the powers granted to prothonotaries the power to decide a motion for contempt of court once an order to appear for a hearing has been served under paragraph 467(1)(a) of the Rules.

[63] It is nevertheless well established that the provisions for contempt orders, found in sections 466 to 472 of the Rules, establish a two-step procedure. The first step is an order to appear under rule 467(3). At this first stage, the Court may make an order requiring the person alleged to be in contempt to appear before the Court to hear proof of the act and prepare to respond to it, if the Court is satisfied that the party alleging contempt has established a *prima facie* case (*Telus Mobility v Telecommunications Workers Union*, 2002 FCT 656 [*Telus*] at para 9). The burden on the applicant at the first step is the standard of a *prima facie* case, and that standard is not a high one (*Telus* at para 45). As set out in rule 467(2), a party may apply *ex parte* for such an order to appear, which is what Mr. Lill did.

[64] Both prothonotaries and judges have jurisdiction to issue an order to appear at the first step of contempt proceedings, and Mr. Lill does not contest this.

[65] The second step is the contempt hearing itself, under rule 467(1)(a). This is a procedure analogous to a trial for a criminal offence, where evidence of the alleged contempt must be established beyond a reasonable doubt and only judges have jurisdiction. I pause for a moment to point out that the only circumstance in which this two-step process can be merged into a single step is where contempt of court is committed in the presence of a judge, as set out in rule 468.

[66] A summary reading of Justice Lafrenière’s Order is sufficient to conclude that the Prothonotary’s Order No. 2 indeed falls within the first step of the contempt process since, as of that date, no notice to appear had been issued on Mr. Lill’s Motion for Contempt of Court. In his order, Justice Lafrenière expressly pointed out that Mr. Lill was seeking an order requiring the

AGC to [TRANSLATION] "appear at an unspecified time and place to hear evidence of the facts alleged against him and to present any defence he may have to avoid being convicted of contempt". Justice Lafrenière went on to note that the [TRANSLATION] "new motion record [of Mr. Lill] <u>at the first step of the contempt proceedings</u> was not filed because the registry had to confirm the filing with the Court" (emphasis added).

[67] Further on in his decision, following the AGC's request to submit written submissions in response to Mr. Lill's motion, Justice Lafrenière gave the AGC leave to [TRANSLATION] "make submissions to the effect that the record does not establish a prima facie case of contempt". Finally, in his conclusion, the judge ordered that Mr. Lill's motion record be accepted for filing. All these references expressly show that Mr. Lill's Motion for Contempt of Court was indeed at the step set out in rule 467(3), where the Court must be satisfied that there is a *prima facie* case of contempt. At that step, the Court must determine whether an order should be made requiring the AGC and CSC to appear before a judge at a specific date, time and place and to be prepared to present a defence against the alleged contempt.

[68] Contrary to Mr. Lill's claims, I see nothing in Justice Lafrenière's Order that would lead to the conclusion that we are at the second step of contempt proceedings and that the requirement for the first step has been satisfied. The fact that Justice Lafrenière allowed the AGC to make written submissions on the existence of a *prima facie* case for the alleged contempt does not cause the contempt proceedings to advance to the second step; it simply has the effect of ensuring that this first step does not proceed *ex parte*, as Mr. Lill was seeking through his Motion for Contempt of Court. Justice Lafrenière had the discretion to allow the AGC to make written

submissions in response, so that the Court would have everything it needed to determine whether the requirement of a *prima facie* case of contempt had been met. Incidentally, he also had just as much discretion to deny the AGC's parallel request for a hearing on Mr. Lill's motion at the first step. In exercising his discretion, Justice Lafrenière determined that, armed with both Mr. Lill's motion record and the respondent's record of the AGC, the Court could decide the contempt motion on written submissions alone.

[69] In these circumstances, and since Mr. Lill's Motion for Contempt of Court was specifically aimed at obtaining an order to appear at an eventual contempt hearing, there is no doubt that the Prothonotary had full jurisdiction to consider and hear the motion.

(2) Right to be heard

[70] Secondly, Mr. Lill submits that the Prothonotary breached the rules of procedural fairness by not waiting for him to file his reply before ruling on his Motion for Contempt of Court.

[71] I disagree. In Order No. 2, the Prothonotary expressly stated that she did not consider the AGC's response, given that she was satisfied that Mr. Lill's motion was on its face without merit, and that it should be dismissed without even considering the AGC's response. Having not considered the AGC's written submissions in response, the Prothonotary therefore did not have to wait for Mr. Lill's reply since his right to reply became moot, given that only his initial allegations were taken into account in the Prothonotary's decision.

[72] The duty to act fairly does not relate to the merits or content of a decision rendered, but rather to the process followed. This duty has two components: the right to be heard and the right to a fair and impartial hearing before an independent tribunal (*Re Therrien*, 2001 SCC 35 at para 82). The right of any party to make its case and to produce admissible evidence to support its position is a pillar of procedural fairness with which, although it is not unlimited, courts do not intervene lightly (*Porto Seguro Companhia De Seguros Gerais v Belcan S.A.*, [1997] 3 SCR 1278 at para 29). The right to be heard means that parties affected by a decision must have the right to be heard and the opportunity to be informed of the case to be met and to respond to it.

[73] It is well established that a right of reply exists only if there is a defence or response to which to reply. Mr. Lill's right of reply would have been relevant and its recognition would have been necessary to respect the right to be heard if the Prothonotary had in fact considered the AGC's response to the Motion for Contempt of Court, or if the Motion for Discovery of Documents had provided Mr. Lill with any additional documents in support of his arguments. That is not the case, and under the circumstances, it was appropriate and procedurally fair for the Prothonotary to dismiss Mr. Lill's contempt of court motion without giving him an opportunity to present a reply.

[74] Once again, I do not find in Order No. 2 of the Prothonotary any error of law or any overriding and palpable error that would warrant the Court's intervention.

(3) Scope of Martineau Judgment

[75] Finally, Mr. Lill submits that the Prothonotary erred in her reading of the Martineau Judgment and adopted an overly restrictive interpretation of the concepts of “judgment” and “instruction”. I do not share Mr. Lill’s opinion as to the content of the Martineau Judgment and how CSC implemented it.

[76] A finding of contempt of court is always a profoundly serious matter, as it sanctions the violation of a court order. Civil contempt is criminal or quasi-criminal, reflecting the fact that “[t]he penalty for contempt of court, even when it is used to enforce a purely private order, still involves an element of ‘public law’, because respect for the role and authority of the courts, one of the foundations of the rule of law, and a proper administration of justice are always at issue” (*Vidéotron Ltée v Industries Microlec Produits Électroniques Inc.*, [1992] 2 SCR 1065 [*Vidéotron*] at page 1075). When a person is found to be in contempt of court, the Court may impose a prison sentence or a severe fine, and must therefore exercise these extraordinary powers with great care. A motion for contempt of court is an exceptional remedy with limited conditions of application.

[77] Civil contempt has three elements that must be established beyond a reasonable doubt. The first element is that the order alleged to have been breached must state clearly and unequivocally what should and should not be done. The second element is that the party alleged to have breached the order must have had actual knowledge of it. It may be possible to infer knowledge of the order on the basis of the wilful blindness doctrine. Finally, for the third

element, the party allegedly in breach must have intentionally done the act that the order prohibits or intentionally failed to do the act that the order compels (*Carey v Laiken*, 2015 SCC 17 [*Carey*] at paras 32–35).

[78] In *Carey*, the SCC pointed out that the purpose of the requirement of clarity is to ensure that a party will not be found in contempt where an order is unclear. An order may be deemed to be unclear if, for example, it incorporates overly broad language (*Carey* at para 33). In cases of failure to obey an order, where there is doubt as to the legal effect of the order that has allegedly been violated, the respondent is to be given the benefit of that doubt (*Vidéotron* at page 1077).

[79] In order to establish a *prima facie* case and satisfy the Court that his Motion for Contempt of Court should proceed, Mr. Lill was required to sufficiently demonstrate “a prima facie case of wilful and contumacious conduct on the part of the contemnor” (*Chaudhry v Canada*, 2008 FCA 173 at para 6). An essential element of the alleged contempt is therefore proof that an order has been violated. The facts in this case indicate, however, that CSC complied fully with the Martineau Judgment and took all reasonable steps to follow his instructions.

[80] Moreover, as the Prothonotary states in her order, Mr. Lill himself admits that CSC [TRANSLATION] “upheld the grievances in their entirety as ordered by the Federal Court” in the Martineau Judgment. However, Mr. Lill argues that the AGC and CSC subsequently contravened the judgment because the Assessments produced by CSC in April 2019 for the hearing before the Board on his ETA applications made direct reference to the October 21, 2011, incident, his placement in administrative segregation and his transfer to a maximum-security institution.

[81] Let us return first to the Martineau Judgment and what it prescribes. The Martineau Judgment refers Mr. Lill's grievances to CSC for redetermination, with specific instructions. It orders the prison authorities to allow the grievances for the purpose of applying a series of corrective measures, namely, not to use and not to consider in any future decision-making process the information relating to the October 21, 2011, incident and Mr. Lill's placement in involuntary segregation. Further, it directs prison authorities to no longer consider in future decision-making processes the reassessment of Mr. Lill's security classification as of November 7, 2011, and his involuntary transfer on November 24, 2011, to a maximum-security institution. It should be noted that this decision is binding solely on individuals and entities associated with CSC, and not the Board.

[82] The judgment relates solely to the events that occurred in October and November 2011, namely the precipitating incident on October 21, 2011, Mr. Lill's involuntary administrative segregation, the reassessment of his security classification, and his transfer on November 24, 2011. At no time does Justice Martineau deal with events that may have occurred following Mr. Lill's transfer in late November 2011. Finally, with respect to proscribed actions, the Martineau Judgment prohibits CSC from taking into account the events of October and November 2011 in its decision-making processes. The decision does not, however, order CSC to strike any information from Mr. Lill's institution file, nor does it prevent CSC from providing the Board with relevant information in its possession, as it is legally required to do under the Act.

[83] I will dwell for a moment on the distinction between judgment and instructions, which Mr. Lill criticizes the Prothonotary for having interpreted too restrictively. According to the

FCA, the Court's instructions will form part of the Court's judgment when they are expressed directly and explicitly in the conclusions of the judgment on judicial review: "only instructions explicitly stated in the judgment bind the subsequent decision-maker" (*Canada (Citizenship and Immigration) v Yansane*, 2017 FCA 48 [*Yansane*] at para 19; see also *Ouellet v Canada (Attorney General)*, 2018 FCA 25 at para 7). Conversely, where instructions are simply expressed in the reasons for judgment, they "would have to be considered mere obiters, and the decision-maker would be advised to consider them but not required to follow them" (*Yansane* at para 19).

[84] Thus, the administrative decision maker to whom a case is returned must always comply with the reasons and findings of the judgment allowing the judicial review, as well as with the directions or instructions explicitly stated by the reviewing court in its conclusions (*Yansane* at para 31). The FCA recently reaffirmed this principle in *Sidhu v Canada (Citizenship and Immigration)*, 2019 FCA 169 at para 82, stating that instructions must be incorporated into the judgment to have the same weight as the judgment. I therefore take it as a given, in the case of the Martineau Judgment, that the instructions set out by Justice Martineau are an integral part of his judgment since they are indeed found in his conclusions.

[85] However, as the evidence on the record again reveals, CSC did indeed follow the Martineau Judgment to the letter and complied with the full range of its conclusions (both the obligation to redetermine the grievances in question and the obligation to follow and implement the instructions issued by the judge). Thus, as ordered by the Martineau Judgment, in the redetermination of grievances ordered by the Martineau Judgment, CSC allowed the grievances

and indicated in Mr. Lill's file that the information relating to the October 2011 incident, his placement in involuntary administrative segregation, the reassessment of his security classification and his involuntary transfer to a maximum-security institution could not be used in any future decision-making processes. In addition, in a November 21, 2016, decision, CSC stated that [TRANSLATION] "as a corrective measure, the Warden of Cowansville Institution must ensure that a memorandum is prepared to reflect that any information related to the 2011-10-21 incident (at La Macaza Institution), and the subsequent decisions related to your administrative segregation, security reclassification and involuntary transfer to Port-Cartier Institution, will no longer be considered in any future decision-making processes". A note to file using the same language was prepared in December 2016 and placed in Mr. Lill's file, along with a copy of the Martineau Judgment.

[86] Thus, the Martineau Judgment imposed a duty to redetermine Mr. Lill's grievances from 2014, and to do so in accordance with the instructions pertaining to the events of the fall of 2011. That is precisely what CSC did. To the extent that the Martineau Judgment can be interpreted as imposing an obligation, that obligation related to the duty to redetermine the grievances and to comply with the instructions in making that redetermination. As Mr. Lill himself admits, CSC complied with these obligations, as the grievances were redetermined in accordance with the instructions given. Therefore, Mr. Lill cannot claim that either the AGC or CSC disobeyed any order.

[87] What Mr. Lill accuses CSC of having done in the spring of 2019 is not acting in accordance with the results of the grievances as redetermined by CSC in light of the Court's

instructions in the Martineau Judgment. Mr. Lill may indeed be able to argue that by providing the Assessments to the Board, CSC failed to comply with what the new decision on the grievances now prohibits it from doing. However, this does not constitute a failure to comply with the Martineau Judgment as such, as that would give the judgment a scope that it does not have. It is in this sense that the Prothonotary correctly observed that the judgment could not have the effect of ratifying and rendering enforceable, as if it were a judgment of the Court, the decision on grievances rendered by CSC following the Martineau Judgment.

[88] In order for this conduct on the part of CSC in the spring of 2019 to give rise to contempt proceedings, the Martineau Judgment would have had to include a clear order in this regard. That is not the case. I am therefore of the opinion that the Prothonotary correctly concluded that Mr. Lill's Motion for Contempt of Court was manifestly without merit, in that it erroneously equates failure to comply with the results of CSC's decision on the redetermination of Mr. Lill's grievances resulting from the Martineau Judgment with failure to comply with the Martineau Judgment itself.

[89] If Mr. Lill felt that CSC did not comply with the implementation of the Martineau Judgment's instructions following the redetermination of his grievances, and that CSC ignored the requirements of the new decision on his grievances of 2014, he was not without recourse. He could have filed new grievances, under the complaint and grievance process he had previously used, to challenge CSC's conduct and actions. And if he were dissatisfied with CSC's handling of these potential grievances, he could have sought judicial review of CSC's decision before this

Court if necessary once he had exhausted his internal remedies. But his recourse was certainly not a motion for contempt of court with respect to the Martineau Judgment.

IV. **Conclusion**

[90] For the reasons set out above, Mr. Lill's appeals are dismissed. The Prothonotary made no reviewable error in dismissing Mr. Lill's Motion for Discovery of Documents and his Motion for Contempt of Court. If Mr. Lill felt that CSC's actions and decisions in 2019 in connection with his ETA application did not properly implement the instructions in the Martineau Judgment that had been incorporated into the redetermination of his grievances in 2014, he had a grievance procedure available to him to challenge CSC's actions and decisions regarding him.

[91] After considering all the circumstances of this case and the factors set out in rule 400(3), and in the exercise of my discretion, I am of the opinion that Mr. Lill should not be ordered to pay costs.

JUDGMENT in T-2563-14 and T-204-15

THIS COURT'S JUDGMENT is as follows:

1. The applicant's motions on appeal from the two orders of Prothonotary Tabib dated November 25, 2019, in dockets T-2563-14 and T-204-15, are dismissed. A copy of this judgment and reasons will be filed in each of the records.

2. No costs are awarded.

"Denis Gascon"
Judge

Certified true translation
This 15th day of May 2020.

Michael Palles, Reviser

FEDERAL COURT

SOLICITORS OF RECORD

DOCKETS:	T-2563-14 AND T-204-15
STYLE OF CAUSE:	CHRISTOPHER LILL v THE ATTORNEY GENERAL OF CANADA
PLACE OF HEARING:	MONTRÉAL, QUEBEC
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APPEARANCES:

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