Federal Court  Cour fédérale

Date: 20250710

Docket: T-1598-24

Citation: 2025 FC 1225

Ottawa, Ontario, July 10, 2025

PRESENT: The Honourable Madam Justice Blackhawk

BETWEEN:

SHANON SIMON

Applicant

and

ATTORNEY GENERAL OF CANADA

Respondent

JUDGMENT AND REASONS

I. Overview

[1] This is an application for judicial review of a Royal Canadian Mounted Police [RCMP] Final Level Grievance Adjudicator [Adjudicator] decision dated May 27, 2024 [Decision], that dismissed the Applicant's appeal of his non-selection in a Special Measures Non-Commissioned Officer [NCO] promotion process.

[2] The Applicant alleges that the Decision is not reasonable because the successful candidate's Indigenous self-identification was not verified; the RCMP policies and processes were not properly implemented; and there was no community consultation.

[3] The Respondent asserts that the Decision is reasonable because there is no requirement to verify a prospective candidate's Indigenous self-identification; that the RCMP policies and processes were properly followed and implemented; and there was no obligation in law or policy to consult with the community.

[4] For the reasons that follow, this application is dismissed.

[5] A brief note on the terminology used in these reasons for judgment. The terms "Indian" and "Aboriginal" appear in the *Constitution Act, 1982* and in many other pieces of Canadian legislation, policy, jurisprudence, and reports that are relevant to the issues in this application. I acknowledge that the terms "Indigenous", "First Nation", "Métis", and "Inuit", as appropriate, have largely supplanted the use of these earlier terms. Where these reasons reference specific legislation, policy, jurisprudence, or a report, the terminology from those sources is used. I do not intend any disrespect by my use of such terminology.

II. Background

[6] The Applicant is a regular member of the RCMP in the Keswick Detachment, "J" Division. He resides in New Brunswick and is a member of the Elsipogtog First Nation [Elsipogtog].

[7] In October 2017, the Applicant applied to Promotional Staffing Action No. 442-37-J-432-17-18 [Staffing Action], for the position of Aboriginal Policing Supervisor/Investigator, corporal rank with "J" Division in the Elsipogtog Detachment. The Applicant was one of two candidates shortlisted and presented to the selecting Line Officer [Line Officer].

[8] The promotional appointment process for the RCMP is set out in the *Career Management Manual, Chapter 4 – Promotion* [Manual Ch4]. At section 10.1.4 of the Manual Ch4, the 5-stage process is set out as follows:

1. qualifying list based on the Job Simulation Exercises [JSE];
2. supervisor and line officer support;
3. advertisement;
4. competency validation; and
5. selection including final review.

[9] Some notable definitions set out in the Manual Ch 4 include:

> 10. 2. 3. **Competency profile** means organizational and functional competencies identified by subject-matter experts as critical for members to have to perform effectively in a function.
>
> 10. 2. 4. **Desirable attributes** mean specific knowledge, skills, abilities, or other qualifications related to the job, which are not essential to perform the duties of the position, but which may enhance the work performed, and/or benefit the work unit, currently or in the future.
>
> …

> 10.2.6. **Fit** means an appropriate combination of qualifications and relevant characteristics for the position being staffed, after consideration of the identified job requirements and desirable attributes, if applicable, together with the operational and organizational needs of the detachment or unit, and/or the RCMP.
>
> 10. 2. 7. **Functional competencies** mean knowledge, skills, and abilities that are required by members within a particular function. They describe what the member needs to know, or be able to apply, in order to perform effectively in that function.
>
> 10. 2. 8. **Job requirements** are essential to perform the duties of the position, and include, but are not limited to, organizational and functional competencies, education, certifications, formal developmental activity, technical or professional capabilities, or demonstration of a skill.

[10] The Staffing Action set out six functional competencies that candidates were required to meet:

HRMIS Code	Functional Competencies	Min. Level
R0002500	Ability to Conduct Investigations **No Specific Context**	3
R0002700	Concern for Safety	3
R0003015	Knowledge of Applicable Legislation and RCMP Policies, Procedures and Strategic Priorities **Context: Aboriginal Policing**	2
R0003305	Knowledge of Community and Cultural Issues **Context: Aboriginal Policing**	3

R0003405	Knowledge of General Duty Policing **Context: Aboriginal Policing**	3
R0003100	Knowledge of Conflict Management Practices	3

[11] The Staffing Action stated that it was designated under section 5 of the *Employment Equity Act*, SC 1995, c 44 [EEA], and subsection 16(1) of the *Canadian Human Rights Act*, RSC 1985, c H-6 [CHRA], "as a Special Measure to ensure employment representation. Therefore, only aboriginal members who meet the competency profile and additional criteria requirements qualify to apply for this position."

[12] Part B of the RCMP Workforce Survey Questionnaire (Form 3501) [Questionnaire] states that "[a]n Aboriginal person is a North American Indian or a member of a First Nation, a Métis or Inuit. North American Indians or members of a First Nation include status, treaty or registered Indians, as well as non-status and non-registered Indians."

[13] The successful candidate [Appointee] self-identified as Métis and certified their Métis identity in their application, as did their supervisor [Self-Identification Policy].

[14] Both the Applicant and the Appointee met every competency listed in the Staffing Action. Ultimately, the Line Officer determined that the Appointee was the "right fit" and recommended them for the NSO promotion. In the Line Officer Recommendation Rationale (Form 5180) [Rationale], the Line Officer highlighted the Appointee's investigatory and

supervisor experience, volunteer activity, and experience serving a First Nation community in Alberta.

[15] The Officer-in-Charge approved the Line Officer's recommendation of the Appointee. The Applicant was informed of the staffing decision on January 12, 2018.

A. *Initial Level Grievance*

[16] The Applicant grieved the staffing decision [Grievance] through the RCMP grievance process set out at Part III of the *Royal Canadian Mounted Police Act*, RSC 1985, c R-10 [RCMP Act], and Part I of the *Commissioner's Standing Orders (Grievances and Appeals)*, SOR/2014-289 [CSO].

[17] The Applicant alleged that the Officer-in-Charge failed to:

- Verify that the Appointee was an Indigenous person;
- Follow the proper Promotion Process; and
- Consult with the Elsipogtog community.

[18] The initial level adjudicator dismissed the Grievance. They found no authority in law or policy that would permit the Officer-in-Charge to have taken additional steps to verify the Appointee's self-identification as an Indigenous person. The initial level adjudicator found that it was sufficient for the Appointee to self-identify as Métis through the Questionnaire and to certify their identity in their application.

[19] The initial level adjudicator found that there were no breaches of law or policy in the Staffing Action or in the “right fit” determination as set out in the Rationale.

[20] Finally, the initial level adjudicator found that there was no requirement to consult with the Elsipogtog community in respect of the Staffing Action.

B. *Final Grievance Level*

[21] The Applicant subsequently presented his Grievance to the final level, where he alleged that the initial level adjudicator:

- Breached procedural fairness respecting disclosure and timeliness;
- Misinterpreted the policy on community consultation;
- Failed to consider relevant evidence and jurisprudence; and
- Erred in finding that the Appointee’s self-identification was sufficient to establish his Indigenous membership requirement.

[22] On May 26, 2024, the Adjudicator issued the Decision, dismissing the Grievance. The Adjudicator found no breaches of procedural fairness, and that the RCMP promotional process had been followed. The Adjudicator found that the initial level adjudicator meaningfully grappled with the Applicant’s evidence and the case law, and that the Officer-in-Charge was not required by law or policy to consult with the Elsipogtog community concerning the Staffing Action.

[23] In addition, the Adjudicator noted that the policy arguments presented by the Applicant fell outside the scope of the grievance process, which is limited to a consideration of the Staffing Action.

III. Issues and Standard of Review

[24] The two issues to be determined in this application are:

a. Was the Decision reasonable?

b. Was the Decision procedurally fair?

[25] Reasonableness review is a deferential standard and requires an evaluation of the administrative decision to determine if the decision is transparent, intelligible, and justified (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [*Vavilov*] at paras 12–15, 25, 86, 95). The starting point for a reasonableness review is the reasons for the decision. Pursuant to the *Vavilov* framework, a reasonable decision is "one that is based on an internally coherent and rational chain of analysis and that is justified in relation to the facts and law that constrain the decision maker" (*Vavilov* at para 85).

[26] To intervene on an application for judicial review, the Court must find an error in the decision that is central or significant to render the decision unreasonable (*Vavilov* at para 100).

[27] The standard of review for procedural fairness issues is correctness, or akin to correctness (*Vavilov* at para 53; *Canadian Pacific Railway Company v Canada (Attorney General)*, 2018 FCA 69 at paras 54–56). The reviewing court must consider what level of procedural fairness is

necessary in the circumstances and whether the "procedure followed by the administrative decision maker respect[s] the standards of fairness and natural justice" (*Chera v Canada (Citizenship and Immigration)*, 2023 FC 733 at para 13). In other words, a court must determine if the process followed by the decision maker achieved the level of fairness required in the circumstances (*Kyere v Canada (Public Safety and Emergency Preparedness)*, 2020 FC 120 at para 23, citing with approval *Mission Institution v Khela*, 2014 SCC 24 at para 79).

IV. Analysis

[28] The Applicant argued that the Decision was not reasonable as the Adjudicator made several factual and legal errors. Notably, the Applicant argued that the Adjudicator: erroneously found that there was no obligation to verify the Appointee's self-identified aboriginal status; failed to consider applicable, relevant jurisprudence; erroneously found that the Rationale reasonably illustrated how the Appointee met the necessary competencies for the Staffing Action; and erroneously found that there was no obligation to consult with the Elsipogtog community in respect of the Staffing Action.

[29] The Respondent argued that the Decision bears all the hallmarks of a reasonable decision. They argued that the Decision is responsive to all of the Applicant's arguments and considered the applicable factual and legal constraints. The Respondent submitted that the fact that the Applicant disagreed with the reasonable conclusions does not render the Decision unreasonable or warrant this Court's intervention.

A. *Verification of "aboriginal status"/Self-Identification Policy*

[30] The Applicant argued that the Appointee ought to have been screened out of the process for failure to meet an essential requirement of the Staffing Action, that they are an aboriginal member.

[31] The Applicant argued that the Adjudicator erred in failing to consider if the Staffing Action process required the Line Officer to verify candidates' aboriginal status and eligibility to participate in the Special Measure process.

[32] The Applicant argued that pursuant to section 10.11.13 of the Manual Ch4, line officers are to consider information set out in the application to determine "right fit". He argued that this section enabled the Line Officer to verify candidates' aboriginal status to ensure that they satisfied all the position requirements set out in the Staffing Action. The Applicant suggested that the RCMP's reliance on self-identification and certification is insufficient, and that further proof of aboriginal status should be required to ensure applicants satisfy all requirements and competencies for the Special Measures positions.

[33] The Respondent argued that the Appointee was eligible for the Staffing Action as they satisfied the criteria set out in the Staffing Action. The Respondent argued that aboriginal status is determined through the employee's voluntary self-identification in the Questionnaire. The Appointee had self-identified as Indigenous and certified to this status in his application, as had one of his supervisors.

[34] The Respondent argued that neither the EEA nor the CHRA set out any additional statutory requirements to verify if RCMP members are Indigenous and to verify claims of aboriginal status.

[35] The Respondent argued that the Indigenous Self-Identification Policy is central to RCMP employment equity policies. At paragraph E.1.a of the *Administration Manual, Part II, Chapter 2* [Admin Manual II.2], "aboriginal peoples" are included as a designated group(s). At paragraph E.2.b., it states that "[W]ith the exception of women, representation will be based on the voluntary self identification of members of designated groups using the following forms: for members, form 3501, Self-Identification Questionnaire."

[36] The Respondent argued that they are not required to take additional steps to verify a member's Indigeneity that goes beyond the Questionnaire and the member's certification of their status set out in their application.

[37] The Respondent argued that the role of the Validation Committee is not to verify candidates' Aboriginal status; rather, it is to assess if candidates meet the functional competencies set out in the Staffing Action.

[38] The Respondent argued that the Officer-in-Charge may not use section 10.11.13 of the Manual Ch4 to verify a candidate's aboriginal status.

[39] Section 10.11 of the Manual Ch4 sets out the process to be followed for candidates who are selected for promotion. A review of this section is clear that candidates who advance to the

preselection list have been vetted to ensure that they meet the necessary competencies required to perform the duties for the position (Manual Ch4, s 10.11.1). Candidates who advance to the preselection list are asked to confirm their interest in proceeding to the selection stage with the National Promotions Unit [NPU] (Manual Ch4, s 10.11.6).

[40] Subsection 10.11.7 of the Manual Ch4 states:

> The line officer/delegate will consider the information contained in the application form, the CR, the covering letter, and any other relevant information obtained from other selection tools, and will identify the recommended candidate whom he/she has determined as being the right fit. The NPU will not provide the line officer/delegate with candidates' performance evaluations, JSE scores, or Employee Self-Disclosure Documentation.
>
> 10. 11. 7. 1. A line officer/delegate may seek the opinion of a [Subject Matter Expert] (SME) when considering the candidates' application documents. An SME who participated in the validation committee for staffing action will not participate in the selection process for the same staffing action.

[41] I am not persuaded by the Applicant's assertion that section 10.11.7 gives a line officer wide discretion to revisit preselected candidates' qualifications, including their eligibility to participate in designated Staffing Actions by verification of their aboriginal status. Section 10.11.7 pertains to information that line officers may consider in their determination of which of the pre-selected candidates is the right fit. As noted above, candidates who make the "pre-selected list" have been vetted to ensure that they meet all essential competencies (Manual Ch4, s 10.11.1).

[42] Similarly, I am not persuaded that section 10.11.13 grants a line officer authority to revisit preselected candidates' aboriginal status. This section states that "[t]he promotion

administrator will confirm that there is nothing to preclude the recommended candidate from being considered for selection, e.g. meeting medical requirements, supervisor support." Again, this section must be read in conjunction with the Staffing Action as a whole, and this section is predicated on the administrator confirming the preselected candidates' suitability (Manual Ch4, s 10.11.13).

[43] The Adjudicator found that the Line Officer and the Officer-in-Charge followed the RCMP appointment process and requirements. The Adjudicator found that there was no policy, law or process for the Line Officer and the Officer-in-Charge to verify the aboriginal status of candidates that had been preselected.

[44] The Adjudicator noted that the record demonstrated that the Appointee self-identified through the Questionnaire, and this was further verified in the Appointee's cover letter, which was verified by his supervisor.

[45] In other words, contrary to the Applicant's submission, there was a process to verify aboriginal status. While I understand that the Applicant is of the view that the Self-Identification Policy is not sufficiently robust, it is not accurate to characterize the process as being devoid of any consideration of this issue or verification. The Applicant has not persuaded me that the Adjudicator made a reviewable error. The Decision is reasonable.

[46] Further, the Applicant argued that there is a "gap in the RCMP policy" that this Court should fulfill, namely that there should be a process to verify aboriginal status beyond the Self-Identification Policy.

[47] I agree with the Respondent that a reviewing court is limited to the administrative decision set out in the Notice of Application. The Decision that is the subject of this application interpreted and applied RCMP policies to the Staffing Action. The Adjudicators did not have the authority to develop or amend policy.

[48] Only the lawfulness of policy may be challenged on judicial review (*Browne v Canada (Attorney General)*, 2021 FC 389 [*Browne*] at para 26). The Court does not have the authority to develop policy. The Applicant argued that it was not reasonable for the RCMP to rely on the Self-Identification Policy, and that they must revisit and develop new policy. Unfortunately, that exceeds the scope of judicial review.

B. *Consideration of Applicable Relevant Jurisprudence*

[49] In support of his argument that there should be a more robust verification process to assess an applicant's aboriginal status, the Applicant pointed to jurisprudence from the Supreme Court of Canada. Particularly, he pointed to *R v Powley*, 2003 SCC 43 [*Powley*], where the Supreme Court established a legal test to determine if an individual is Métis for the purpose of asserting constitutionally protected section 35 rights. The Applicant also relied on *Bruno v Canada (Attorney General)*, 2006 FC 462 [*Bruno*], for the proposition that the RCMP should have adopted a procedure of verification of Aboriginal status.

[50] The Adjudicator found that the Applicant did not demonstrate how the initial level adjudicator failed to meaningfully grapple with the case law at issue or the other relevant arguments. The Adjudicator found that while the Applicant "may disagree with the initial level

adjudicator's interpretation of the case law, it is clear that he considered it". The Adjudicator went to note that "[they] find that it was reasonable for the initial level adjudicator to determine that the *Bruno* decision addressed the narrow issue of the implementation of a Level II grievance decision". Further, the Adjudicator found that the initial level adjudicator considered the *Powley* and *Daniels v Canada (Indian Affairs and Northern Development)*, 2016 SCC 12 [*Daniels*] decisions; however, I agree with the Adjudicator that the Applicant "has not demonstrated how the initial level adjudicator failed to meaningfully grapple with the case law at issue".

[51] I agree with the Respondent that the *Powley* test is not applicable in this context. The identification of section 35 Aboriginal rights holders through the *Powley* test is not determinative of the identification of individuals under the EEA.

[52] The Supreme Court underscored that the section 35 rights framework was not intended to serve as a comprehensive definition of who are the Métis for the purpose of claiming section 35 rights (*Powley* at para 30). Indeed, when determining the scope of "Indians" under subsection 91(24) of the Constitution, the Supreme Court noted that the *Powley* test was developed for a unique purpose, and that the framework is contextual (*Daniels* at para 49).

[53] Second, I agree with the Respondent that *Bruno* is distinguishable from this application. In *Bruno*, the RCMP hiring manager failed to implement a binding adjudicator decision. The Applicant challenged the indigeneity of the successful candidate because the candidate's self-identification was of recent vintage. In that case, the Level II adjudicator found that "practices must be adopted to ensure that standards may not be abused by members not meeting the eligibility requirements, and that the October 18, 1996, RCMP memorandum of Dieter

Schachhuber, Officer in Charge of Official Languages and Diversity Management Branch, was an appropriate standard to assesses Aboriginal identity for promotions" (*Bruno* at para 9). The RCMP did not appeal this decision, therefore it was binding.

[54] The memorandum from October 18, 1996, recommended that two of the three criteria must be satisfied to establish Aboriginal identity: applicants look Aboriginal; applicants prove ancestry with documentation; and applicants demonstrate identity through knowledge of language and culture (*Bruno* at para 10).

[55] This Court held that the Staff Sergeant had not reasonably implemented the adjudicator's decision as they did not apply the October 18, 1996, criteria to assess the candidates (*Bruno* at para 40).

[56] I am not persuaded that *Bruno* stands for the Applicant's proposition that the RCMP were required to implement a verification process for aboriginal status more generally. In any event, I also note that the relevant policy in the present application post-dates the *Bruno* decision. Manual Ch4 was amended on April 1, 2016, and *Career Management Manual, Chapter 3 – Transfers and Deployments* [Manual Ch3] was amended on October 17, 2017; therefore, the October 18, 1996, policy is no longer applicable.

C. *Appointees Competency – Aboriginal Policing*

[57] The Applicant asserted that he was the only qualified candidate.

[58] The Respondent argued that the Line Officer reasonably exercised his discretion to determine “right fit” as set out in Manual Ch4.

[59] The Adjudicator noted that the Line Officer’s Rationale highlights that they found that the Appointee held a position for 3 years at a detachment where they were exposed to a “high volume of violent crimes”. In addition, the Appointee had 3 years general duty experience, had experience preparing briefing notes “on serious files” and media releases, and had experience working with confidential sources. The Line Officer also noted that “supervisory experience was important when considering the right fit for this position” and that it “is an essential requirement”. The Appointee demonstrated that they had filled acting corporal duties and coached new recruits. Finally, the Line Officer noted that the “position requires a strong knowledge of Community and Cultural Issues (Aboriginal policing)”. The Appointee demonstrated “robust and significant examples”, having highlighted work and volunteer activities they had been involved in.

[60] I agree with the Adjudicator, that the Applicant’s “personal opinion that he is more qualified” than the Appointee “is not determinative”. The Applicant is essentially asking the Court to reweigh the evidence already assessed by the Adjudicator and reach a conclusion that is more favourable to him. This is not the Court’s role on judicial review (*Vavilov* at para 125).

[61] The Adjudicator found that the Rationale was clear and coherent, and considered the relevant factual and legal considerations. I am not persuaded by the Applicant that the Decision is unreasonable.

[62] Finally, the Respondent argued that the Applicant did not raise arguments concerning the Appointee's competency of "knowledge of community and culture (Aboriginal Policing)" in the grievance process. In other words, this is a new argument that has been raised for the first time in this judicial review.

[63] This Court has repeatedly refused to consider new issues that were not before the original decision maker; generally, courts have "discretion not to consider an issue raised for the first time on judicial review" (*Alberta (Information and Privacy Commissioner) v Alberta Teachers' Association*, 2011 SCC 61 [*Alberta Teachers'*] at para 22). This is to ensure that administrative tribunals with the requisite expertise are given an opportunity to opine on the issues, it respects the legislative choices, and properly preserves the necessary balance and role of administrative tribunals and reviewing courts (*Alberta Teachers'* at paras 22–26).

[64] The Applicant has failed to establish why these issues could not and were not addressed in the initial grievance process. Accordingly, this Court did not consider this issue further.

D. *Community consultation*

[65] The Applicant argued that there was a requirement in law or policy to consult with Elsipogtog in respect of the Staffing Action, as the position was designated for this community.

[66] The Respondent argued that the Staffing Action was not designated for a community participation interview pursuant to Manual Ch3.

[67] Section 5.1.2 of the Manual Ch3 sets out the RCMP policy for community participation and consultation:

> In accordance with the Provincial/Territorial policing agreements and Community Tripartite Agreement (CTA), **when a detachment/district/area commander position is to be filled, a community representative/contract partner may participate in the selection process** by identifying policing priorities and cultural sensitivities, recommending qualifications and additional job requirements, and may have direct involvement by identifying one representative to participate as a member of the Community Participation Interview (CPI) Committee. [Emphasis added.]

[68] In addition, sections 8.2 and 12.3.4 of the *Community Tripartite Agreement for the use of the Royal Canadian Mounted Police (RCMP) First Nations Community Policing Service (FNCPS) between the Elsipogtog First Nation Council, Canada, and New Brunswick*, dated June 3, 2014 [Agreement] state:

> 8.2 The RCMP will provide to the Elsipogtog First Nation the services described at subsection 8.2 of the Framework Agreement and **will exercise its best efforts to assign RCMP Member(s) who are Aboriginal or familiar with the need and cultures of the Elsipogtog First Nation**. In the absence of a RCMP Member meeting these requirements, training as prescribed in paragraph 8.5.2 of the Framework Agreement shall be provided.
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> …
>
> 12.3 The role and responsibilities of the [Community Consultation Group] shall be to:
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> …
>
> 12.3.4 **Identify desirable attributes for the RCMP Member(s) who are to be considered for deployment to the Elsipogtog First Nation community**; …
>
> [Emphasis added.]

[69] While the Applicant clearly disagrees, the Adjudicator found that the initial level adjudicator considered the Agreement. The Adjudicator ultimately found that the Applicant did not establish that there was a requirement to consult with Elsipogtog in respect of the Staffing Action.

[70] The Adjudicator's finding is reasonable. The Staffing Action concerned a corporal level position. A review of the Manual Ch3 and the Agreement underscores that community consultation is only required for commander level positions. While it is clear that the RCMP have committed to working with the Elsipogtog community to ensure that members considered for deployment to this region have the necessary cultural competencies, and the community has identified desirable attributes for the RCMP to consider, it is not a requirement that the RCMP consult with the community or seek community approval for all promotions and deployments for this detachment.

[71] I am not unsympathetic to the Applicant's concerns. Recently, there have been some public examples of individuals falsely claiming Indigenous status to take advantage of perceived benefits, programs and positions that are targeted to Indigenous peoples. Further discussion within the federal public service concerning the wisdom of continued reliance on self-identification policies would be prudent.

[72] To that end, I note the October 2022 "Indigenous Identity Fraud" report by Jean Teillet prepared for the University of Saskatchewan sets out recommendations on policies and processes that could be implemented to address false claims of Indigenous citizenship and identity (Jean Teillet, *Indigenous Identity Fraud – A Report for the University of Saskatchewan* (Saskatoon:

University of Saskatchewan, 2022)). Further, in May 2025 the Ontario Human Rights Commission prepared a “Policy statement on Indigenous-specific hiring”, which underscores the need for appropriate confirmation practices for Indigenous identity claims (Ontario Human Rights Commission, *Policy statement on Indigenous-specific hiring* (Toronto: Ontario Human Rights Commission, 2025)). Both publications highlight the deficiencies of policies that rely only on self-identification.

[73] I agree that Manual Ch3 and the Agreement do not require the RCMP to consult with the Elsipogtog community concerning the staffing for positions at the corporal rank. However, it would be prudent for the RCMP to revisit their Self-Identification Policy and the Agreement. Ultimately, reconciliation requires that all parties engage in respectful dialogue and relationships. The spirit of the Agreement and the spirit of reconciliation demand that the parties work in closer partnership. The RCMP members deployed to this detachment are working in the Elsipogtog community. It is reasonable to expect that a stronger, mutually respectful relationship starts with more open communications and consultation aimed at ensuring that the community is a part of the decision-making process with respect to all members of the detachment who are deployed in their community. In my view, reconciliation demands that parties move beyond the four corners of the written agreements in place and work in a manner that serves to fulfill the underlying spirit of such agreements.

[74] Recently, there have been multiple public incidents where the RCMP and Indigenous communities have been working at cross-purposes, leaving community members vulnerable and relationships tense and fractured. It behoves the RCMP to consider working with its partner

Indigenous communities in a new way that strives to repair these relationships in innovative and meaningful ways.

[75] Turning to the matter before me, as noted above, this Court has confirmed that only the lawfulness of policy may be challenged on judicial review (*Browne* at para 26). The Applicant's argument that the RCMP must revisit and develop new policy exceeds the scope of judicial review. As noted above, while I am of the view it would be prudent for the RCMP and the broader public service to revisit its Self-Identification Policy, this is not the proper subject of an application for judicial review.

[76] I understand that the Applicant is not satisfied with the outcome of the Staffing Action or the grievance process; however, the Applicant has not pointed to an error that warrants this Court's intervention. The Decision satisfies the hallmarks of reasonableness, the reasons are transparent, intelligible and justified, and fully consider the applicable factual and legal constraints. The Applicant's frustration with the process and outcome does not render the Decision unreasonable.

E. *Procedural Fairness*

[77] The Applicant's Notice of Application also alleged that there was a breach of procedural fairness. I agree with the Respondent that this argument was not developed in the Applicant's memorandum of fact and law.

[78] Further, I agree with the Respondent that the level of procedural fairness owed at the final level Grievance is at the low end of the spectrum (*Blois v Canada (Attorney General)*, 2018 FC 354 at para 36). The central question is, did the Applicant know the case to be met, and did the Applicant have an opportunity to participate and provide the decision makers with all relevant information throughout the grievance process.

[79] The Applicant has not persuaded me that there has been a breach of procedural fairness that would warrant this Court's intervention.

V. Conclusion

[80] For the reasons set out above, this application is dismissed. The Decision is reasonable, and the reasons for the Decision illustrates that the Adjudicator grappled with the relevant factual and legal constraints.

[81] I understand that the Applicant is not happy with the Decision; however, the Applicant has not persuaded me that the Adjudicator erred in concluding that there was an obligation to verify candidates "aboriginal status" beyond the Questionnaire and their certification; erred in concluding that the Appointee met the qualifications for the Staffing Action; or erred in determining that there was no obligation to consult with the Elsipogtog community in respect of the Staffing Action.

[82] I believe that the public service and the RCMP should consider revisiting their Self-Identification Policies, as I agree with the Applicant that these policies may be abused. However, for the reasons set out earlier, the development of policy exceeds the scope of this application.

JUDGMENT in T-1598-24

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is dismissed.

2. No order as to costs.

"Julie Blackhawk"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

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