Federal Court  Cour fédérale

Date: 20141006

Docket: T-403-14

Citation: 2014 FC 945

Ottawa, Ontario, October 6, 2014

PRESENT: The Honourable Madam Justice Bédard

BETWEEN:

JEFFREY ALLAN SPARKS

Applicant

and

THE ATTORNEY GENERAL OF CANADA

Respondent

JUDGMENT AND REASONS

[1] The applicant, an inmate at the Donnacona Institution, filed an application for judicial review under section 18.1 of the *Federal Courts Act*, RSC 1985, c F-7, of a third level grievance response dated July 19, 2013, dismissing a grievance he filed regarding a discrepancy between his sentence as presented in the Superior Court's judgment and the warrant of committal issued by the same Court. For the following reasons, the application is dismissed.

I. Context

[2] The applicant has a long history as an offender. While on statutory release from a prior sentence, he was arrested and detained on March 15, 2010, following which he was accused and found guilty of multiple charges by a jury.

[3] Justice Louise Moreau of the Quebec Superior Court was the sentencing judge. She rendered her judgment on November 7, 2011 (*R v Sparks*, 2011 QCCS 5861, 99 WCB (2d) 491). By that time, the applicant had been in custody for 19 months. In her written judgment, Justice Moreau imposed the following sentence:

> [31] A global sentence of 10 years is, in these circumstances, appropriate. A sentence of 6 years meets the purpose of the law for charges no 5, 6, 7, 8, 9 and 10, concurrent which is breaking and entering with theft and breaking and entering with intended; 3 years consecutive for charge no 1 which is assault with weapon; 1 year consecutive for charges no 2 and 3 which is dangerous driving and finally, 1 year concurrent for charge no 4 which is possession of stolen property of over 5000$.
>
> […]
>
> **DUE TO THESE CIRCUMSTANCES, THE COURT:**
>
> [35] **CONDEMNS** Jeffrey Sparks to a global sentence of 10 years from March 15th, 2010;
>
> - 6 years concurrent meets the purpose of the law for charges no 5, 6, 7, 8, 9 and, 10, which is breaking and entering with theft and breaking entering with intended;
> - 3 years consecutive for charge no 1 which is assault with a weapon;
> - 1 year consecutive for charges no 2 and 3 which is dangerous driving;

- 1 year concurrent for charge no 4 which is possession of stolen property of over 5 000$;

[4] During the hearing, Justice Moreau read her written judgment. The transcript of the hearing omits the starting date of the sentence "from March 15th, 2010" which is found at the end of the first sentence of paragraph 35 of the written judgment ("CONDEMNS Jeffrey Sparks to a global sentence of 10 years from March 15th, 2010"). I do not know whether Justice Moreau omitted mentioning the starting date when she read her judgment, or if the omission is due to an error in the transcript. However, it appears from the transcript that, once the hearing had ended, Justice Moreau was asked to re-enter the courtroom to clarify her sentence. The Crown Attorney then asked Justice Moreau "(inaudible) 10 years from today?" and the judge replied: "No, you have to subtract the 19 months that Mr. Sparks has already done" (page JR-46 of the certified tribunal record). Therefore, it appears from both the written judgment and the transcript of the hearing that Justice Moreau imposed a global sentence that commenced on March 15, 2010. For purpose of simplicity, I will use the expression "the sentencing judgment" when referring to either the written judgment or the transcript of the hearing where Justice Moreau read her judgment.

[5] The registry of the Superior Court issued the warrant of committal on the same day. The warrant of committal presents the sentence as follows (pages JR-68-69 of the certified tribunal record):

1 267A
Peine infligée : 3 ans
Consécutif

2 269.1
Peine infligée : 1 an

Consécutif

3 249.1(01)
Peine infligée : 1 an

4 355A
Peine infligée : 1 an

5 348(01)B
Temps passé sous garde : 20 mois
Période infligée sans provisoire : 6 ans
Détention provisoire accordée : 20 mois
Peine infligée : 52 mois
Consécutif

6 348(01)A
Temps passé sous garde : 20 mois
Période infligée sans provisoire : 6 ans
Détention provisoire accordée : 20 mois
Peine infligée : 52 mois

7 348(01)B
Temps passé sous garde : 20 mois
Période infligée sans provisoire : 6 ans
Détention provisoire accordée : 20 mois
Peine infligée : 52 mois

8 348(01)B
Temps passé sous garde : 20 mois
Période infligée sans provisoire : 6 ans
Détention provisoire accordée : 20 mois
Peine infligée : 52 mois

9 348(01)B
Temps passé sous garde : 20 mois
Période infligée sans provisoire : 6 ans
Détention provisoire accordée : 20 mois
Peine infligée : 52 mois

10 348(01)A
Temps passé sous garde : 20 mois
Période infligée sans provisoire : 6 ans
Détention provisoire accordée : 20 mois
Peine infligée : 52 mois

[6] The sentencing judgment and the warrant of committal present the following differences:

- The sentencing judgment presents the charges in a different order. In the judgment, charges # 5, 6, 7, 8, 9 and 10 are presented at the beginning of the description of the global sentence and are grouped together. The warrant of committal presents them in numerical order (1 to 10);
- The warrant of committal calculates the sentence starting on November 7, 2011, while the sentencing judgment calculates the sentence starting on March 15, 2010. The warrant subtracts the credit for 20 months of pre-sentence custody from charges # 5-10. For charges # 5-10, the warrant shows the 6-year sentence, subtracts the 20 months of pre-sentence custody, and arrives at a sentence of 52 months for these charges. The warrant shows a total sentence of 8 years and 4 months starting on November 7, 2011, while the sentencing judgment imposed a global sentence of 10 years from March 15, 2010;
- The terms "concurrent" and "consecutive" are used differently in the two documents. The sentencing judgment refers to the sentence for charges # 5-10 as "concurrent". It also specifies that the sentence for charge # 4 is "concurrent". On the other hand, the warrant of committal does not mention that charge # 4 is "concurrent". Further, the warrant of committal presents charge # 5 as being "consecutive" with no mention for charges # 6, 7, 8, 9 and 10.

[7] Noting the discrepancy between the sentences as presented in the sentencing judgment and the warrant of committal, the applicant sought clarification. He noted specifically that the sentencing judgment indicated a global sentence, and that the sentence for charges # 5, 6, 7, 8, 9

and 10 was concurrent, whereas in the warrant of committal, the sentence for charge # 5 is said to be consecutive. In a letter dated February 17, 2012, the Chief of Sentence Management, Madeleine Renaud, responded to the applicant's request and mentioned the steps that had been taken with the Quebec Superior Court to clarify and correct the discrepancy.

[8] Still unsatisfied after several meetings with the Institution officials and a formal response from Ms. Heather Dagorne, the National Advisor of Sentence Management, the applicant submitted a third level grievance. His grievance reads as follows (emphasis in original):

> Sentence Management issue, 11 months of the runaround to the question of count # 5 of the Sentence order—and transcripts—of justice Louise Moreau Québec City, Nov 7th 2011- Warden did not return request to Memo about Ms Madeleine Renaud - chief Sentence Management – complete unwillingness & avoidance of the obvious!
>
> The Sentence order – Transcripts of proceedings has count number 5 as concurrent!
>
> The Warrant consecutive!
>
> The Warden, Ms Renaud, National Sentence Management always give avoidance to the simple Question…… Is count number 5 concurrent or consecutive?

II. The decision under review

[9] The third level offender grievance response was issued by Ms. Elizabeth Van Allen, A/Assistant Commissioner, Policy (Ms. Van Allen). She dismissed the applicant's grievance.

[10] In her response, Ms. Van Allen acknowledged that there was in fact a discrepancy between the sentencing judgment and the warrant of committal, but indicated that the differences

between both documents had no impact on the calculation of the global sentence imposed on the applicant. It was a global sentence of 10 years concurrent with credit for 20 months commencing on March 15, 2010, resulting in a remaining sentence of 8 years and 4 months commencing on November 7, 2011. She noted that the Institutional Chief, Sentence Management at Donnacona Institution, confirmed by the National Advisor, Sentence Management, had calculated the length of the applicant's sentence using the global sentence imposed on November 7, 2011, which was 8 years and 4 months concurrent.

[11] In her response, Ms. Van Allen explained that in accordance with Correctional Service Canada (CSC)'s Sentence Management Manual, the warrant of committal is the document that registers and communicates the result of a sentencing process. It also constitutes the sole official source that provides CSC with the basis for the calculation of the length of a sentence to be served by an offender, and the relationship between an offender's sentences where more than one sentence is being served.

[12] She also indicated that where a warrant of committal contains an error, or where it does not accurately reflect the sentence ordered by the judge, it is within the issuing Court's jurisdiction, not CSC's, to correct the error. She stated that CSC can request that the Court change a document, but it remains within the Court's discretion to decide whether or not it will make the change. In addition, Ms. Van Allen stated that in the applicant's case, changes were sought from the Quebec Superior Court to no avail, and that all avenues were exhausted. However, she reiterated that the discrepancy between the sentencing judgment and the warrant of

committal had no impact on the calculation of the global sentence imposed on the applicant. She expressed the following:

> Although the structure of the Warrant of Committal Upon Conviction does not mirror exactly the order of the sentencing, the global impact on your existing sentence is the same. Both the transcript and the Warrant of Committal Upon Conviction provide for a global sentence of 8 years and 4 months that commenced on November 7, 2011.
>
> […]
>
> In your case, the global sentence (the total sentence you are serving) is correct. This is identified through the "total statement" outlining an overall sentence of 8 years and 4 months.
>
> Although the individual sentence elements within the Warrant of Committal structure do not mirror that of the court, the overall amount of sentence to be served is identical to the overall sentence imposed by the court.
>
> […]
>
> By wording the total statement in this fashion, this overall sentence has a concurrent effect in relation to the portion remaining of the previously merged sentence (old Warrant Expiry Date established as June 19, 2012). Following the June 2012 date, this balance of the sentence imposed in November 2011 is the only incarceral sentence you are subject to, unless you receive further incarceral sentences.

III. Issue

[13] The only issue to be determined in this application is whether the third level grievance decision is reasonable.

IV. Standard of review

[14] The decision under review concerns a sentence management issue, which falls within the expertise of CSC officials. In the case at bar, the decision involved the interpretation of the Superior Court's judgment and of the warrant of committal. It also involved the interpretation of the CSC's Sentence Management Manual and its application to the applicant's situation. Therefore, the decision involved issues of mixed fact and law that, in my view, should be reviewed under the reasonableness standard of review (*McDougall v Canada (Attorney General)*, 2011 FCA 184, para 24, [2011] FCJ No 841; *Johnstone v Canada (Border Services)*, 2-14 FCA para 39-40, [2014] FCJ No 455). In *Dunsmuir v New Brunswick*, 2008 SCC 9 at paras 53-54, [2008] 1 SCR 190 [*Dunsmuir*], the Supreme Court stated the following:

> 53 Where the question is one of fact, discretion or policy, deference will usually apply automatically (*Canada (Attorney General) v. Mossop*, [1993] 1 S.C.R. 554, at pp. 599-600; *Dr. Q*, at para. 29; *Suresh*, at paras. 29-30). We believe that the same standard must apply to the review of questions where the legal and factual issues are intertwined with and cannot be readily separated.
>
> 54 Guidance with regard to the questions that will be reviewed on a reasonableness standard can be found in the existing case law. Deference will usually result where a tribunal is interpreting its own statute or statutes closely connected to its function, with which it will have particular familiarity: *Canadian Broadcasting Corp. v. Canada (Labour Relations Board)*, [1995] 1 S.C.R. 157, at para. 48; *Toronto (City) Board of Education v. O.S.S.T.F., District 15*, [1997] 1 S.C.R. 487, at para. 39. Deference may also be warranted where an administrative tribunal has developed particular expertise in the application of a general common law or civil law rule in relation to a specific statutory context: *Toronto (City) v. C.U.P.E.*, at para. 72. […]
>
> (See also *Nor-Man Regional Health Authority v Manitoba Association of Health Care Professionals*, 2011 SCC 59 at para 36, [2011] 3 SCR 616.)

[15] In *Dunsmuir* at paras 57 and 62, the Court also stated that it is not necessary to proceed to a full standard of review analysis where it has already been satisfactorily determined by the jurisprudence. On judicial review of an inmate grievance, the Federal Court of Appeal has held that a standard of reasonableness applies to issues of fact and issues of mixed fact and law: *McDougal v Canada (Attorney General)*, 2011 FCA 184 at para 22, [2011] FCJ No 841; see also *Johnson v Canada (Attorney General)*, 2008 FC 1357 at paras 35, 39, [2008] FCJ No 1763, rev'd in part on other grounds 2011 FCA 76, [2011] FCJ No 294 (see also *Johnson v Canada (Commissioner of Corrections)*, 2014 FC 787 at para 37, [2014] FCJ No 822; *Mills v Canada (Attorney General)*, 2013 FC 1209 at para 25, [2013] FCJ No 1337; *Charbonneau v Canada (Attorney General)*, 2013 FC 687 at paras 17-21, [2013] FCJ No 754).

V. The parties' positions

A. *The applicant's position*

[16] The applicant advances several arguments against the third level grievance response and against the process that led to that response.

[17] The applicant submits that the written sentencing judgment differs from the transcript of the hearing during which Justice Moreau read her judgment. The written judgment clearly specifies at paragraph 35 that the start of the global 10 year sentence was March 15, 2010, but, as stated earlier, the transcript of the hearing—where Justice Moreau specifies the sentence—omits the starting date of the sentence. The applicant states that after the judge left the room, there was a discussion in French (which is not included in the transcript) between the Crown's attorney, the

clerk of the Court and an officer of the Court, at the end of which Justice Moreau was asked to re-enter the courtroom to clarify her sentence. The Crown attorney then asked the judge "10 years from today?" The judge answered negatively and indicated that the 20 months that the applicant had already served were to be subtracted. The applicant infers from these circumstances that the Crown attorney acknowledged that the judge omitted the starting date of the sentence when she pronounced it, but did nothing to correct the omission. The applicant also infers that the official transcript is incomplete and was falsified.

[18] Further, the applicant submits that the sentencing judgment orders a global sentence of 10 years from March 15, 2010, whereas the warrant of committal indicates a total sentence of 8 years and 4 months starting on November 7, 2011. The applicant argues that CSC should rely on the judgment rendered by Justice Moreau, and not the warrant of committal, to calculate his sentence.

[19] Moreover, the applicant argues that CSC's officials were not responsive to his request for clarification, and downplayed the discrepancy. He is also of the view that CSC's officials acted in bad faith, circumvented the rules, and acted outside CSC's authority by "invalidating" the sentencing judgment. The applicant also alleges that the CSC's investigation into his grievance was incomplete because nobody answered his question about whether charge # 5 was "concurrent" or "consecutive". He also submits that there was a long delay between the submission of his grievance in October 2012 and the final response issued on July 19, 2013.

[20] Finally, the applicant submits that while the third level grievance response indicates that CSC had taken steps with the Superior Court to seek a change in the warrant of committal, this assertion is not supported by any evidence. The applicant also submits that the grievance response contains several inaccuracies.

[21] Furthermore, the applicant submits that the RCMP Criminal Convictions print-out present convictions and sentences in a different way from the judgment and the warrant of committal, and he argues that the print-out is inaccurate and that the "false information" was entered in bad faith.

B. ***The respondent's position***

[22] The respondent argues that the decision is reasonable and that Ms. Van Allen's role was to assure that the applicant's sentence was properly calculated. In view of the same net sentence derived from the sentencing judgment and the warrant of committal, it was reasonable for her to confirm the calculation of the applicant's sentence and dismiss his grievance.

[23] Regarding the specific discrepancy at count 5 between Justice Moreau's reference to "concurrent" and the reference to "consecutive" in the warrant of committal, the respondent submits that Ms. Van Allen was right in indicating that it had no impact on the applicant's global sentence calculation. Finally, the respondent argues that the Chief Sentence Manager at Donnacona Institution advised the Superior Court of the discrepancy, but that it was the Superior Court that decided against taking further measures to amend the warrant of committal.

VI. Analysis

[24] In my view, the applicant's arguments have no merit and the third level grievance response is reasonable.

[25] CSC's Sentence Management Manual indicates that the warrant of committal issued under subsection 570(5) of the *Criminal Code* (RSC, 1985, c C-46) constitutes the document that registers and communicates the result of the sentencing process, and that it is the binding authority for everything related to sentence management.

[26] Subsections 570(5) and (6) of the *Criminal Code* read as follows:

(5) Where an accused other than an organization is convicted, the judge or provincial court judge, as the case may be, shall issue or cause to be issued a warrant of committal in Form 21, and section 528 applies in respect of a warrant of committal issued under this subsection.	(5) Lorsqu'un prévenu, autre qu'une organisation, est condamné, le juge ou le juge de la cour provinciale, selon le cas, décerne ou fait décerner un mandat de dépôt rédigé selon la formule 21, et l'article 528 s'applique à l'égard d'un mandat de dépôt décerné sous le régime du présent paragraphe.
(6) Where a warrant of committal is issued by a clerk of a court, a copy of the warrant of committal, certified by the clerk, is admissible in evidence in any proceeding.	(6) La copie du mandat de dépôt délivré par le greffier du tribunal certifiée conforme par ce dernier est admise en preuve dans toute procédure.

[27] The relevant excerpts from the Sentence Management Manual read as follows (emphasis in original):

One of the possible outcomes of the criminal justice process is the sentencing of an individual to incarceration. The registration and communication of the result of that process takes the form of a "**Warrant of Committal Upon Conviction**" issued under the authority of **subsection** 570(5) of the *Criminal Code of Canada* (*CCC*).

This document, issued by the court of competent jurisdiction who tried, convicted and sentenced the individual, constitutes the sole official source for the arrest (if necessary), detention and conveyance to a correctional facility of the individual named therein and provides the basis for Sentence Managers to establish the length of the sentences to be served and the relationships between those sentences.

[…]

There will be situations where the warrant of committal may contain an administrative error, an error of law or may not accurately reflect the sentences handed by the judge. When such variances occur, the long-standing position of federal authorities is that the warrant of committal provides the legal authority for the administration of the offender's sentence.

The ease of acquisition of an amended warrant of committal to correct these variances will be predicated on the type of problem. The preparation and issuance of the warrant of committal is an administrative act and the court should be prepared to issue an amended warrant of committal to correct an **administrative error**.

An example of such an administrative error could be as simple as the warrant of committal specifying that the offender was sentenced to three years while the sentencing transcript states three years **consecutive**. This type of defect is within the court's jurisdiction to correct.

Equally exemplary of an administrative error is a **multiple offence warrant of committal that does not present the sentences in the order in which they were imposed**. This has the unintentional result of establishing a sentence that does not properly reflect the intentions of the court.

[…]

Where multiple sentences have been handed down in one court sitting, the warrant of committal must be compared with the sentencing transcript to verify that the warrant of committal accurately reports on such items as:

> - the order of imposition of sentences;
> - the sentence imposed for each individual offence;
> - the relationships drawn between the sentences for each individual offence;
>
> […]
>
> While the sentencing transcript serves only to clarify the court's intent at sentencing and assists in identifying discrepancies on the warrant of committal, that which appears on the warrant of committal is binding (until amended or corrected) notwithstanding that the warrant of committal may not reflect the sentence pronounced in court or that it contains a flagrant error in law.

[28] The decision to make the warrant of committal the official and binding document that CSC uses as the basis for the calculation and the administration of offenders' sentences seems reasonable to me. The warrant of committal is issued by the Court which sentenced the offender and is issued in every case, according to subsection 570(5) of the *Criminal Code*, whether the sentence was pronounced orally or via a written sentencing judgment. Considering that there can be occasions where there are discrepancies between the warrant of committal, the sentencing transcript and/or a written sentencing judgment, it seems reasonable that CSC chooses one document as the binding document. Further, this document remains subject to modifications that can be sought from the competent Court where the warrant of committal does not accurately reflect the sentence(s) imposed by the Court.

[29] Therefore, in light of the Sentence Management Manual, it was reasonable for Ms. Van Allen to determine that the warrant of committal is the binding document with respect to the calculation of the length of the applicant's sentence. Consequently, I reject the applicant's arguments that CSC should not rely on the warrant of committal, and that CSC officials acted in

bad faith, circumvented the rules, and acted outside CSC's authority by "invalidating" the sentencing judgment.

[30] In her response, Ms. Van Allen also indicated that CSC has no authority to amend a warrant of committal, and that modifying that document falls within the exclusive jurisdiction of the Court that issued it. This assertion is correct, since the warrant of committal emanates from the sentencing Court and not from CSC.

[31] The process set out in the Sentence Management Manual requires that CSC officials ensure that the warrant of committal accurately reflects the Court's sentencing judgment. This process aims at ensuring that no error occurs in the calculation of the length of an offender's sentence. Where there is a discrepancy between the warrant of committal and the sentencing judgment, the Sentence Management Manual directs that the required corrective action will depend on the nature of the error:

> Upon determining the nature of each problem, be it an administrative error or an error of law, the Sentence Manager will determine the appropriate corrective action required as well as determining who should be appraised of the issue, i.e. the court, the Crown or the offender.

[32] In this case, there is an administrative error on the warrant of committal as it does not accurately reflect the sentence as ordered by Justice Moreau. It is clear from the sentencing judgment that Justice Moreau imposed a global sentence of 10 years commencing on March 15, 2010, the date at which the applicant was arrested. It also appears from her judgment at para 35, that the global sentence was divided as follows:

- 6 years concurrent for charges # 5, 6, 7, 8, 9 and 10;
- 3 years consecutive for changes charge # 1;
- 1 year consecutive for charges # 2 and 3; and
- 1 year consecutive for charge # 4.

[33] It also appears from the transcript of the hearing, and more specifically from the answer that the judge gave to the Crown attorney, that the global sentence of 10 years was to commence on March 15, 2010. Furthermore, the time served by the applicant between that date and the sentencing date was to be subtracted from the 10 years.

[34] For its part, the warrant of committal shows a total sentence of 8 years and 4 months starting on the sentencing date of November 7, 2011. Moreover, it contains administrative errors and does not mirror the way the sentence regarding each count was imposed.

[35] However, the discrepancy between the warrant of committal and the sentencing judgment does not have any impact on the net sentence that was imposed on the applicant and on the calculation of the length of his sentence: the sentencing judgment imposed a global sentence of 10 years from March 15, 2010, and the warrant of committal shows a total sentence of 8 years and 4 months starting on the sentencing date of November 7, 2011. The net result is the same: on November 7, 2011, the applicant had a remaining sentence of 8 years and 4 months to serve in relation to the 10 charges mentioned in Justice Moreau's judgment.

[36] Therefore, it was reasonable for Ms. Van Allen to conclude that the error on the warrant of committal had no impact on the calculation of the applicant's sentence. The applicant was not prejudiced by the discrepancies between the warrant of committal and the sentencing judgment. Consequently, while it would have been preferable that the Superior Court issue an amended warrant of committal, the fact that the warrant was inaccurate had no impact on the length of the applicant's sentence and did not cause him any prejudice.

[37] In these circumstances, it was also reasonable for Ms. Van Allen to conclude that CSC had fulfilled its obligations. CSC had sought changes from the Superior Court, but given that the Court had not issued an amended warrant of committal, all avenues had been exhausted. Had the net result in the length of the applicant's sentence been different in both documents, I am of the view that additional actions would have been required to obtain an amended warrant of committal from the Superior Court. It is not necessary to expand on these additional steps nor to determine whether CSC or the offender should have taken such additional steps, since I am satisfied that the fact that CSC was unable to obtain such an amended document from the Quebec Superior Court is of no consequence.

[38] I will now deal with the applicant's remaining arguments.

[39] There is no basis in the evidence to conclude that during the hearing, the Crown attorney realized that there was an error - Justice Moreau omitted to specify the starting date of the sentence - and did nothing to correct that mistake. As stated earlier, the transcript of the hearing omits the starting date of the sentence. It also appears from the transcript that when Justice

Moreau re-entered the courtroom, the Crown attorney asked her whether it was "ten years from today?" and she replied that the time served by the applicant had to be subtracted. With respect, no bad faith or any intention to manipulate the sentence can be inferred from this evidence. The only inference I make is that the Crown attorney sought clarification from the Court concerning the starting date of the sentence and obtained a clear response from Justice Moreau.

[40] The same can be said about the accuracy of the transcript. The applicant alleges that it was falsified, but there is no evidence to support such allegation.

[41] In addition, the applicant argues that CSC's officials were not responsive to his request for clarification and downplayed the discrepancy. The record does not support that allegation. On the contrary, the record shows that CSC's officials acknowledged the discrepancy. They gave lengthy responses to the applicant and explained to him that the discrepancy had no impact on the length of his sentence. The applicant received an initial response from Ms. Madeleine Renaud, Chief Sentence Manager at Donnacona Institution (page JR-22 of the certified tribunal record). The applicant also received a letter from Ms. Dagorne, the National Advisor, Sentence Management (pages JR-61 to 63 of the certified tribunal record) who gave him lengthy details concerning the calculation of his sentence. Finally, the applicant received the third level grievance response which also provides details as to the calculation of his sentence.

[42] Moreover, the record also reveals that Ms. Renaud tried to obtain an amended warrant of committal from the Superior Court, so I reject the applicant's argument that there is no evidence of the steps that she took. In her letter to the applicant dated February, 17, 2012, Ms. Renaud

stated that she communicated with the Superior Court and requested an amended warrant of committal (page JR-22 of the certified tribunal record). Correspondence between an analyst and Ms. Dagorne (pages JR-95-96) also references the steps taken by Ms. Renaud. The fact that the exact steps taken by Ms. Renaud are not detailed does not mean that she did not try to obtain an amended document. In light of the record, there is no doubt that Ms. Renaud tried to obtain an amended warrant of committal from the Quebec Superior Court.

[43] The applicant also advances that there was a long delay between the filing of his grievance and the reception of a response. There is no evidence that CSC's officials or Ms. Van Allen unduly and maliciously delayed dealing with the applicant's grievance.

[44] With respect to the applicant's allegations that the third level grievance response contains inaccuracies, I agree that it contains a few inaccuracies. On that regard, I agree with the applicant's following assertions:

- The response states that the "Court directed that 'On the Warrant the 20 months credit has been applied to the 6 year sentence'", but this is inaccurate. The official transcript of the proceedings does not harmonize with this statement;
- The response states "Both the transcript and the Warrant of Committal Upon Conviction provide for a global sentence of 10 years concurrent, with credit for 20 months", but the transcript does not actually state "10 years concurrent";
- The response states "the Judge indicates in both the sentencing transcript, and on the signed Warrant of Committal […]", but the judge did not sign the warrant of committal.

[45] However, I am of the view that those inaccuracies are not material and do not vitiate the response, since the core of the reasoning is that the discrepancy between the warrant of committal and the sentencing judgment had no impact on the length of the global sentence imposed on the applicant.

[46] The applicant argues that nobody answered his question about whether count # 5 is consecutive or concurrent. Ms. Van Allen explained in her response that the discrepancy between both documents had no impact on the calculation of the applicant's sentence. In this context, it was not necessary to respond to the specific question asked by the applicant.

[47] Finally, regarding the RCMP Criminal Convictions print-out, it is sufficient to say that that this document is not the one at issue and is not a document that CSC used to calculate or manage the applicant's sentence.

JUDGMENT

THIS COURT'S JUDGMENT is that the application for judicial review is dismissed with costs in favour of the respondent.

"Marie-Josée Bédard"

Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	T-403-14
STYLE OF CAUSE:	JEFFREY ALLAN SPARKS v THE ATTORNEY GENERAL OF CANADA
PLACE OF HEARING:	OTTAWA, ONTARIO
DATE OF HEARING:	AUGUST 26, 2014
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DATED:	OCTOBER 6, 2014

APPEARANCES:

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Me Nicholas R. Banks	FOR THE RESPONDENT

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