Federal Court  Cour fédérale

Date: 20141106

Docket: T-2057-13

Citation: 2014 FC 1051

[UNREVISED ENGLISH CERTIFIED TRANSLATION]

Ottawa, Ontario, November 6, 2014

PRESENT: The Honourable Madam Justice Bédard

BETWEEN:

MÉLANIE ALIX

Applicant

and

ATTORNEY GENERAL OF CANADA

Respondent

JUDGMENT AND REASONS

[1] The applicant is an inmate at the Joliette Institution for Women (the Institution). She is seeking judicial review of a decision dated November 13, 2013, of an independent chairperson (IC), in which she was found guilty of an institutional offence under paragraph 40(*r*) of the *Corrections and Conditional Release Act*, SC 1992, c 20 (the Act). For the reasons that follow, the application for judicial review is dismissed.

I. **Background**

[2] The personal effects of inmates are subject to strict rules. Inmates must never have in their possession more than 35 items, the total value of which must not exceed $1,500.

[3] When inmates are temporarily transferred to the Institut Philippe-Pinel de Montréal (IPPM), their personal effects are subject to additional rules of management. At the time of the transfer, they leave the Institution with a limited number of personal effects in what is referred to as a [TRANSLATION] "bundle". If their stay extends beyond 30 days, the remainder of their personal effects is sent to the IPPM by the Institution. A count of the personal effects of each inmate temporarily transferred to the IPPM is conducted upon leaving the Institution and upon their return.

[4] During their stay at the IPPM, inmates are not permitted to procure personal effects through outside persons or from outside suppliers. They may, however, procure personal effects from internal suppliers, namely, at the IPPM's thrift shop or linen supply store, and upon their return to the Institution they must provide receipts to account for their purchases and attest to their provenance.

[5] On May 13, 2013, the applicant was temporarily transferred to the IPPM. Prior to leaving the Institution, she signed a form entitled [TRANSLATION] "Management of Personal Effects – Agreement with respect to inmates during their stay at the Institut Philippe-Pinel de Montréal (IPPM)" (agreement), which provides, in part, the following:

[TRANSLATION]

- Upon my return to the Joliette Institution, I consent to paying for any costs associated with shipping the personal effects that I am permitted to keep and use at the IPPM, but which are not authorized to be kept at the Institution, in accordance with Commissioner Directive (CD) 566-12 entitled "Personal Property of Inmates";

- I understand that my stay at the IPPM does not grant me the right to acquire personal effects from outside sources and I undertake to adhere to this agreement. Therefore, neither my visitors, or any other person, may send me any personal effects;

- I acknowledge that any failure to comply with the present agreement may result in the seizure of unauthorized items upon my return to the Joliette Institution;

- I understand that I must keep receipts issued by suppliers in accordance with the procedure established by CD 566-12, as proof of purchase for any purchases made during my stay at the IPPM.

[6] The applicant returned to the Institution on July 19, 2013. On August 1, 2013, she received a disciplinary report produced on July 31, 2013, by her correctional officer, Annick Guillemette. The report reads as follows:

[TRANSLATION]

You are being reported for having received effects from outside sources while you were at Pinel, which you were not authorized to do. You are notified of this report.

[7] A serious disciplinary offence charge was issued against the applicant. Section 40 of the Act sets out a series of behaviours that constitute disciplinary offences. In this case, the applicant was charged under paragraph 40(*r*), which provides as follows:

Disciplinary offences	Infractions disciplinaires
40. An inmate commits a disciplinary offence who	40. Est coupable d'une infraction disciplinaire le détenu qui :
(*r*) willfully disobeys a written rule governing the conduct of inmates;	*r*) contrevient délibérément à une règle écrite concernant la conduite des détenus;

Thus, the applicant was charged with having deliberately disobeyed a written rule governing conduct, namely, the agreement.

[8] When a charge is laid for a serious disciplinary offence, a hearing is held before an IC (subsection 27(2) of the *Corrections and Conditional Release Regulations*, SOR/92-620) who is appointed by the Minister of Public Safety and Emergency Preparedness.

[9] The burden of proof applicable to disciplinary offences in correctional facilities is the same as that applied to criminal matters. The evidence must establish beyond a reasonable doubt that the inmate committed the offence with which they are charged. Subsection 43(3) of the Act provides as follows in that regard:

Decision	Déclaration de culpabilité
(3) The person conducting the hearing shall not find the inmate guilty unless satisfied beyond a reasonable doubt, based on the evidence presented at the hearing, that the inmate committed the disciplinary offence in question.	(3) La personne chargée de l'audition ne peut prononcer la culpabilité que si elle est convaincue hors de tout doute reasonable, sur la foi de la preuve présentée, que le détenu a bien commis l'infraction reprochée.

II. **Hearing and decision of IC**

[10] The hearing of the charge occurred over the course of three different dates, namely, October 4 and 30, and November 13, 2013. The Institution's evidence consisted of the testimony of the correctional officer, Ms. Guillemette, and that of the security intelligence officer of the Institution, Stéphane Desroches.

[11] Ms. Guillemette's testimony centred mainly on the following three elements:

- The applicant had signed the agreement prior to leaving for the IPPM.
- The agreement stipulated that inmates who are transferred to the IPPM may not, during their stay, procure personal effects by means of outside persons, such as parents, visitors or others.
- At the IPPM, patients may, however, procure personal effects from two internal suppliers, either at the thrift shop or at the linen supply store. Prior to that, patients had been able to purchase personal effects from an outside supplier, Sears, but this possibility no longer existed at the time of the applicant's stay at the IPPM.
- During the applicant's stay at the IPPM, the thrift shop was closed.
- If inmates choose to procure personal effects from internal suppliers at the IPPM, they must keep the receipts to remit them to correctional officers upon their return to the Institution. In addition, they must comply with the maximum 35 items the total value of which must not exceed $1,500.
- The applicant left the Institution with a bundle and her remaining personal effects were shipped to her when the length of her stay exceeded 30 days.
- During the first weeks of the applicant's stay at the IPPM, and before the remainder of her personal effects had been shipped to the IPPM, Ms. Guillemette received a call from

one of the staff at the IPPM. He informed her that the applicant had been asking whether she could [TRANSLATION] "have some clothes brought in" because much of the clothing she had brought with her in her bundle consisted of clothes she was not allowed to wear at the IPPM (for example, some of the clothes were too low-cut). Ms. Guillemette stated that she told the staff member that it was up to them to assess the applicant's needs.

- When the applicant returned to the Institution, her personal effects were reshipped to the Institution. Ms. Guillemette had counted her personal effects at the time of the transfer. Upon the applicant's return, she did a recount of the applicant's personal effects and noticed that certain items did not match the items that had been in the applicant's possession when she went to the IPPM. The items that did not appear on the list of the applicant's personal effects at the time she went to the IPPM were seized. The officer also completed the offence report, cited at paragraph 6 of this judgment, on August 1, 2013.

- When the applicant was notified that she was the subject of an offence report, she went to see Ms. Guillemette and told her that she had purchased the items. Ms. Guillemette then invited her to submit receipts that corresponded to the purchases in order to verify the provenance of the items the applicant claimed to have purchased.

- A few weeks later, she was informed by Mr. Desroches that the applicant had received an envelope containing blank receipts in the mail. The envelope contained receipts and a letter. This envelope had been mailed on August 14, 2013, and was received by the Institution on August 15, 2013.

- Ms. Guillemette, Mr. Desroches and Ginette Turcotte, Manager, Assessment and Interventions, met with the applicant to asker her about the provenance of these receipts.

- During the meeting, Ms. Guillemette asked the applicant to read the letter that accompanied the receipts. The letter reads as follows:

[TRANSLATION]

Hi Grandma

Here is the receipt form Pinel go to the "Librairie Moderne" and buy a pad of receipts like this one please.

Write the date of June 12, 2013, on one of the receipts

Mélanie Alix, F-1

Write the following items down

1 pair leather sandals	2,00
1 sneakers	4,00
1 pyjamas	1,00
3 pants	3,00
3 sweaters	3,00
1 dress	1,00
3 undershirts	3,00
2 Bras (leopard, Lascana)	2,00
# 68920-1020	
TOTAL	19,00

P.S. Return the bill with the new receipt and a blank receipt.

Thanks!

- Ms. Guillemette and the two other representatives of the Institution questioned the applicant about the receipts and the letter and the applicant admitted having intended to falsify receipts.
- After the meeting, the applicant returned to see Ms. Guillemette and provided her with three transaction statements from a Sears credit card in her grandmother's name, on which she had underlined the items she indicated she had procured. A first statement was

dated March 2013, a second April 2013, and a third was from July 2013. Ms. Guillemette noticed that these statements showed purchases that were made prior to the applicant's stay at the IPPM (January 28, 2013, February 4, 2013, March 14, 2013, March 15, 2013), except for one purchase that had been made on June 17, 2013.

- She confronted the applicant with the fact that the transactions had been made prior to her being transferred to the IPPM, to which the applicant responded that she had already been planning to go to the IPPM. Ms. Guillemette viewed this as, among other things, proof that the applicant had intended to smuggle personal effects from outside during her stay at the IPPM.
- As for the purchase made on June 17, 2013, she contacted staff at the IPPM to verify whether they had authorized the applicant to purchase items at Sears. The IPPM staff confirmed to her that no authorization had been given for the purchases at Sears and further indicated that even if the applicant had received such authorization, the item purchased in June (a close-fitting dress) would never have been allowed at the IPPM.
- On September 5, 2013, Ms. Guillemette was informed by Mr. Desroches that the applicant had received in the mail a receipt from the Centre de Partage Communautaire Johannais dated September 3, 2013. The envelope containing the receipt had been mailed on September 4, 2013. This receipt was stapled to another receipt. She met with the applicant to ask her about this receipt and the applicant asked her [TRANSLATION] "what was wrong with it". Ms. Guillemette told her that the receipt was dated September 3, 2013, at which time she was no longer at the IPPM. The applicant told her that this receipt referred to another receipt from July 2013.

[12] Mr. Desroches also testified. He declared that he had learned of the envelope received by the applicant on August 15, 2013. The envelope contained the letter written by the applicant to her grandmother, a receipt bearing the same information that was in the letter as well as more blank receipts. He attended the meeting at which the applicant was questioned about the letter

and receipts and he stated that the applicant admitted having asked her grandmother to write the receipts because she wanted to have her clothes returned to her.

[13] The applicant also testified. Her testimony centred mainly on the following elements:

- When she arrived at the IPPM, she was told that she could not wear many of the clothes she had brought with her from the Institution in her bundle because they were deemed to be inappropriate.
- This situation created difficulties for her because she did not have enough clothes that she could wear and there were only two days per week when she could wash her clothes. She had, on some occasions, been forced to wear the same dirty clothes.
- Two weeks after her arrival, she asked a staff member at the IPPM to contact Ms. Guillemette to ask her if the Institution could send her additional clothing before the end of the usual 30-day period. The staff member informed her that Ms. Guillemette had refused and indicated that she would have to wait the usual time period for the rest of her personal effects.
- She informed her sociologist of the situation and he authorized her to procure some clothes.
- She received the remainder of her personal effects from the Institution five weeks after her arrival at the IPPM.
- The thrift shop at the IPPM was closed during her stay.
- At the time she left the IPPM, she had not received prior notice, and as a result, did not have time to obtain supporting documentation for the items she had procured during her stay.
- When she received the disciplinary report and the notice of seizure of her personal effects, she went to see Ms. Guillemette and asked her if she could have her things returned to her if she submitted receipts. Ms. Guillemette told her that she could indeed

have her personal effects returned to her if she could account for her purchases with receipts.

- She was not aware of the fact that inmates were no longer authorized to purchase clothing at Sears and with the exception of one item, the clothes that had been purchased by her grandmother were purchased prior to her stay. She knew in March 2013 that she was going to Pinel, but her transfer ended up being delayed until May.
- As for the receipt from the Centre de Partage Communautaire Johannais, her grandmother had bought her clothes at the Centre, but Ms. Guillemette had refused the cashier's receipt because it was not detailed. She subsequently asked her grandmother to return to the Centre to request a detailed receipt of the previous purchases. This is the receipt dated September 3 that had been sent to her at the Institution.

[14] The IC then asked the applicant the following question with regard to the blank receipts: [TRANSLATION] "How do you explain the matter of the blank receipts?". Counsel for the applicant objected and refused to allow the applicant to answer the question. He cited the risk of the applicant incriminating herself in the event criminal charges were laid against her. The applicant therefore provided no explanation with regard to the letter written to her grandmother or to the receipts that the latter had sent her.

[15] At the conclusion of the hearing, the IC declared the applicant guilty of having committed the offence set out at paragraph 40(*r*) of the Act. The IC concluded her decision with these words:

> [TRANSLATION]
>
> I am therefore convinced, beyond all doubt, that Ms. Alix committed the offence with which she is charged and deliberately contravened section 41R [sic] of the Act.

III. **Issues**

[16] This application raises two issues:

(1) Did the IC err by failing to make a determination as to the defence raised by the applicant?

(2) Did the IC err in her assessment of the applicant's guilt?

IV. **Standard of review**

[17] The first issue raises a question that touches on procedural fairness. In *Ayotte v Canada (Attorney General)*, 2003 FCA 429 at paras 19-20, [2003] FCJ No 1699 [*Ayotte*], Justice Létourneau indicated that disregarding a means of defence compromised procedural fairness. The issue is therefore reviewable on a correctness standard (*Mission Institution v Khela*, 2014 SCC 24 at para 79, [2014] 1 SCR 502).

[18] The second issue raises questions of mixed fact and law and it is well-settled that an IC's assessment of whether an inmate is guilty of a disciplinary offence is reviewable on a reasonableness standard (*Forrest v Canada (Attorney General)*, 2002 FCT 539 at para 17-18, [2002] FCJ No 713, aff'd by *Forrest v Canada (Attorney General)*, 2004 FCA 156 at para 8, [2004] FCJ No 709; *Brennan v Canada (Attorney General)*, 2009 FC 40 at para 29, [2009] FCJ No 81; *Lemoy v Canada (Attorney General)*, 2009 FC 448 at para 14, [2009] FCJ No 589; *Cyr v Canada (Attorney General)*, 2011 FC 213 at para 13, [2011] FCJ No 245; *Tremblay v Canada (Attorney General)*, 2011 FC 404 at para 5, [2011] FCJ No 503; *Gendron v Canada (Attorney*

General), 2012 FC 189 at para 12, [2012] FCJ No 202 [*Gendron*]; *Piché v Canada (Attorney General)*, 2013 FC 652 at para 10, [2013] FCJ No 683).

V. **Parties' positions**

A. *Applicant's position*

[19] The applicant submits that the IC refused to exercise her jurisdiction in declining to address the means of defence she raised, namely, lawful excuse.

[20] The applicant maintains that she had a lawful excuse for procuring clothing from outside sources during her stay at the IPPM. He defence is founded on the fact that she could not use many of the clothes she had brought in her bundle, that Ms. Guillemette had refused to send her the remainder of her personal effects before the end of the normal 30-day period, and that the thrift shop was closed. She was therefore in a state of need and had not had an opportunity to regularize her list of personal effects when she left the IPPM because she had not received prior notice of her return to the Institution. The applicant argues that the IC could not disregard her means of defence or the evidence in support of that means of defence.

[21] The applicant adds that since the IC did not address her means of defence in her decision, it is impossible to know whether she disregarded the means of defence or rejected it. She therefore submits that the IC failed to provide adequate reasons for her decision.

[22] The applicant further submits that the IC failed to address the burden of proof or the requisite intent for a finding of guilt. She further contends that the means of defence she presented raised a reasonable doubt as to her guilt.

B. *Respondent's position*

[23] The respondent submits that the IC's decision contains no error that would warrant the Court's intervention. First, the respondent argues that the IC clearly indicated that she was convinced beyond a reasonable doubt that the applicant had committed the offence with which she was charged. It is therefore clear that she set out and applied the correct standard of proof, namely, proof beyond a reasonable doubt.

[24] As for the finding of guilt, the respondent maintains that it was entirely reasonable, in light of the evidence of the implementation of a premeditated plan to produce false receipts, for the IC to have determined that the applicant had deliberately breached the agreement.

[25] The respondent alleges that the applicant's line of argument ignores the entire issue regarding the creation of false receipts. The respondent insists on the fact that the IC provided her with an opportunity to explain her actions with respect to this determinative aspect of the evidence, but that she refused to do so. The applicant therefore never raised a defence regarding the determinative component of the case, namely, that she had fraudulently produced false receipts.

[26] The respondent adds that the situation in this case differs from the context found in *Ayotte*, above, and that here, the IC had weighed and analyzed the evidence as a whole in a fair manner.

[27] The respondent further submits that the obligation to provide reasons for a decision must be analyzed having regard to the principles set out in *Newfoundland and Labrador Nurses' Union v Newfoundland and Labrador (Treasury Board)*, 2011 SCC 62, [2011] 3 SCR 708 [*Newfoundland and Labrador Nurses' Union*] and that the Court must assess the reasons for the decision together with the outcome in order to determine whether the decision falls within a range of possible outcomes.

VI. **Analysis**

[28] I find that the arguments raised by the applicant cannot succeed.

(1) Did the IC err by failing to make a determination as to the means of defence raised by the applicant?

[29] The applicant submits that she offered a reasonable excuse to explain why she had procured clothing from outside sources, namely, that she was in a state of need, and that the IC erred by failing to address this means of defence.

[30] First, I am of the view that the IC was under no obligation to address every conceivable means of defence; she was supposed to consider means of defence that were likely to raise a reasonable doubt and to influence the assessment of her possible guilt. In *Ayotte*, above, an inmate was sanctioned for having refused to provide a urine sample. At the hearing before the

IC, the inmate claimed that he had been unable to provide the required sample depite having made several attempts to do so. The defence that was raised was directly linked to the inmate's intention to commit the alleged offence. Justice Létourneau staed as follows:

> [19] The chairperson of the court could not disregard the only true defence raised by the appellant without compromising procedural fairness and failing in his duty to hold a full hearing. To repeat the remarks of Denault J. in *Hendrickson*, *supra*, or of Addy J. in *Blanchard*, *supra*, he should have examined "both sides of the question". He could dismiss the defence advanced by the appellant, but he could not disregard it in light of the evidence submitted.
>
> [20] Similarly, he could weigh and assess the evidence submitted by the appellant in support of his defence but he could not ignore it: *Canada (Attorney General) v. Primard*, [2003] F.C.J. No. 1400; *Maki v. The Canada Employment Insurance Commission et al.*, [1998] F.C.J. No. 1129; *Boucher v. Canada (Attorney General)*, [1996] F.C.J. No. 1378; *Lépine v. Canada (Employment and Immigration Commission*, [1990] F.C.J. No. 131; *Rancourt v. Canada (Employment and Immigration Commission)*, [1996] F.C.J. No. 1429.
>
> [Emphasis added.]

[31] Still in *Ayotte*, at para 9, the Federal Court of Appeal reiterated the applicable principles regarding the role and responsibilities of ICs with respect to charges of disciplinary offences as follows:

> In *Hendrickson v. Kent Institution Disciplinary Court (Independent Chairperson)* (1990), 32 F.T.R. 296 (F.C.T.D.), the Honourable Mr. Justice Denault identified the following six principles based on the *Martineau case*, *supra*, in particular, that apply to the prosecution of disciplinary offences in the prison environment:
>
> > 1. A hearing conducted by an independent chairperson of the disciplinary court of an institution is an administrative proceeding and is neither judicial nor quasi-judicial in character.
> >
> > 2. Except to the extent there are statutory provisions or regulations having the force of law to the contrary, there is no requirement to conform to any

> particular procedure or to abide by the rules of evidence generally applicable to judicial or quasi-judicial tribunals or adversary proceedings.
>
> 3. There is an overall duty to act fairly by ensuring that the inquiry is carried out in a fair manner and with due regard to natural justice. The duty to act fairly in a disciplinary court hearing requires that the person be aware of what the allegations are, the evidence and the nature of the evidence against him and be afforded a reasonable opportunity to respond to the evidence and to give his version of the matter.
>
> 4. The hearing is not to be conducted as an adversary proceeding but as an inquisitorial one and there is no duty on the person responsible for conducting the hearing to explore every conceivable defence, although there is a duty to conduct a full and fair inquiry or, in other words, examine both sides of the question.
>
> 5. It is not up to this Court to review the evidence as a court might do in a case of a judicial tribunal or a review of a decision of a quasi-judicial tribunal, but merely to consider whether there has in fact been a breach of the general duty to act fairly.
>
> 6. The judicial discretion in relation with disciplinary matters must be exercised sparingly and a remedy ought to be granted "only in cases of serious injustice" (Martineau No 2, p. 360).

[10] For the chairperson of the tribunal, who is obliged to conduct a full and impartial hearing, the non-adversarial nature of the prison disciplinary process can give rise to the obligation to question witnesses, including the prisoner charged with the offence: *Re Blanchard and Disciplinary Board of Millhaven Institution and Hardtman*, [1983] 1 F.C. 309 (F.C.T.D.).

[11] Simply put, the prison disciplinary process calls for flexibility and efficiency, but flexibility and efficiency that must be sought and achieved through procedural fairness and compliance with the mandatory provisions of the law. Now let us turn to see what happened in the case under appeal

[My emphasis]

These principles were recently reiterated in *Gendron*, above, at para 15.

[32] It therefore follows, in my view, that the IC was under no obligation to explore every conceivable means of defence, but that she was instead supoosed to analyze all of the evidence and consider any means of defence that, if accepted, would influence the assessment of the inmate's guilt or raise a reasonable doubt.

[33] With respect, I do not find the means of defence in this case to be determinative and the IC was under no obligation to specifically address it in her decision. The fact that the applicant needed to procure clothing before receiving the remainder of her personal effects from the Institution was incidental. The problem does not reside in the fact that the applicant needed to procure additionnal clothes before her personal effects were sent by the Institution, but in the fact that she indicated having purchased these clothes and was unable to support her statement with receipts that were deemed to be acceptable.

[34] Indeed, the situation evolved considerably after the offence report was issued in which the applicant was charged with procuring items from outside sources. The evidence showed that when the applicant received the offence reoprt, she denied the charge made against her and claimed that she had purchased these items and had asked Ms. Guillemette if she could retreive them by providing receipts. Ms. Guillemette accepted the request. Later, the evidence showed that the applicant admitted to having sought to falsify the receipts. In addition, citing a fear of self-incrimination, the applicant refused to answer questions about the receipts sent to her by her grandmother. She then attempted to justify these purchases through transaction statements of

purchases made at Sears by her grandmother and through a receipt from the Centre de Partage Communautaire Johannais dated September 3, 2013. Virtually all of these purchases had been made either well before or after her stay at the IPPM. The evidence further demonstrated that she had not received authorization from IPPM staff to purchase items from Sears or from another outside source. Thus, the context that gave rise to the offence report had changed and so the reasons for which the applicant claimed to have procured the clothes became quite incidental.

[35] Moreover, the agreement did not prohibit the applicant from obtaining clothes; it was the manner in which she obtained these clothes that posed a problem. The agreement provided for the possibility of the applicant procuring clothes from internal suppliers at the IPPM and was not concerned with her reasons for doing so, on condition that she provided receipts. In addition, it appears from the evidence that Ms. Guillemette had indicated to the staff at the IPPM that it was up to them to assess the needs of the applicant. She therefore recognized that it was possible that the applicant had aquired clothing during her stay at the IPPM with the authorization of IPPM staff. Thus, the applicant had a number of means by which she could obtain clothing, possibly even from outside sources, if she had acted with the authorization of the IPPM. What the applicant is truly being faulted for, is having denied that she had smuggled in clothing from outside sources by claiming that she had purchased the items in question only to subsequently produce receipts that were either falsified or that indicated that the items had been purchased by outside persons.

[36] Given such a context, the IC was not required, in my opinion, to address a means of defence that was not at the heart of the issue of whether the applicant was guilty of the offence with which she was charged.

[37] The remarks of Justice Abella in *Newfoundland and Labrador Nurses' Union*, above, appear to me to be entirely applicable to this case:

> 15 In assessing whether the decision is reasonable in light of the outcome and the reasons, courts must show "respect for the decision-making process of adjudicative bodies with regard to both the facts and the law" (*Dunsmuir*, at para. 48). This means that courts should not substitute their own reasons, but they may, if they find it necessary, look to the record for the purpose of assessing the reasonableness of the outcome.
>
> 16 Reasons may not include all the arguments, statutory provisions, jurisprudence or other details the reviewing judge would have preferred, but that does not impugn the validity of either the reasons or the result under a reasonableness analysis. A decision-maker is not required to make an explicit finding on each constituent element, however subordinate, leading to its final conclusion (*Service Employees' International Union, Local No. 333 v. Nipawin District Staff Nurses Assn.*, [1975] 1 S.C.R. 382, at p. 391). In other words, if the reasons allow the reviewing court to understand why the tribunal made its decision and permit it to determine whether the conclusion is within the range of acceptable outcomes, the *Dunsmuir* criteria are met.

(2) Did the IC err in her assessment of the applicant's guilt?

[38] First, it appears clear from the IC's decision that she set out and applied the correct standard of proof, namely, proof beyond a reasonable doubt. It also appears from the decision that the IC indicated having been persuaded beyond a doubt that the applicant had committed the offence with which she was charged.

[39] Second, in finding the applicant guilty of having deliberately contravened the agreement, the IC made a reasonable decision with regard to the evidence submitted and in regard to the applicant's choice to decline to speak of the letter sent to her grandmother and the receipts sent back to her by her grandmother.

[40] The IC provided reasons for her decision by citing the following elements:

- Ms. Guillemette explained in great detail the process that occurs when an inmate is transferred to the IPPM. She also explained that, in the past, inmates had been allowed to purchase items at Sears, but that this option was no longer available to them.
- A review of the items that were seized convinced her that the items the applicant had in her possession at the time of her transfer to the IPPM were not the same as those that had been seized.
- Ms. Guillemette had described the meeting in which Mr. Desroches and Ms. Turcotte had participated and during which the applicant admitted having asked her grandmother to send her blank receipts and to fill out one with the list of items she had included in the letter.
- The completed receipt and the blank receipts bore sequential numbers. The writing on the completed receipt appears to be the same as the writing on the envelopes, namely, that of the applicant's grandmother.
- Mr. Desroches also stated that the applicant had admitted to having asked her grandmother to send her receipts.
- The applicant demonstrated that she knew the regulations well, but that she undoubtedly was not aware that it was no longer possible to purchase clothes from Sears.
- The purchases at Sears were made in January and in March 2013 and the applicant had testified that she had been planning to go to the IPPM since January 2013.

- She was not convinced by the applicant's explanations to the effect that she allegedly asked her grandmother to return to the Centre de Partage Communautaire Johannais in September 2013 to obtain a more detailed receipt.

[41] I therefore find that the IC analyzed all of the relevant evidence and made a determination that falls within a range of possible, acceptable outcomes (*Dunsmuir v New Brunswick*, 2008 SCC 9 at para 47, [2008] 1 SCR 190). Thus, the intervention of Court is not warranted.

JUDGMENT

THE COURT ORDERS AND ADJUDGES that the application for judicial review is dismissed with costs.

"Marie-Josée Bédard"

Judge

Certified true translation
Sebastian Desbarats, Translator

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	T-2057-13
STYLE OF CAUSE:	MÉLANIE ALIX v ATTORNEY GENERAL OF CANADA
PLACE OF HEARING:	MONTRÉAL, QUEBEC
DATE OF HEARING:	AUGUST 12, 2014
JUDGMENT AND REASONS:	BÉDARD J.
DATED:	NOVEMBER 6, 2014

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