

Canadian Human  
Rights Tribunal



Tribunal canadien  
des droits de la personne

**Between:**

**Lawrence Pelletier et al.**

**Complainants**

**- and -**

**Canadian Human Rights Commission**

**Commission**

**- and -**

**Correctional Service of Canada**

**Respondent**

**Ruling**

**Member:** George E. Ulyatt

**Date:** October 16, 2013

**Citation:** 2013 CHRT 26

[1] The Canadian Human Rights Commission (the “Commission”) has filed a motion for disclosure by way of a motion dated September 18, 2013.

[2] The Commission has argued that the requests are relevant to the issues, facts and/or remedies before the Tribunal of this case. The Commission, in its brief, has set forth the facts which are based on the disclosure and the Respondent argues that the requests are not disclosure documents but an attempt to exercise a discovery process.

[3] On June 28<sup>th</sup>, 2013, the Commission requested disclosure of relevant information including, but not limited to, the following:

- a) The number of Elders at the Saskatchewan Penitentiary at the time of this complaint and their spiritual/traditional background and/or religious denomination;
- b) The spiritual/traditional background and/or religious denomination of the Elders CSC assigned to work with the Complainants;
- c) The number of priests at the Saskatchewan Penitentiary at the time of this complaint and their religious denomination;
- d) The number of other religious leaders (non-Aboriginal and non-Christian) at the Saskatchewan Penitentiary at the time of this complaint and their religious affiliations;
- e) Any document electronic or otherwise related to the restriction of the use of pipes and smudging within CSC’s facilities, including smudging in cells; and
- f) Any information related to human rights or sensitivity training provided to CSC’s employees with respect to accommodation of Aboriginal inmates’ spiritual and cultural needs;

[4] The Commission has indicated in its brief that items a) and c) are no longer being pursued. Counsel for the Respondent, Mr. Staska, has advised that the Respondent has provided

the Commission with information requested in paragraph 11. (f) of the Commission's motion for disclosure.

[5] Counsel for the Commission, Mr. Warsame, confirmed that the only outstanding issues are those outlined in paragraph 11. b), 11. d) and 11. e) of the Commission's motion for disclosure dated September 18, 2013. The Commission, in its brief, relied on the Canadian Human Rights Tribunal's *Rules of Procedure* provided at Rule 6 in arguing that the parties must disclose all arguably relevant materials to the matter of the hearing. Rule 6 states the following:

d) a list of all documents in the party's possession, for which no privilege is claimed, that relates to a fact, issue, or form of relief sought in the case, including those facts, issues and form of relief identified by other parties under this rule;

[6] The Commission has argued that the threshold for relevancy is a low threshold and the Respondent must make full disclosure.

[7] The Commission, in its brief, also sites case law to support its request for disclosure including *Tannis et al. v. Calvary Publishing Corp and Glen Robbins*, 2000 BCHRT 26, 38 C.H.R.R. D/277 at para. 44, *Brady v. Interior Health Authority*, 2005 BCHRT 200 (CHRR Doc. 05-246) at paras. 51, 54, and *Metcalf. V. International Union of Operating Engineers, Local 882 and others* (No.7), 2005 BCHRT 165 at para. 11 (Tabs 6, 7 and 8 of the Commission's brief);

[8] Fundamental to the claim is the *Canadian Human Rights Act* and the Canadian Human Rights Tribunal's *Rules of Procedure*, which quantifies rules of natural justice.

[9] In reviewing the request made by the Commission, respecting items 11. b) and 11. d), I find that the requests are more discovery requests rather than disclosure. Furthermore, I find that the information requested by the Commission has already been provided by the Respondent in its submissions in the response to the Commission's motion.

[10] The outstanding issue of paragraph 11. e) of the Commission's motion for disclosure is certainly proper documentation that ought to be disclosed to the Commission and to the Complainants.

[11] The Tribunal thereby orders the Respondent to disclose to the Commission and to the Complainants any document electronic or otherwise related to the restrictions of the use of pipes and smudging within CSC's facilities, including smudging in cells.

*Signed by*

George E. Ulyatt  
Tribunal Member

Ottawa, Ontario  
October 16, 2013

# **Canadian Human Rights Tribunal**

## **Parties of Record**

**Tribunal File:** T1746/10111

**Style of Cause:** Lawrence Pelletier et al. v. Correctional Service of Canada

**Ruling of the Tribunal Dated:** October 16, 2013

### **Appearances:**

Donna Shannon, for the Complainants

Ikram Warsame, counsel for the Canadian Human Rights Commission

Kevin Staska and Dhara Drew, counsel for the Respondent