

Canada Labour Code
Part II
Occupational Health and Safety

Frank Perrotti and Union of Canadian
Correctional Officers – CSN
applicant

and

Correctional Service Canada
respondent

Decision No.: 06-029
September 11th, 2006

This appeal was formed under subsection 129(7) of the *Canada Labour Code*, Part II, and decided by appeals officer Katia Néron.

For the applicant

Frank Perrotti, correctional officer

For the respondent

Lucette L'Espérance, assistant director, Management Services, Cowansville Institution,
Correctional Service Canada

Health and Safety Officer

Pierre Morin, Human Resources and Social Development Canada, Labour Program,
Montreal, Quebec

- [1] This case concerns an appeal submitted by Frank Perrotti on February 7, 2006 under subsection 129(7) of the *Canada Labour Code*, Part II, against a decision of no danger issued by health and safety officer (HSO) Pierre Morin on January 31, 2006.
- [2] According to HSO Morin's investigation report, on January 31, 2006, around 8 a.m., F. Perrotti, a level 1 correctional officer (CX 1) at Cowansville Institution who was acting as a level 2 correctional officer (CX 2), refused to escort, without being armed, an inmate to the Granby radiology clinic, because he was afraid that the inmate would try to escape and would therefore attack him during the escort. F. Perrotti's fear was based on the following information:

- an internal report on the inmate, dated May 24, 2005, indicating that there was a risk of escape. The report also mentioned that the inmate had been convicted twice for illegal escape in 2000;
- F. Perrotti had been informed that somebody had expressed a dissident opinion during the discussions held the day before to decide if the escort was to be armed

[3] F. Perrotti's refusal to work is as follows:

[TRANSLATION]

Pursuant to section (127)6.1) of the *Canada Labour Code*, I am advising you that I refuse to escort inmate Mc Cabe to the Granby radiology clinic because the escort will be unarmed and therefore unsafe for the officers.

According to the information and despite what is written in the inmate's assessment grid, a dissident opinion was heard during the discussions where it was recommended that the escort be armed.

Given the report dated May 24, 2005, it is specified, and I quote: "The inmate will probably not attempt to escape, but he could try if he had the possibility."

He shows grave difficulties in managing his responsibilities with regards to supervision criteria.

In this regard, he was convicted twice for failing to appear.

Moreover, he made an illegal escape in 2000.

Finally, given the inmate's file and the dissident opinion, I believe that an unarmed escort is somewhat unsafe and that it is dangerous not only for the officers but also the public at large.

[4] During F. Perrotti's refusal to work investigation, Lucette L'Espérance, assistant director, Management Services, Cowansville Institution, was informed by Alessandria Page, unit manager, section 11, where the inmate is incarcerated, that the following persons participated to the assessment made to decide about the outside escort of the inmate:

- Yves Dufour, conditional release officer;
- Caroline Bouchard, conditional release officer;
- Christine Boudreau, CX1 correctional officer, acting conditional release officer;
- René Gagnon, correctional supervisor;
- Marie-Claude Chaumont, CX1 correctional officer, acting conditional release officer;
- Gérald Cloutier, CX1 correctional officer, acting CX2 correctional officer
- Suzie Pelletier, CX2 correctional officer, acting conditional release officer.

- [5] The conclusions that these persons arrived at, as noted in the document “Assessment for the Use of Firearms during Medical Escorts”, were the following:
- the inmate did not meet any of the criteria justifying an armed security escort;
 - the inmate had no prior escape record and no links with organized crime;
 - the inmate’s file did not contain any data on incidents or threats involving employees of Cowansville Institution.
- [6] Therefore, L. L’Espérance maintained that the escort was to be done according to the institutional document dated January 30, 2006 and entitled “Temporary Absences and Work Release”, issued for that escort and signed by Cowansville Director, France Poisson.
- [7] As F. Perrotti continued to refuse to escort the inmate, HSO Morin was called to investigate on January 31, 2006, around 3 p.m. He did the investigation on that same day.
- [8] HSO Morin decided that there was no danger for F. Perrotti, his co-worker and the public at large, for the following reasons:
- the institution “Assessment for the Use of Firearms during Medical Escorts” dated January 30, 2006 was completed as required by internal procedures;
 - among the participants to the inmate’s assessment were employees as well as employer’s representatives, who made the recommendation that the escort take place without firearms;
 - the unit manager and the institution director both endorsed the assessment committee’s recommendation and signed the report indicating their decision that the escort be unarmed and that the restraint equipment was sufficient given the risk;
 - the inmate made no verbal or physical threats to F. Perrotti on the previous days and nothing indicated that there would be an assault.
- [9] HSO Morin confirmed his no danger decision in writing on January 31, 2006.
- [10] On July 17, 2006, F. Perrotti confirmed in writing that he was withdrawing his appeal.
- [11] In his letter, F. Perrotti declared that after discussions with Pierre Ouellet, his health and safety representative on the local health and safety committee, they agreed that they would collaborate with the employer to arrive at a consensus on possible amendments to the inmates’ assessment in the context of security escorts outside the institution.

[12] Given F. Perrotti's letter and HSO Morin's investigation report, I agree to the withdrawal of the appeal and confirm that the file is closed.

Katia Néron
Appeals Officer

Summary of Appeals Officer's Decision

Decision No.: 06-029

Applicant: Frank Perrotti and Union of Canadian Correctional Officers – CSN

Respondent: Correctional Service Canada

Keywords: Withdrawal, medical escort, firearms, inmates' assessment process

Provisions: *Canada Labour Code: 129(7)*

Summary:

On February 7, 2006, Mr. Frank Perrotti exercised his right to refuse work because he believed that the unarmed escort of an inmate to the Granby radiology clinic was unsafe and dangerous. On July 17, 2006, F. Perrotti wrote that he was withdrawing his appeal because he was working with his employer to arrive at a consensus on possible amendments to the inmates' assessment in the context of security escorts outside the institution.