



**Date: 20180524**

**Docket: T-1423-17**

**Citation: 2018 FC 539**

**Montréal, Quebec, May 24, 2018**

**PRESENT: The Honourable Mr. Justice Lafrenière**

**BETWEEN:**

**STEVE LARRIVÉE**

**Applicant**

**and**

**ATTORNEY GENERAL OF CANADA**

**Respondent**

**JUDGMENT AND REASONS**

**I. Introduction**

[1] This is an application for judicial review of a decision, dated August 8, 2017, of the Appeal Division of the Parole Board of Canada (Appeal Division) confirming a decision by the Trial Division of the Parole Board of Canada (the Board) dated February 27, 2017. The Board denied the request to be released of the applicant, Steve Larrivée, and authorized his detention.

[2] For the reasons that follow, the application for judicial review is dismissed.

II. Facts

[3] The following factual basis facilitates understanding of the decision at issue.

[4] Mr. Larrivée's criminal history began in 2007 when he found out that his former spouse and mother of his son had developed a romantic relationship with another man. Mr. Larrivée developed obsessive thoughts about his ex-spouse and her new partner. Between 2007 and 2010, he terrorized both of them by harassing and threatening them and committing numerous wrongdoings against them. In 2008, he was charged with and convicted for uttering threats against his ex-spouse. He was subject to restraining orders he failed to respect.

[5] On May 3, 2012, Mr. Larrivée was found guilty and sentenced to 4 years and 5 months of imprisonment for mischief against the sugar bush owned by his former spouse's new partner, criminal harassment and failure to comply with an order.

[6] Between 2013 and 2015, Mr. Larrivée continued to have obsessive thoughts about his ex-spouse and her new partner during his incarceration. He also increased his efforts to gain custody of his son. On October 23, 2015, he was sentenced to 2 years of imprisonment for having asked fellow inmates to go set fire to the home of his former spouse and her new partner and to assault them. Mr. Larrivée was declared a long-term offender and was subject to a long-term supervision order of three years.

[7] On April 20, 2015, Mr. Larrivée's correctional plan stated that he lacks empathy and remorse for the consequences the victims had faced. On the contrary, he continued to believe that

his actions were justified. On September 21, 2015, a psychological report stated that Mr. Larrivée denies all responsibility for the offences he committed. In addition, the psychologist who wrote the report considered the risk of recidivism with offences against his ex-spouse to be high.

[8] On January 29, 2016, an Assessment for Decision reiterated that Mr. Larrivée feels no remorse for the acts he committed or the consequences of those acts. Mr. Larrivée feels he had no choice but to act as he did in the best interest of his son. He continues to be convinced that these acts helped resolve the situation and to unrelentingly pursue action to gain custody of his son. In addition, the victims still fear that he will attack them if he is released.

[9] On March 21, 2016, the program report on Mr. Larrivée's participation in the moderate-intensity Integrated Correctional Program Model stated that he was not very involved in the program. Thus, there was no real progress in his condition and reflection.

[10] Mr. Larrivée appeared before the Board in May 2016 to request day parole, which was denied. A few months prior to his hearing, Mr. Larrivée had been transferred to the Regional Mental Health Centre, which is located at the medium-security Archambault Institution, because of suicidal behaviour.

[11] On January 19, 2017, Mr. Larrivée's ex-spouse sent a letter in which she said she would fear for her life if he were released.

[12] On February 26, 2017, a memorandum on the initial treatment plan summary stated that, since being incarcerated, Mr. Larrivée had increased his efforts to take legal action to gain custody to the extent that his former spouse was trying to have him declared a vexatious litigant.

[13] On February 27, 2017, Mr. Larrivée appeared before the Board again, this time, for a detention hearing. The Board denied his release and authorized his detention. The Board finds that there are reasonable grounds to believe that, before the expiration of his sentence according to law, Mr. Larrivée will commit an offence causing serious harm to another person, particularly his ex-spouse and her new partner. It says it is convinced that Mr. Larrivée had made little progress, had no remorse and continued to believe that he was justified in committing his offences.

[14] On April 25, 2017, Mr. Larrivée appealed the Board's decision through written submissions. On August 8, 2017, the Appeal Division rejected his appeal. The Appeal Division found that the Board's analysis was based on reliable and persuasive information in Mr. Larrivée's file and that it was not unreasonable for the Board to conclude that Mr. Larrivée meets the detention criteria.

[15] Mr. Larrivée filed this application for judicial review on September 20, 2017. He argues that the decisions of the Board and Appeal Division have substantive and procedural defects and are thus invalid.

### III. Issues in dispute

[16] This case raises the following issues:

A. *Did the Appeal Division violate the rules of procedural fairness by not postponing the hearing, when the applicant consented to proceed?*

B. *Did the Appeal Division render an unreasonable decision?*

IV. Standard of review

[17] Issues of fairness and natural justice are questions of law to be reviewed for correctness (*Mission Institution v. Khela*, 2014 SCC 24 at paragraph 79; *Canada (Citizenship and Immigration) v. Khosa*, 2009 SCC 12 at paragraph 12).

[18] For issues relating to the conditional release of incarcerated individuals, the Court must give great deference to the Board's findings of fact and to the application of the *Corrections and Conditional Release Act*, SC 1992, c 20, and its Regulations. The reasonableness standard of review applies to these issues (*Dunsmuir v. New Brunswick*, 2008 SCC 9 at paragraphs 54-64).

V. Analysis

A. *Did the Appeal Division violate the rules of procedural fairness by not postponing the hearing, when the applicant consented to proceed?*

[19] Mr. Larrivée argues that the Board violated the rules of fairness by failing to stop the hearing to allow him to file a document he considers important. He contends that the Board was obligated to stop the hearing and postpone it. He argues that the Appeal Division, which upheld the Board's conclusions, also violated procedural fairness. Mr. Larrivée criticizes the Appeal Division for finding in its decision that all documentation had been shared with him and that he

had said he was ready to proceed, despite the missing documents. This argument has no basis, for at least three reasons.

[20] Firstly, Mr. Larrivée and his assistant had been advised before the hearing of the documents the Board planned to use. They did not dispute the list of documents and did not request a delay at the hearing to file additional documentation.

[21] Secondly, Mr. Larrivée agreed to proceed with the hearing after realizing that certain documents he considered important had not been filed. That was his choice. Of course, the Board had the discretion to adjourn the hearing; however, it was not required to do so in the specific circumstances of this case.

[22] Thirdly, Mr. Larrivée did not file any evidence before the Board, the Appeal Division or this Court on the importance or relevance of the documents he wished to file.

[23] Mr. Larrivée did not establish that the Board had violated a principle of fundamental justice. Furthermore, it was reasonable for the Appeal Division to conclude, in light of the evidence on file, that all of the documents the Board considered were shared with Mr. Larrivée.

B. *Did the Appeal Division render an unreasonable decision?*

[24] Mr. Larrivée criticizes the Board for placing too much importance on certain documents, for rendering its decision with incomplete information and for ignoring all of the relevant

information. Mr. Larrivéé also criticizes the Appeal Division for failing to consider the submissions of his counsel or to explain why they were not considered.

[25] Mr. Larrivéé has not established that the Appeal Division ignored his written submissions or that it failed to consider them. On the contrary, the submissions presented on his behalf are expressly addressed in the reasons.

[26] Mr. Larrivéé is essentially asking this Court to reassess the finding of the Board, which was confirmed by the Appeal Division, with regard to the weight of each element on file. It is, of course, not the Court's role on judicial review to reweigh the evidence or to substitute a conclusion for that reached by the appointed decision-maker.

[27] In a judicial review, the Court must determine whether the decision falls within a range of possible, acceptable outcomes. The reliable and objective evidence on file shows that Mr. Larrivéé continues to feel spite toward the victims. He has made little progress, shows very little remorse and continues to feel his acts are justified. He also participated very little in the various programs, and his involvement was purely utilitarian. Therefore, it was reasonable for the Board to give more weight to the persuasive and corroborated evidence provided by the Correctional Service than to Mr. Larrivéé's self-serving statements at the hearing. In addition, its finding that Mr. Larrivéé demonstrates persistent violent behaviour and that incarceration is the only possible option in his case is unchallengeable.

[28] I cannot find any errors in the assessment of the evidence, by either the Board or the Appeal Division.

VI. Conclusion

[29] Since I agree with the substance of the written submissions filed on behalf of the respondent, which I adopt and make mine, I find that the application should be dismissed, with costs.



**JUDGMENT IN FILE T-1423-17**

**THIS COURT'S JUDGMENT is that:**

The application is dismissed.

The whole with costs against the applicant of \$300.

“Roger R. Lafrenière”

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Judge

**FEDERAL COURT**  
**SOLICITORS OF RECORD**

**DOCKET:** T-1423-17

**STYLE OF CAUSE:** STEVE LARRIVÉE v ATTORNEY GENERAL OF CANADA

**PLACE OF HEARING:** MONTRÉAL, QUEBEC

**DATE OF HEARING:** MAY 23, 2018

**JUDGMENT AND REASONS:** LAFRENIÈRE J.

**DATED:** MAY 24, 2018

**APPEARANCES:**

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