

CANADA / JUDGMENT

Cain v. Correctional Service Canada

2026 CHRT 37

COURT

Canadian Human Rights Tribunal

DECIDED

16 April 2026

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Collection

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File number(s)

HR-DP-3053-24, HR-DP-3073-24, HR-DP-3074-24, HR-DP-3075-24

Decision-maker(s)

Khurana, Jennifer

Decision type

Ruling

Grounds

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Canadian Human

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Citation: 2026 CHRT 37

Date: April 16, 2026

File Nos. : HR-DP-3053-24, HR-DP-3073-24, HR-DP-3074-24, HR-DP-3075-24 &
HR-DP-3076-24

Between:

Jason Cain

John Sargeant

Ron Mayers

Complainants

- and -

Canadian Human Rights Commission

Commission

- and -

Correctional Service Canada

Respondent

Ruling

Member:

Jennifer Khurana

I. OVERVIEW [1] John Sargeant, Jason Cain and Ron Mayers (the “Complainants”) are Black men who are or have been incarcerated and who allege that Correctional Service Canada (CSC), the Respondent, engages in discriminatory practices in the provision of services based on grounds of race, colour, national or ethnic origin and sex contrary to the Canadian Human Rights Act, RSC 1985, c H-6) (the “Act”). I assigned three different Tribunal members to hear and decide their cases.

- [2] The Complainants and the Canadian Human Rights Commission (“the Commission”) (collectively, the Moving Parties) want me to reassign two of the complaints so that the same member hears all three cases, one after the other. In the alternative, the Moving Parties ask that I consolidate the files to be heard as a single inquiry, that I join them to be heard by a three-member panel, or that a panel decides one of the files as a “lead case” that the remaining members could consider following.
- [3] The Moving Parties argue the Complainants’ allegations form a pattern of systemic discrimination that requires a unified approach to adjudication. CSC opposes the motion because the complaints include distinct allegations of discrimination at different correctional institutions, involving different individuals during different time periods. It says the Moving Parties are trying to transform unrelated proceedings into a public inquiry into systemic discrimination against Black inmates in federal custody and that the proposed approaches to consolidation will delay the proceedings, be practically inefficient and will prejudice them.
- [4] On January 14, 2026, I told the parties that I was dismissing the motion, with reasons to follow. These are my reasons, which reflect the status of the files at the time I dismissed the motion. Each proceeding has moved on since then. The parties in Sargeant recently settled the complaints and are waiting for the Commission to approve the minutes of settlement. The assigned members in Cain and Mayers determined CSC motions about the scope of the complaints (2026 CHRT 16 and 2026 CHRT 26, respectively). The parties in Cain have not completed their pleadings, disclosure or witness lists and in Mayers the Tribunal is setting hearing dates for later this year.

II. DECISION [5] I dismissed the motion because the Moving Parties’ proposals do not favour the fair and expeditious resolution of these complaints. Making allegations of systemic discrimination is not reason alone to justify reassigning or joining the files and there are not sufficiently common issues of fact and law to warrant any form of consolidation. Formal consolidation of complaints at different procedural stages would create a lengthy, unmanageable proceeding and prejudice CSC.

III. LEGAL FRAMEWORK [6] The Tribunal must conduct proceedings as informally and expeditiously as the requirements of natural justice and the rules of procedure allow (s.48.9(1) of the Act and Rule 5 of the Canadian Human Rights Tribunal Rules of Procedure, 2021) [the “Rules”].

- [7] The Tribunal is not a commission of inquiry into general allegations of discrimination in the correctional system. It is the Tribunal’s responsibility to ensure it respects its mandate and stays within its legislative confines. It is an adjudicative body, not an investigative one, nor a Royal Commission (*Moore v. British Columbia (Education)*, 2012 SCC 61 at para 64; *Richards v. Correctional Service Canada*, 2025 CHRT 57 at para 49).

- [8] The Chairperson is responsible for the supervision and direction of the work of the Tribunal, including the allocation of work among the members and the management of the Tribunal's internal affairs (s.48.4(2) of the Act).
- [9] The Tribunal is master of its own procedure (*Prasad v. Canada (Minister of Employment and Immigration)*, [1989] 1 SCR 560 at 568-9 and may decide all questions of law or fact necessary to determining any matter under inquiry (s.50(2), including whether to consolidate separate complaints.
- [10] The Tribunal may order that complaints be heard together if it determines it is appropriate to do so on the facts and law (*Lattey v. Canadian Pacific Railway*, 2002 CanLii 45928 at paras 11-12 [Lattey]). In deciding whether to hear complaints together, the Tribunal should consider:
1. The public interest in avoiding a multiplicity of proceedings, including considerations of expense, delay, the convenience of the witnesses, reducing the need for the repetition of evidence, and the risk of inconsistent results;
 2. The potential prejudice to the respondents that could result from a single hearing, including the lengthening of the hearing for each respondent as issues unique to the other respondent are dealt with, and the potential for confusion that may result from the introduction of evidence that may not relate to the allegations specifically involving one respondent or the other; and
 3. Whether there are common issues of fact or law.

Lattey, *supra*, at para 13.

- [11] These factors are not exhaustive, and the Tribunal will consider whether to hear complaints together on a case-by-case basis (*Karas v. Canadian Blood Services and Health Canada*, 2020 CHRT 12 at para 17). Complaints do not need to be identical to proceed together (see *Andrews v. Aboriginal Affairs and Northern Development Canada*, 2011 CHRT 22 at para 10).

IV. ANALYSIS The use of “consolidation” and “joinder” by the Moving Parties

- [12] In their motion materials, the Moving Parties repeatedly refer to “consolidation” and “joinder”. Yet in their reply submissions, the Moving Parties say they have a “limited request” and a “straightforward procedural change”, namely the assignment of the three inquiries to the same member to be heard consecutively. This is their “preferred approach to consolidation” because they say it would not impact the status of the files, disclosure obligations or the Tribunal's records.
- [13] “Consolidation” or “joinder” means that complaints proceed together, at least to some degree. Reassignment is not consolidation. Nonetheless, the motion materials and reply submissions reference other options including actual consolidation, even if not the Moving Parties' preferred approach. I have therefore addressed their submissions and requests

collectively. In any case, I do not find that any of the proposed options support the efficient and fair resolution of these complaints given the nature of the complaints, their stage of proceeding and the specifics of the allegations raised.

“Systemic” allegations do not require these files to be heard by the same member or to be joined

- [14] The Moving Parties argue that the Tribunal must address the complaints collectively to effectively consider allegations of systemic discrimination. They submit that the same adjudicator must hear all three inquiries to “explore the systemic issue at their root” and to identify patterns, draw comprehensive conclusions and craft effective systemic remedies.
- [15] Regardless of the scope of these complaints, the term “systemic” does not transform individual complaints into a public inquiry into allegations of systemic discrimination in the correctional system. Hearing allegations of systemic discrimination and making remedial orders to prevent the recurrence of discrimination in the event of a finding of liability does not depend on consolidation of complaints. Nor does it require that all files involving individuals with similar characteristics be assigned to the same adjudicator (*Francis v Air Canada* and *Antwi v Air Canada*, 2025 CHRT 71 at para 13 [*Francis* and *Antwi*], *Mercier and Besirovic et al. v Correctional Service of Canada et al.*, 2022 CHRT 19 at para 56 [*Mercier*]).
- [16] Further, a multi-complainant, multi-party inquiry is not needed to serve the interests and objectives of the Act. On the contrary, adding complexity and delay undermines the purposes of the Act. It is inconsistent with the intent of the Act, and does a disservice to the individual complainants in these files and to others who are waiting for their complaints to be heard.
- [17] I also reject the Moving Parties’ argument that the Federal Court recognised the need to consolidate cases like these. They rely on the Federal Court’s certification of a nation-wide Black inmate class action alleging discriminatory treatment of Black inmates by CSC (*Araya v Canada (Attorney General)*, 2023 FC 1688) and refer to a class action certification for employees alleging systemic racism at CSC. The Tribunal is not a class action tribunal. It is an administrative tribunal, with a defined statutory mandate. The parties can avail themselves of that regime if they want to.
- [18] While the Moving Parties rely on the Supreme Court of Canada’s decision in *Fraser v Canada (Attorney General)*, 2020 SCC 28 at para 57 and on *Radek v Henderson Development (Canada) and Securiguard Services (No. 3)*, 2005 BCHRT 302, for the principle that evidence from more than one complainant can be relevant and probative to establish systemic discrimination, neither case helps support their request for reassignment or consolidation. As CSC argues, this motion is not about whether the Tribunal can rely on corroborative evidence; it is about consolidation or reassignment. Neither case supports the Moving Parties’ claim that the same member needs to hear all cases involving individuals with the same protected characteristic, or that files must be joined for a complainant to make out a claim of systemic discrimination. The Tribunal regularly hears complaints from individuals who allege discrimination that may also be alleged by other Canadians who share those

same protected characteristics. Even assuming, without endorsing, the Moving Parties' arguments about the cross-pollination of evidence, they have not established why a different member could not make use of evidence from another proceeding in the same way as an individual member could.

- [19] Tribunal members are expected to address all the allegations before them in the cases I assign to them, including cases involving allegations of a systemic nature. Making out a case of discrimination – whether individual or systemic – is a matter of evidence, not consolidation, in whatever form. I agree with CSC that it is inappropriate to join complaints, adding delay and complexity in files that bear similarities only at the most general level, in the hope that a unifying thread will be discovered.

Not sufficient commonality in fact and law

- [20] The Moving Parties argue that the complaints, while “arising from distinct incidents and institutions”, collectively demonstrate widespread and deeply rooted anti-Black racism within CSC. They submit that “consolidation”, through a joint or consecutive hearing structure, would preserve the individuality of each complaint while ensuring that shared evidence is consistently addressed. Together with their motion materials, they included a chart summarising the Complainants' respective allegations.
- [21] This chart does not persuade me to reassign the files or adopt any of their proposed approaches to consolidation. On the contrary, it highlights that each complaint will require distinct evidence given the specific allegations and factual circumstances of each complaint.
- [22] For example, Mr. Mayers alleges CSC staff at Bath Institution in Ontario discriminated against him between October 2019 and August 2020 by denying him access to clothing because of his race, that COVID-19 protocols were applied to him in a discriminatory manner, and that they singled him out for rule enforcement in contrast to White inmates. Mr. Mayers also alleges CSC staff called him the “N-word” and “fucking monkey” and subjected him to racial profiling and stereotypes.
- [23] Mr. Sargeant's three complaints relate to alleged incidents at Matsqui institution in British Columbia between 2019 and 2020. Among other things, he alleges that he was transferred to maximum security after defending himself against a White attacker whereas the White inmate was not, that CSC denied him employment opportunities due to false statements about being “lazy”, and that he and others could not celebrate Black History Month. Mr. Sargeant also alleges his parole officer told him “you all look alike”, and that he was portrayed as “big, black, violent and uncontrollable” in official reports.
- [24] Mr. Cain filed a complaint alleging that he was discriminated against from March 2021 to January 2022 at Drummond Institution in Quebec. He makes a number of allegations, including that CSC denied family visits for Black inmates, that as a Black inmate working in reception he was forced to leave due to COVID-19 restrictions whereas White inmates were not, that he was subjected to assumptions about gang involvement without evidence, and

that he was accused of being intimidating and trying to force his way into an office after confronting an officer about differential treatment.

- [25] This overview confirms that each complaint raises distinct allegations involving different inmates, staff, potential witnesses, and institutional heads. None of the three complainants were in the same institution at the same time. Even if the complaints include allegations of underlying patterns of discrimination against Black inmates, the hearing into each of these complaints will necessarily involve an individual assessment of the evidence of each case and alleged incidents. There is no getting around the fact that disclosure will not be common and witness lists and evidence will be different, because the facts alleged are different. While the respondent is the same in each complaint, it is a large institutional actor, with different correctional staff involved in each alleged case.
- [26] All parties must be mindful of the dangers of making assumptions or stereotyping simply because all complainants share the same protected characteristic(s). Each complainant deserves to have his case heard and determined in a timely way. Each is also entitled to ensure the Tribunal's focus is on their individual experiences and is not distracted by attempts to transform this into a generalised inquiry.

The status of the six complaints is not temporally close

- [27] The Moving Parties argue that the "opportunity to consolidate the cases is timely" because the status of the complaints is temporally close.
- [28] This is incorrect. The three files have been and continue to be on different tracks.
- [29] At the time I dismissed the Moving Parties' request, Sargeant was the most advanced, and the parties were set to start a three-week hearing with Member Pickel in March 2026. In Mayers, Member Morgan had just adjourned a hearing that was supposed to start in December and had yet to determine CSC's motion regarding scope. Cain was at a very early stage of proceedings, the parties had not completed particulars, disclosure or witness lists and will-say statements. CSC's motion for particulars and to strike was also pending.
- [30] I agree with CSC that it is not possible to have all three matters heard on the same schedule in a consolidated proceeding. Either Cain and Mayers would have had to be impermissibly or unfairly sped up, or the other matters would have had to slow down so that Cain could catch up with the other two files.

The options will cause needless complexity, delay, and prejudice [31] The Moving Parties argue that having the same expert(s) appear in a consolidated case will avoid unnecessary repetition, costs and promote consistent findings. They submit that individual hearings would prejudice the Commission's public interest mandate and its ability to advance a systemic case under s.51 of the Act and use more resources than necessary.

- [32] These arguments are based on generic statements about the potential benefits of consolidation in the abstract. The Moving Parties have not explained how this would work in the specifics of complaints involving distinct allegations of discrimination. They have not established how their preferred approach, with one member hearing three inquiries, consecutively, would avoid recalling witnesses, even if I accept the assumption that there could be common witnesses (though none have been identified). Further, if the Moving Parties are seeking to present expert or fact witnesses' testimony across all the files, they have not specified by whom, on what basis, on what subjects, and for what reasons.
- [33] In reply submissions, the Moving Parties argue they will face significant prejudice in having to ask three different members to consider and assess "the same evidence" and to "rule on the same issues, evidence, discriminatory practice, and or/remedies sought". But they provide no witness lists to support this claim, nor do they explain how different factual circumstances will generate the "same evidence" or witnesses.
- [34] I agree with CSC that actual consolidation would create a risk of fragmentation and confusion resulting from the introduction of evidence that may not relate to allegations specifically involving one inquiry or another. Further, joining these files would result in an unwieldy, unworkable, multi-counsel, bilingual proceeding across different time zones, disproportionately lengthening the hearing for all and adding unnecessary complexity, without any obvious benefits.
- [35] CSC alone has three separate teams of counsel assigned to these files, in different provinces. Trying to find common times across three Complainant teams, the Commission, and CSC counsel across the country for case management calls, let alone hearing dates, will invariably slow down how quickly these parties could start a consolidated hearing. In Cain, the alleged events took place in Quebec, and many potential witnesses will testify in French, complicating what would already be a complex multi-party hearing for those who will require translation services. This goes far beyond an "administrative inconvenience" as the Moving Parties contend. Scheduling delays will impact the timeliness of case management and the hearings in these matters. The Tribunal has previously considered the risk of delay as a reason not to join cases (Francis and Antwi at para 27 and Mercier at paras 54-61).

The Moving Parties' proposals mean fewer resources will be dedicated to these proceedings and may prejudice other parties in other cases

- [36] At present, three Tribunal Members are assigned to the inquiries and are working on them simultaneously. Reassigning two of those inquiries to one of the members means the files would proceed one at a time. Rather than devoting three resources to the hearing of the complaints concurrently, the Tribunal would dedicate only one. The Moving Parties are therefore proposing that the Tribunal reduce the resources dedicated to these proceedings but have not explained how doing so would make the process more efficient. The member would also deal with any remaining preliminary issues and write all rulings and decisions in the three cases consecutively.

[37] The Tribunal members I assigned to adjudicate these complaints also have other files they are expected to hear in an expeditious and fair way. Reassigning two of these files to one of them will impact parties in their other cases who are also waiting for their complaints to be heard and who may have hearings or mediations scheduled. The Tribunal has a responsibility to all parties and complainants before this Tribunal, and I must consider the overall institutional impact as well.

Decisions on assignment are fact-specific

- [38] The Moving Parties refer to several other Tribunal inquiries where the same member heard related matters. These cases are of no assistance, as they involved members who were assigned the files from the outset and are entirely distinguishable.
- [39] I will not review them all in detail (see for example, *Mercier and Francis and Antwi, Dorey et al v ESDC, Gullason and Attaran v Tri-agency Institutional Programs Secretariat*, 2018 CHRT 21, 2023 CHRT 23). It suffices to say that these are not cases in which the Chairperson reassigned members to complaints at different stages of a proceeding and with distinct factual circumstances so that one member could hear multiple cases involving complainants who share the same protected characteristic(s).
- [40] I agree with the Moving Parties that in some situations, it makes sense for the same member to hear related cases and that consolidation of complaints does not require identical facts or status, nor the consent of the parties. However, decisions about reassignment or consolidation are fact specific. It is not because the same member was assigned multiple complaints in the cases the Moving Parties rely on that I must reassign two of the Complainants' files for consecutive hearings. This is particularly so given that they are on significantly different timelines and involve distinct factual circumstances, time periods and individuals.
- [41] The Moving Parties argue that I should follow the Tribunal's "long standing practice about assignment" to align with the "harmonised decision-making culture" that the Supreme Court of Canada expects from administrative tribunals, relying on *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at paras 129-131).
- [42] I do not accept this argument. Decisions about assignment are fact-specific, and in making a decision about assignment or reassignment, I also consider the resources and availability of members and the Tribunal's obligations under 48.9(1) of the Act to proceed informally, expeditiously and fairly. There is no "long-standing practice" to do what the Moving Parties suggest, and they have provided no relevant authority for this claim.

V. ORDER [43] The motion is dismissed.

Signed by

Jennifer Khurana

Tribunal Member

Ottawa, Ontario

April 16, 2026

Canadian Human Rights Tribunal

Parties of Record

File Nos.

: HR-DP-3053-24, HR-DP-3073-24, HR-DP-3074-24, HR-DP-3075-24 & HR-DP-3076-24

Style of Cause:

Jason Cain v. Correctional Service Canada - HR-DP-3053-24

John Sargeant v. Correctional Service Canada - HR-DP-3073-24, HR-DP-3074-24,

HR-DP-3075-24

Ron Mayers v. Correctional Service Canada - HR-DP-3076-24

Ruling

of the Tribunal Dated: April 16, 2026

Motion dealt with in writing without appearance of parties

Written representations by:

Cain file

Jason Cain, Self-represented Complainant

Khizer Pervez, for the Canadian Human Rights Commission

Vincent Riendeau & Joshua Wilner, for the Respondent

Sargeant file

John Sargeant, Self-represented Complainant

Anshumala Juyal, for the Canadian Human Rights Commission

François Paradis, Charles Barnes, Rupinder Gosal & Malcolm Palmer, for the Respondent

Mayers file

Demar Hewitt and Amar-Kareem Guimba, for the Complainant

Sahar Mir & Mahan Keramati, for the Respondent

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