

CANADA / JUDGMENT

Carrasco v. Canada (Attorney General)

2026 FC 542

COURT

Federal Court

DECIDED

23 April 2026

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Docket: T-2609-24 Citation: 2026 FC 542 Winnipeg, Manitoba, April 23, 2026 PRESENT: Madam
Justice Conroy BETWEEN: ARTURO CARRASCO Applicant and ATTORNEY GENERAL OF
CANADA Respondent JUDGMENT AND REASONS

- [1] This is a judicial review brought by Mr. Carrasco [the Applicant], an inmate at Stony Mountain Institution, a federal penitentiary [Stony Mountain]. He challenges a September 12, 2024 decision rendered by an Independent Chairperson [ICP] of the Stony Mountain Institution Serious Disciplinary Court which found him guilty of contravening s. 40(i) of the Corrections and Conditional Release Act, SC 1992, c.20 [CCRA].
- [2] The Applicant seeks an Order setting aside the ICP decision and dismissing the charge, or in the alternative, remitting the matter to a different ICP to be redetermined.
- [3] The judicial review focuses on the ICP's reasons for rejecting a request by Mr. Carrasco to dismiss the charge on the basis of unreasonable delay.
- [4] After the parties filed their written arguments, Justice Turley's decision in *Imona-Russel v Canada*, 2026 FC 175 [Imona-Russel] was released. As discussed further below, the ratio in *Imona-Russel* is determinative of some of the issues raised in the present Application.
- [5] Following its consideration of *Imona-Russel*, the Respondent made an offer to resolve this matter. The remedy offered aligns with the primary remedy sought by the Applicant: setting aside the impugned decision and dismissing the disciplinary charge. Dismissing the charge would result in it being struck off Mr. Carrasco's disciplinary record and the fine he paid would be refunded to him.
- [6] Counsel for the Applicant has not been able to obtain instructions from Mr. Carrasco, who is still incarcerated. As such, counsel is not in a position to consent to the offer, but he acknowledges that the remedy "is very close to the best outcome [the Applicant] could get".

- [7] As explained further below, I conclude that the concessions by the Respondent are sufficient to dispose of the application and it is unnecessary for me to express an opinion on any issues that may remain in dispute. I. Material Facts Leading to this Application [8] This dispute stems from an alleged unreasonable delay in Mr. Carrasco's disciplinary proceedings at Stony Mountain.
- [9] By way of background, Stony Mountain follows a scheduling protocol for serious disciplinary offences based on a six-week rotation: each week is devoted to one or two units within the institution [Stony Scheduling Protocol]. While security incidents, staff absences or overburdened dockets may cause postponements, an inmate's first appearance following a charge is primarily determined by their specific unit's place in the rotation schedule. If a hearing is adjourned, it would typically be adjourned for six weeks.
- [10] The Applicant submits that the Stony Scheduling Protocol is procedurally unfair and unreasonable, both generally and as it applied in Mr. Carrasco's case. He argues the Protocol is untethered to the legal constraints that bind CSC, namely the Corrections and Conditional Release Regulations, SOR/92-620 [CCRR] and the Correctional Service Canada [CSC]'s "Commissioner's Directive 580: Discipline of inmates" [CD 580].
- [11] The CCRR provides that the notice of disciplinary charges and the hearing of a disciplinary offence shall take place "as soon as practicable": ss 25(2) and 28. Section 30 of the CD 580 contemplates certain timelines, including with respect to the first hearing following a charge. It provides:
30. the initial hearing of serious and minor charges of a disciplinary offence will normally take place within 10 working days of laying of the charge.
- [12] Section 29 of CD 580 provides that the Institutional Head may conduct a disciplinary hearing for serious offences when the ICP is not available.
- [13] Further, s. 37 of CD 580 states that "[u]nreasonable delays caused by the institution may result in dismissal of charges."
- [14] Before the ICP, Mr. Carrasco pled not guilty and argued, amongst other things, that his charge ought to be dismissed for unreasonable delay as it had been 175 days between the date of the alleged offence (March 21, 2024) and the hearing before the ICP (September 12, 2024). Counsel for Mr. Carrasco relied on CCRR s. 28 and CD 580, ss 29, 30 and 37. It is noted that the Respondent argues the delay not attributable to Mr. Carrasco was 84 days, not 175.
- [15] The ICP provided cursory oral reasons refusing to dismiss the charge based on delay. The reasons refer to the Stony Scheduling Protocol and conclude the delay was acceptable. The reasons do not engage with legal arguments put forward by Mr. Carrasco about delay and do not reference the CCRR or CD 580. II. Imona-Russel and its application to the present Judicial Review [16] Imona-Russell also concerned a judicial review arising from an ICP decision refusing to dismiss a disciplinary charge for delay. Akin to the present case, the ICP in Imona-Russel dismissed the inmate's delay arguments "out-of-hand" and failed to

consider his legal arguments (at paras 4 and 19).

- [17] Justice Turley granted the judicial review finding it was both unreasonable and procedurally unfair for the ICP to dismiss the arguments on delay in the absence of any analysis.
- [18] With respect to procedural fairness, Justice Turley held, at paragraph 49: It was incumbent on the Chairperson [ICP], as an administrative decision-maker, to assess the allegations of delay “as a corollary to their duty to act fairly”: Abrametz at para 38. The Chairperson should have assessed the alleged delay in context, considering the relevant legislation and guidelines. Instead, the Chairperson summarily dismissed the Applicant’s delay allegations without any analysis.
- [19] She went on to consider the CD 580, including section 30, and explained at paragraph 57: The bottom line is that CD 580 is a binding CSC policy. If CSC staff find the 10-day timeframe unworkable, that is a matter they must take up with CSC management. In this regard, the Federal Court of Appeal’s comment regarding another Independent Chairperson’s treatment of the requirements of CD 580 is particularly apt: “Some may consider it inefficient or impractical to follow the requirements of the law, but that is no reason to disobey them routinely. The proper solution, if indeed they are inefficient or impractical, is to change them”: Eakin FCA at para 51.
- [20] She recognized that delay, in and of itself, does not constitute an abuse of process that warrants the dismissal of the charge. However, she explained, thus was yet another factor that the ICP ought to have considered in assessing the applicant’s arguments with respect to delay: Imona-Russell at para 59.
- [21] The impugned decision was found unreasonable for two reasons: (1) because the ICP failed to engage with the inmate’s arguments, and (2) because the ICP failed to consider s. 28 of the CCRR and s. 30 of CD 580, which operate as a legal constraint in inmate disciplinary proceedings: Imona-Russell at para 63, 65. III. Concessions by the Respondent [22] The Respondent concedes that, pursuant to Imona Russell, the ICP’s failure to meaningfully engage with Mr. Carrasco’s arguments regarding delay was both procedurally unfair and substantively unreasonable. It is on this basis that the Respondent agrees that the ICP’s decision ought to be set aside and the charge dismissed. The matter need not be remitted for redetermination. IV. Conclusion [23] The concessions by the Respondent – that the ICP’s treatment of the Mr. Carrasco’s delay arguments was unfair and unreasonable - are sufficient to dispose of the judicial review.
- [24] Accordingly, the ICP’s decision will be set aside and the charges dismissed. JUDGMENT in T-2609-24 THIS COURT’S JUDGMENT is that: The application for judicial review is granted. The decision of the Independent Chairperson of the Stoney Mountain Institution Serious Disciplinary Court, dated September 14, 2024, is set aside. The charge is dismissed. "Meaghan M. Conroy" Judge FEDERAL COURT SOLICITORS OF RECORD DOCKET: T-2609-24 STYLE OF CAUSE: ARTURO CARRASCO v ATTORNEY GENERAL OF CANADA PLACE OF HEARING: Winnipeg, Manitoba DATE OF HEARING: April 14, 2026 JUDGMENT AND

REASONS: CONROY J. DATED: April 23, 2026 APPEARANCES: Leif Jenson For The Applicant
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