

CANADA / JUDGMENT

E.F. v. Correctional Service Canada

2026 CHRT 36

COURT

Canadian Human Rights Tribunal

DECIDED

9 April 2026

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Hadjis, Athanasios Decision type

Ruling

Grounds Gender identity or expression Decision Content Canadian Human Rights Tribunal
Tribunal canadien des droits de la personne Citation: 2026 CHRT 36 Date: April 9, 2026 File Nos. :
HR-DP-2856-22 & HR-DP-3208-26 Between: E.F. Complainant

- and - Canadian Human Rights Commission Commission
- and - Correctional Service Canada Respondent

Ruling

Member: Athanasios Hadjis

- [1] This is a ruling on a motion that a single inquiry be held into two complaints filed by E.F. (the “Complainant”) against the Correctional Service of Canada (the “Respondent” or the CSC). For the following reasons, I grant the motion.
- [2] The first complaint, HR-DP-2856-22 (“Complaint #1”), was filed in June 2019. E.F. states in the complaint that she is an Indigenous transgender woman in the CSC’s custody and that her complaint concerns a gender-dysphoria assessment conducted and prepared by a CSC-contracted psychiatrist. E.F. alleges that the psychiatrist’s conduct and report were discriminatory.
- [3] The Canadian Human Rights Commission (the CHRC) referred Complaint #1 to the Canadian Human Rights Tribunal (the “Tribunal”) in June 2022.
- [4] E.F.’s Statement of Particulars (SOP) for Complaint #1 included allegations that the CSC systematically neglected and deprioritized gender-affirming care to her and other gender-diverse patients in its custody. The CSC filed a motion to strike the paragraphs referring to those allegations, which I granted on May 23, 2025 (see E.F. v. Correctional Service of

Canada, 2025 CHRT 56 (the “Scope Ruling”). I found that there was no nexus between the complaint and the broader allegations regarding gender-affirming care found in those paragraphs. I ordered that the paragraphs be struck.

- [5] On May 28, 2025, five days after the Scope Ruling, E.F. filed a new complaint with the CHRC (“Complaint #2”). The CHRC referred it to the Tribunal on January 26, 2026 (Tribunal file HR-DP-3208-26).
- [6] As E.F. describes in her motion, Complaint #2 alleges that the CSC failed to provide and facilitate timely and non-discriminatory access to essential gender-affirming health care to her. She refers to ongoing discrimination after the incidents involving the psychiatrist referred to in Complaint #1. She describes the discrimination as systemic in nature.
- [7] In effect, Complaint #2 consists of allegations that I struck in the Scope Ruling. E.F. acknowledges this in her motion, stating that she filed Complaint #2 to “properly frame the allegations of ongoing and systemic discrimination which had been struck from the SOP for Complaint #1 and to clarify and further detail the facts underlying these allegations up to the present.”
- [8] E.F. states that the CHRC exercised its discretion under section 49 of the Canadian Human Rights Act, R.S.C., 1985, c. H-6 (the CHRA) and referred Complaint #2 to the Tribunal for inquiry, over the CSC’s objections.
- [9] Considering the connection between the two complaints, E.F. has requested that they be joined and case-managed as a single complaint, with single consolidated SOPs. The complaints would be heard together and treated as one complaint.
- [10] The CSC did not take a position on E.F.’s motion to consolidate the complaints. Its submissions centred on the CHRC’s handling of Complaint #2. It claims that the CHRC decided not to investigate the complaint, having “presupposed” that it had enough information to make a referral. The CSC lists what it views as several flaws in the CHRC’s decision and maintains that the CHRC’s investigative and gatekeeping functions were bypassed in a manner that rendered its process “whimsical and symbolic.” The CSC also explains its reasons for deciding not to seek judicial review of the CHRC’s decision to refer Complaint #2 to the Tribunal.
- [11] Irrespective of any issues the CSC may have with the CHRC’s decision-making process, it is not the Tribunal’s role to review CHRC decisions, a fact that the CSC readily acknowledges in its submissions.
- [12] However, the Tribunal does have the authority to direct that multiple complaints be dealt with in a single inquiry, even if the CHRC refers them to the Tribunal separately (see *Nordhage-Sangster v. Canada Border Services Agency*, 2022 CHRT 1 at para 18).
- [13] Some of the criteria for the Tribunal to consider when deciding whether to join complaints into a single inquiry include the following:

- 1) The public interest in avoiding a multiplicity of proceedings, including considerations of expense, delay, the convenience of witnesses, reducing the need for the repetition of evidence, and the risk of inconsistent results;
 - 2) The potential prejudice to any of the parties and to the public in general that could result from a single hearing, including the lengthening of the hearing and the potential for confusion that may result from the introduction of evidence that may not relate to the allegations specifically involving one complaint or the other; and
 - 3) Whether there are common issues of fact or law. (see *McLearn v. Canadian Human Rights Commission & Employment and Social Development Canada*, 2025 CHRT 22 at paras 11–13).
- [14] I am satisfied that all three criteria are met. There are clearly common issues of fact and law. The CSC contends that E.F. has abusively inserted elements of Complaint #1 into Complaint #2 to artificially “manufacture overlap that would not otherwise exist,” merely to justify the consolidation. The CSC says that the similarities in facts and witnesses presented between both complaints are contrived rather than inherent.
- [15] I disagree. I accept E.F.’s response that, when read together, the two complaints present a continuous narrative over a period of years with an overlapping set of witnesses, all of which takes place against the same legal and policy framework. Complaint #2 covers a period not touched by Complaint #1, but it also covers issues that overlap in time. E.F. explains that she proposes to call the same witnesses for the two cases because they are the health professionals who have dealt with her throughout both periods.
- [16] Given the common factual and legal issues, it is clearly in the public interest that a multiplicity of proceedings be avoided. The only prejudice that the CSC seems to raise in its submissions is its contention that it is facing “unsubstantiated systemic discrimination claims requiring significant resources to investigate and litigate.” However, this alleged prejudice relates to the CHRC’s decision to refer Complaint #2 to the Tribunal in the first place. Now that the referral has occurred, the CSC will have to respond to these “unsubstantiated claims” whether the complaints are consolidated or not. Joining them will at least enable the CSC to address both complaints in a more efficient manner. I do not see any prejudice in that and, if anything, the total length of the hearing into the complaints will be shorter than if two separate hearings with overlapping and similar evidence were held. I. ORDER [17] I grant E.F.’s request.
- [18] I order that:
- 1) Complaint #1 and Complaint #2 are joined and will be case-managed as a single complaint;
 - 2) E.F. will amend her SOP from Complaint #1 to incorporate the particulars regarding Complaint #2;
 - 3) The CSC will amend its SOP from Complaint #1 to incorporate its response regarding Complaint #2;

- 4) E.F. will amend her Reply from Complaint #1 to incorporate any replies to the CSC's particulars regarding Complaint #2; and
 - 5) The consolidated complaints will be heard together in a single hearing and treated as a single complaint.
- [19] Dates for filing the amended SOPs and Reply will be provided to the parties by the Tribunal in a separate correspondence. Signed by Athanasios Hadjis Tribunal Member Ottawa, ON April 9, 2026 Canadian Human Rights Tribunal Parties of Record File Nos. : HR-DP-2856-22 & HR-DP-3208-26. Style of Cause: E.F. v. Correctional Service Canada

Ruling

of the Tribunal Dated: April 9, 2026 Motion dealt with in writing without appearance of parties
Written representations by: Paul Quick, for the Complainant Aman Owais and Stephen Kurelek,
for the Respondents

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