

**ONTARIO
SUPERIOR COURT OF JUSTICE**

THE HONOURABLE

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FRIDAY, THE 15TH,

JUSTICE PERELL

DAY OF MARCH, 2022

BETWEEN:

ADRIAN CHANDRA

Plaintiff

- and -

HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO

Defendant



ORDER

(Certification)

THIS MOTION, made by the Plaintiff, on consent of the Defendant, for certification of this action as a class proceeding, was heard on March 11, 2022 in writing at the Court House, Osgoode Hall, 130 Queen Street West, Toronto, Ontario, M5H 2N5.

ON READING the motion materials of the Plaintiff and the Consent of the Defendant,

1. **THIS COURT ORDERS** that this action be and hereby is certified as a class proceeding pursuant to the *Class Proceedings Act, 1992*, S.O. 1992, c. 6 on the terms and conditions set out in this Order and in the Settlement Agreement between the Plaintiff and the Defendant dated March 4, 2022 (the "**Agreement**").

2. **THIS COURT ORDERS AND DECLARES THAT** the Class is defined as:

All current and former Inmates, who were alive as of May 14, 2018:

I. Inmates with a Serious Mental Illness

(a) who were subjected to Administrative Segregation for any length of time at one of the Correctional Institutions between September 18, 2018 and August 18, 2021,

(b) who were diagnosed by a medical doctor before or during their incarceration with at least one of the following disorders, as defined in the relevant Diagnostic and Statistics Manual of Mental Disorders ("DSM"): Schizophrenia (all sub-types), Delusional disorder, Schizophreniform disorder, Schizoaffective disorder, Brief psychotic disorder, Substance-induced psychotic disorder (excluding intoxications and withdrawal), Psychotic disorder not otherwise specified, Major depressive disorders, Bipolar disorder I, Bipolar disorder II, Neurocognitive disorders and/or Delirium, Dementia and Amnesic and Other Cognitive Disorders, Post-Traumatic Stress Disorder; Obsessive Compulsive Disorder; or Borderline Personality Disorder; and who suffered from their disorder, in a manner described in Appendix "A", and,

(c) who reported such diagnosis and suffering to the Defendant's agents before or during their Administrative Segregation;

and/or,

II. Inmates in Prolonged Administrative Segregation

a) who were subjected to Administrative Segregation for 15 or more consecutive days at one of the Correctional Institutions between September 18, 2018 and August 18, 2021.

Appendix "A" states as follows:

Significant impairment in judgment (including all of the following: the inability to make decisions, confusion, and disorientation);

Significant impairment in thinking (including both paranoia and delusions that make the offender a danger to self or others);

Significant impairment in mood (including constant depressed mood plus helplessness and hopelessness; agitation; manic mood that interferes with ability to effectively interact with other offenders or staff);

Significant impairment in communications that interferes with ability to effectively interact with other offenders or staff; hallucinations; delusions; or severe obsessional rituals that interferes with ability to effectively interact with other offenders or staff;

Chronic and severe suicidal ideation resulting in increased risk for suicide attempts; or

Chronic and severe self-injury.

"Correctional Institutions" are correctional institutions as defined in the *Ministry of Correctional Services Act*, R.S.O. 1990, c. M.22, excluding the St. Lawrence Valley Correctional and Treatment Centre.

“Inmates” are inmates as defined in the *Ministry of Correctional Services Act*, R.S.O. 1990, c. M.22.

“Administrative Segregation” refers to segregation as outlined in section 34 of Regulation 778, R.R.O. 1990 under *Ministry of Correctional Services Act*, R.S.O. 1990, c. M.22.

3. **THIS COURT ORDERS AND DECLARES** that the only causes of action asserted against the Defendant are negligence and breaches of sections 7 and 12 of the *Canadian Charter of Rights and Freedoms* resulting from the placements of members of the Class in Administrative Segregation.
4. **THIS COURT ORDERS AND DECLARES** that the common issue is and is hereby certified as:
 - (a) Is the Defendant liable to the Class? (the **“Common Issue”**).
5. **THIS COURT ORDERS AND DECLARES** that the proceeding is certified, for settlement purposes only, on behalf of the Class in respect of the Common Issue.
6. **THIS COURT ORDERS AND DECLARES** that nothing in this Order shall be deemed, construed or interpreted to be an admission of any violation of any statute or law, or an admission of any wrongdoing or liability by the Defendant or its agents, or an admission of the truth of any of the claims or allegations contained in the action.
7. **THIS COURT ORDERS AND DECLARES** that Adrian Chandra is hereby appointed as the representative Plaintiff for the Class.
8. **THIS COURT ORDERS AND DECLARES** that Koskie Minsky LLP is hereby appointed as class counsel (**“Class Counsel”**).
9. **THIS COURT ORDERS AND DECLARES** that the manner of notice to be given to the Class, and opt out rights of the Class, shall be determined by separate order of this Court.
10. **THIS COURT ORDERS** that no other proceeding may be commenced in Ontario in respect of the subject matter of this action without leave of this Court.

11. **THIS COURT ORDERS** that, if the Agreement is terminated in accordance with its terms, or if this Order is not entered or is vacated, reversed or materially modified on appeal (and, in the event of the material modification, one if the parties elects to terminate the Agreement), then this order shall become null and void, the Agreement shall be deemed terminated (except for any paragraphs that the Agreement expressly provide will survive termination) and the parties to this action shall return to their positions without prejudice in any way as provided in the Agreement.

12. **THIS COURT ORDERS** that each party shall bear its own costs of the within motion for certification of this proceeding.

Perell, J.

JUSTICE PERELL

Entered on March 15, 2022

CHANDRA
Plaintiff

and

HER MAJESTY THE QUEEN IN RIGHT
OF ONTARIO
Defendant

Court File No.: CV-20-641003-00CP

ONTARIO
SUPERIOR COURT OF JUSTICE
Proceeding commenced at TORONTO

ORDER
(Certification)

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