

IN THE SUPREME COURT OF NOVA SCOTIA

Citation: Bradley v. Correctional Service of Canada, 2007 NSSC 365

Date: 20071122

Docket: S. Am. 284360

Registry: Amherst

Between:

James Barry Bradley

Applicant

v.

Correctional Service of Canada

Respondent

Judge: The Honourable Justice J. E. Scanlan

Heard: 22 November 2007, in Amherst, Nova Scotia

Written Decision: 10 December 2007

Counsel: Applicant self represented
Darlene Lamey, for the Respondent

By the Court:

[1] This is an application by James Barry Bradley, wherein it appears as though he is asking for two things. Number one, he asked for a copy of the Exchange of Services Agreement between Prince Edward Island and Correctional Services Canada. He has named the respondent as the Attorney General of Canada in his application. He has also, as I understand it, asked that the court somehow impose upon the Attorney General of Canada or Correctional Services of Canada, the obligation to have them provide facilities in Prince Edward Island, so he can be housed where he wants when he wants.

[2] By way of background, I note that the accused was charged in relation to the death of Deborah Bayne Holmes. He was tried and convicted on a count of first degree murder in relation to the death of Ms. Holmes, which occurred on the 1st of July 2001. The conviction was pursuant to section 235(1) of the *Criminal Code*. The accused was sentenced to a period of imprisonment for life and I understand, given that it was a first degree murder and criminal harassment conviction, he was sentenced to a period of life in prison, not eligible for parole for 25 years. The warrant of committal was executed on March 26th, 2003, so that means it will be 2028 before he is eligible for parole. I understand as well that he's appealing the conviction on first degree murder, and that he suggests that it was in fact second degree murder as opposed to first degree murder.

MR. BRADLEY: No sir, Your Honour. That's a mistake.

THE COURT: We'll leave it at the fact that he says he's appealing it.

MR. BRADLEY: Appealing, yes sir.

THE COURT: Because I don't think it makes a difference.

MR. BRADLEY: No, it doesn't.

[3] The debate as between first degree and second degree really wouldn't make much difference in any event, because the sentencing in both cases would be for life, and fall within federal jurisdiction.

[4] The accused was originally processed at the Springhill Institution, classified as a maximum security inmate, transferred originally to the federal institution in Renous, New Brunswick in 2003 and...

MR. BRADLEY: I was processed in Prince Edward Island, sir.

THE COURT: It says Springhill.

MR. BRADLEY: Well, that's not true.

THE COURT: I'm going to be giving my decision now, and if I make mistakes, I'll have to put up with it.

MR. BRADLEY: Well, you know what I mean.

THE COURT: I don't know that it makes a difference.

MR. BRADLEY: It's that the warrant of committal was executed at the multi-purpose jail on Prince Edward Island that does house federal inmates.

THE COURT: Okay. Have a seat, Mr. Bradley. I'm going to speak for a while now, okay. You had your chance.

[5] Mr. Bradley is currently incarcerated at the Springhill Penitentiary, which is a medium security institute. In 2007 Mr. Bradley applied for a transfer to a provincial prison in Charlottetown, Prince Edward Island, pursuant to the ESA which was referred to by counsel and before the court. The provincial facility denied the applicant's request on August the 8th, 2007, and pursuant to the provisions of the ESA, he cannot reapply for a transfer to a provincial institution until February of 2008. The ESA requirements address things, for example, as to whether or not there is adequate security to house Mr. Bradley, considering things for example such as risk to the public. It is not for me to review that decision in terms of the ESA decision. Simply, Mr. Bradley is asking the court to, as I said, somehow impose upon Correctional Services Canada the obligation to house him in Prince Edward Island.

[6] This is a situation wherein it is clear to the court that the province of Prince Edward Island does not have jurisdiction over Mr. Bradley's placement. Mr. Bradley's placement, in terms of a corrections institution, comes under the authority of and as a result of the provisions of the *Criminal Code*. The *Criminal Code*, when you're convicted of the offence for which you were convicted, says that Canada, not Prince Edward Island, has the right to determine where you are to be incarcerated, because you were incarcerated for a period in excess of two years.

[7] It is not for this court to determine where you are to be housed. Once you fall within the jurisdiction of and under the administration of Correctional Services Canada, that is a decision that is to be made by that institution, applying their regulations and guidelines. It is not for this court to review the decision related to institutional placements of inmates. As I've said, you've been convicted of first degree murder. You're incarcerated in a federal penitentiary, and whether you accept the reality of that situation or not, makes no difference to the court. I simply have no jurisdiction to interfere with the decision by Correctional Services Canada as to where you are housed. They could put you in Renous, they could put you in Springhill, or they could put you in British Columbia, and it's not for me to interfere with that decision. As I've said, it's based on their review process, their guidelines and their regulations.

[8] Unless there was a specific application to this court or federal court, whatever it might be, dealing with where you are to be placed, and some suggestion that they breached their regulations or guidelines, then this court would not interfere. This isn't a matter of your freedom. This is a matter of where you're being housed. The courts have already decided you're not free, and Correctional Services Canada will decide where you are going to be housed, not me. Thank you very much, Mr. Bradley.

J.