SUPREME COURT OF NOVA SCOTIA
Citation: *Alcorn v. Nova Scotia (Attorney General)*, 2020 NSSC 276

Date: 20201006
Docket: Hfx No. 499729
Registry: Halifax

Between:

Nick Alcorn

Applicant

v.

The Attorney General of Nova Scotia as represented
By Her Majesty the Queen in right of the Province of Nova Scotia and Central
Nova Scotia

Respondent

Decision on *Habeas Corpus* Application

Judge:	The Honourable Justice Christa M. Brothers
Heard:	August 26 and 27, 2020, in Halifax, Nova Scotia
Counsel:	Nick Alcorn, Self-Represented Myles Thompson, for the Respondent

By the Court:

Overview

[1] Nick Alcorn is currently held on remand at the Central Nova Scotia Correctional Facility (CNSCF). Mr. Alcorn filed a *habeas corpus* application seeking his release from a rotational lockdown unit referred to as North 4. A hearing was held on August 27, 2020. By then, Mr. Alcorn's conditions of confinement had changed. He had been moved from North 4 unit to West 1, a general population unit. Consequently, the Attorney General sought to have this matter adjudged moot. While I agree that the factual circumstances concerning this matter are moot, I have proceeded to consider the merits of the application for the reasons I discuss in this decision.

[2] The court is receiving many *habeas corpus* applications in relation to the conditions of confinement experienced at North 4. Given the number of *habeas corpus* applications related to North 4 and the relatively new use of this Unit by the CNSCF, it is important to address the issues raised in this matter notwithstanding the subsequent change in Mr. Alcorn's individual circumstances. In addition, this matter revealed some procedural difficulties faced by inmates in advancing *habeas corpus* applications that require comment.

[3] While the use of North 4 may be justified in relation to certain inmates, it is nevertheless important for the Attorney General to ensure inmates receive information relied upon to justify their confinement. It is also the Attorney General's responsibility to ensure that matters can proceed expeditiously and that challenges already experienced by inmates advancing such litigation are not further pronounced by the failure to provide information in a timely manner. Nothing less can be accepted, without good reason. As stated in *Mission Institution v. Khela* 2014 SCC 24, "no one should be deprived of their liberty without lawful authority" and the remedy of habeas corpus "is crucial to those whose residual liberty has been taken from them" (para 54). How can this court expeditiously review an alleged further deprivation of an inmates' liberty if there is a delay in provision of materials to an inmate?

Background

[4] On August 10, 2020, Mr. Alcorn filed a Notice for *Habeas Corpus* alleging he was being held in close confinement without proper justification and that he had not been afforded due process and procedural fairness.

[5] In particular the Notice for *Habeas Corpus* states:

> It is impossible for the applicant to leave detention because: Held on Shu range Arbitrarily
>
> …
>
> **Grounds for review**
>
> The applicant says the detention is illegal because:
>
> Put on SHU/close confinement range illegally without proper justification and not afforded due process and procedural fairness

[6] The Honourable Justice Peter Rosinski scheduled the matter for the initial stage one hearing, the motion for date and directions, on August 13, 2020. Due to an urgent matter arising at the correctional facility, Mr. Alcorn was unable to access the telephone for the appearance and the matter was set over before me on August 17, 2020.

[7] On August 17, 2020, the Attorney General submitted that Mr. Alcorn was not in a closed confinement unit, but on North 4, on a rotational lockdown. After some inquiries, the Attorney General did acknowledge that Mr. Alcorn's residual liberties were being impacted by his placement on North 4.

[8] In keeping with *Pratt v. Nova Scotia (Attorney General)*, 2020 NSCA 39, at para. 55, the following principles must be followed:

> 55 The principles that govern are well-known and not controversial. By way of a cursory overview they include:
>
> > • *Habeas corpus* is a "non-discretionary" remedy. It must be issued as of right by the provincial superior courts where the requirements are met.
> >
> > • If the applicant proves a deprivation of liberty and raises a legitimate ground to question the legality of the deprivation the matter must proceed to a hearing.
> >
> > • If the applicant has raised such a ground, the onus shifts to the respondent authorities to show the deprivation of liberty was lawful.
> >
> > • The requirement for a legitimate ground has been characterised as "a legitimate doubt" or "some basis" to question the lawfulness of the

> detention. This requirement is different than actual proof that the detention is unlawful. The legal burden to prove lawfulness rests upon the respondent decision maker.
>
> • An interpretation of the test for "legitimate ground" that increases the standard of proof, or imposes technical legal requirements, runs the risk of unduly narrowing the scope of this constitutionally protected remedy.
>
> • Thus, when interpreting the legitimate ground requirement attention must be paid to avoid shifting the burden improperly. This is especially so in situations where the applicant claims lack of access to information or reasons concerning their detention.
>
> • This interpretation of the content of the applicant's obligation to show "grounds" to question the lawfulness of a decision is consistent with the purpose of the remedy to hold authorities to account for incursions on personal liberty.
>
> • A challenge to the fairness of the process may be based on procedural violations of either or both the common law and statute. In determining the fairness of the process, apart from transient or trifling complaints, respondent decision makers are not entitled to deference by the reviewing court.
>
> • In short, the rules that govern can be said to favour the prisoner, requiring the respondent decision maker to introduce evidence to justify the deprivation where the prisoner has discharged their evidential burden by establishing a factual context that "bears upon" the legality of the imprisonment. A claim based on no disclosure or reasons for decision can meet that requirement.

[9] Mr. Alcorn is representing himself. He indicated he was unaware of why he was removed from the general population unit and placed on North 4, the rotational unit. Given the information received, I was satisfied the matter should move to a hearing where the Attorney General would be called upon to justify (if it can) Mr. Alcorn's detention.

[10] The matter was to be heard on August 26, 2020. The Attorney General filed an affidavit of Deputy Superintendent Brad Ross and a brief on August 21, 2020. Mr. Alcorn appeared at that time and indicated that he had not received the Attorney General's materials and asked for the matter to be put over for a day to enable him to properly prepare for the hearing. The matter was set over to August 27, 2020, when Mr. Alcorn cross-examined Deputy Superintendent Ross with regards to his detention and provided submissions in support of his contention that his confinement on North 4 was unlawful.

Mootness

[11] On August 21, 2020, the Attorney General filed submissions indicating that on August 19, 2020, Mr. Alcorn was transferred from North 4 at CNSCF to West 1, a general population unit with a fully open day room that housed 20 other inmates at that time. An affidavit of Deputy Superintendent Ross was filed in relation to the change of conditions of confinement. Having considered the change in conditions, Mr. Alcorn was not agreeable to discontinuing his *habeas corpus* application. Despite the arguments of the Attorney General, I have determined that the matter should be addressed.

[12] Several *habeas corpus* applications were filed in July, August, and September 2020 relating to the housing of inmates in North 4. Justice Rosinski in *Crawley v. Nova Scotia (Attorney General)*, 2020 NSSC 221, addressed this unit and found that there was lawful authority for the placement of Mr. Crawley in North 4, and that the stated reasons for keeping him in the unit justified the level of detention.

[13] The Attorney General first argues that the *habeas corpus* application advanced by Mr. Alcorn on August 10, 2020, became moot when he was moved from North 4 and placed into general population on West 1 until he received another level. The Attorney General says the court should therefore not expend scarce judicial resources to address this issue. While I accept that the matter of this particular application is moot, I have decided, based on the issues raised by the newly created range, that I should go on to address whether the Attorney General has met its burden to justify the detention of Mr. Alcorn on North 4. In so doing, I have kept in mind the comments of the Supreme Court in *Khela, supra*:

> 14 Despite being moot, this appeal merits a decision in the circumstances of this case. The nature of *habeas corpus* applications involving the transfer and segregation of inmates is such that the factual circumstances of a given application can change quickly, before an appellate court can review the application judge's decision. This means that such cases will often be moot before making it to the appellate level, and are therefore "capable of repetition, yet evasive of review" (*Borowski v. Canada (Attorney General)*, [1989] 1 S.C.R. 342 (S.C.C.), at p. 364). As was true in *May v. Ferndale Institution*, 2005 SCC 82, [2005] 3 S.C.R. 809 (S.C.C.), at para. 14, and *Cardinal v. Kent Institution*, [1985] 2 S.C.R. 643 (S.C.C.), at p. 652, the points in issue here are sufficiently important, and they come before appellate courts as "live" issues so rarely, that the law needs to be clarified in the instant case.

[14] In an effort to clarify the issues, I determined it would be useful to deal with this *habeas corpus* application despite the fact that Mr. Alcorn's conditions of confinement have changed, and there was no live controversy surrounding his conditions of confinement at the time of the hearing. I have decided to do so despite the court's approach in *Eric Gallant v. The Attorney General of Canada and Warden of Springhill Institution*, 2016 NSSC 135, and *Coaker v. Nova Scotia (Attorney General)*, 2018 NSSC 291. I have regard to the principles in *Borowski v. Canada (Attorney General)*, [1989] 1 S.C.R. 342.

[15] The reality is that inmates are raising issues with regard to North 4 but are then being removed from confinement before their *habeas corpus* applications can be heard and determined by the court. If the court subsequently refuses to hear the applications on the basis of mootness, the decisions made by the institution are effectively immune from review. As stated in *Pratt, supra*:

> 8 The issues raised are important. They are subject to repetition yet evasive of review because individual circumstances in prisons can quickly change before appellate review of the challenged decision. These issues have a broader application. Furthermore, the respondents raised no objection to this Court hearing Mr. Pratt's appeal. Having reviewed the principles in *Borowski v. Canada (Attorney General)*, [1989] 1 S.C.R. 342 (S.C.C.), I am satisfied this Court should hear Mr. Pratt's appeal regardless of the mootness of his original release remedy.

[16] Furthermore, and importantly, the issue of the timely provision of materials to inmates calls for comment.

Evidence

[17] Brad Ross is the Deputy Superintendent of Correctional Services at the CNSCF. Deputy Superintendent Ross swore an affidavit on August 27, 2020, after having submitted an unsworn version on June 27, 2020. He attended the hearing and was cross-examined by Mr. Alcorn. I found that he testified in a forthright manner and I accept his evidence.

[18] Deputy Superintendent Ross testified that the North 4 unit was created to address issues of negative behaviour by persons in custody in the facility. The unit is being used to deal with individuals who commit assaults upon inmates and staff, possess or are otherwise involved with contraband, or engage in any other behaviour which would impact the safety and security of the facility.

[19] Deputy Superintendent Ross described the differences between the Closed Confinement Unit (CCU) and North 4. Unlike CCU, persons placed in North 4 are allowed phone and canteen privileges, more time out of their cell, and peer to peer interaction. At North 4, all the same privileges are provided to those in custody; however, while inmates are allowed out of their cells for a minimum of two hours, that time can be increased by several more hours depending on staffing and the number of inmates held on the unit.

[20] The Attorney General provided a document entitled "North Intensive Direct Supervisions Unit (NIDSU)" located at Tab G of Deputy Superintendent Ross' affidavit. This guideline deals with the purpose of, the placement in, and transition from North 4. The document describes North 4 as a rotational unlock -- a specialized unit where inmates are placed who have generally displayed problematic behaviours. Other options within the CNSCF are utilized; however, if those options are unsuccessful and the facility is faced with ongoing security issues, violence towards staff and other inmates, and higher security ratings, North 4 is used as the only alternative to the CCU.

[21] While in North 4, inmates are provided access to a dayroom for a minimum of two hours daily. They have access to phones, televisions, gaming equipment, and airing court (with at least one other peer). Guidelines for such confinement have been developed and are set forth in a three-page document dated August 18, 2020. In particular, the guidelines concerning placement in NIDSU and those that apply after placement are relevant and reproduced below.

> **GUIDELINES FOR PLACEMENT IN NIDSU**
>
> Inmate must have scored high on the ISA.
>
> Inmate must have multiple serious disciplinary reports adjudicated recently.
>
> Inmate is known to have participated in violent behavior and or serious threats to staff or others in his last or current custody term and or have been found with drugs, weapons impacting the safety and security of the institution, staff or other inmates. The facility has information or reason to believe the inmate poses a serious risk to the safety and security of the institution.
>
> **GUIDELINES AFTER INMATE IS PLACED ON NIDSU**
>
> Inmates who meet the criteria and are placed in NIDSU will be expected to remain level free for 30 days during their first admission to the unit, up to 60 days the

> second admission and up to 90 days if return placement is still necessary due to behavioral issues or security concerns.
>
> Upon admission to NIDSU all offenders will be subject to a meeting with the north management team where behavioral expectations will be set, guidelines for transitioning to a new living unit will be made and what entitlements NIDSU offers will be given.
>
> Weekly at the IRB meeting, the board will evaluate and assess the progress made by the inmates as stipulated on the NIDSU guidelines.
>
> JEIN's OCM notes should reflect behavioral progress and or issues as observed by unit officers, managers.

[22] When Mr. Alcorn was placed on North 4, on July 29, 2020, he was told why he was being placed on the unit. He and four to five other inmates were moved to this unit. Mr. Alcorn was advised what the expectations were that there is a 30-day review period, and how one is transferred out of the unit.

[23] Simply put, Mr. Alcorn was placed on the North 4 because he was assessed as a 12 Institutional Security Risk ("ISA"). At least as of July 27, 2020, he had received multiple levels and had reports of assaults, unauthorized movements, threats to staff and other inmates, detrimental behaviour, intimidation, and causing disturbances. This totalled 17 incidents over 11 months.

[24] There was only one general population unit at the CNSCF. North 4 was created as a step-down unit where an inmate who has had a history of detrimental behavior, but who should not be housed in CCU and could not be housed in general population because of risk factors, could be placed. This is an alternative to CCU when placement in general population is not yet feasible.

[25] During Deputy Superintendent Ross' testimony, I heard that, as a result of COVID-19, the transfer of inmates between facilities is very limited. Public Health does not want transfers to occur unless absolutely necessary. This creates a situation where some incompatibles and issues with behaviour cannot be remedied by a transfer and a change of scenery. A solution had to be developed to address the various issues.

[26] There are daily meetings and reviews of the inmates housed on North 4. To be transferred out, one must be level free for 30 days – good behaviour for 30 days. After 30 days, Mr. Alcorn was reviewed and, because of his good behaviour, he was moved to West 1, the general population range. Mr. Alcorn was moved out of North

4 on August 19, 2020 (Affidavit of Deputy Superintendent sworn August 21, 2020). In this way, the placement was a success. Mr. Alcorn's behaviour improved and consequently he was moved.

[27] At the time of his placement, Mr. Alcorn was not on a level, but it had been decided that, because of his history, he continued to pose a safety and security risk to the facility. To mitigate that risk, a simple task was given to Mr. Alcorn: demonstrate 30 days of good behaviour and be allowed to return to general population. After those 30 days, he was released into the general population.

[28] On or about August 25, 2020, Mr. Alcorn was moved back to North 4 because of an assault on staff and a threatening statement made. He was placed first on CCU and then North 4 on August 27, 2020. The confinement is not raised as an issue before me.

Analysis

[29] The court in *Crawley v. Nova Scotia*, 2020 NSSC 221, has previously addressed the conditions created by North 4. The determination was that the *Correctional Services Act*, S.N.S. 2005, c. 37 gave Correctional Services the legislative authority to create this unit. The relevant provisions are as follows:

> **Close confinement**
>
> **74** A superintendent may, in accordance with the regulations, place an offender in close confinement in a correctional facility, if
>
> (a) in the opinion of the superintendent, the offender is in need of protection;
>
> (b) in the opinion of the superintendent, the offender needs to be segregated to protect the security of the correctional facility or the safety of other offenders'
>
> (c) the offender is alleged to or has breached a rule of a serious nature; or
>
> (d) the offender requests.
>
> **Close confinement**
>
> **75** Where an offender has been placed in close confinement, the superintendent
>
> …

> (b) shall, in accordance with the regulations, conduct a review of the close confinement.

[30] Section 79 of the *Correctional Services Regulations* provides the following authority for Correctional Services to utilize different types of confinement:

> **Conditions for confinement of offenders in custody**
>
> **79 (1)** A superintendent may impose different conditions of confinement for different offenders within the correctional facility.
>
> **(2)** An offender held in a correctional facility may be restricted from associating with another offender held in the correctional facility.
>
> **(3)** For reasons of safety, security or order in the correctional facility, a superintendent may restrict access to the correctional facility or part of it by
>
> (a) confining the offenders held in the correctional facility or those of them who are normally held in that part, as the case may be, to their sleeping areas; and
>
> (b) restricting entry to the correctional facility or that part, as the case may be.

[31] When one has regard to these sections, it is clear the unit was lawfully created. A rotational lockdown, while not a CCU, is still an impingement on residual liberty and a blunt instrument, but one that is permitted by legislation. It is within the lawful authority of the correctional facility to create a unit to address safety and security issues. In the face of those security issues the facility has experienced, and given the lack of tools available, including transfers, in the face of COVID- 19, placing certain inmates in the unit is lawful.

[32] The differences between the rotational lockdown on North 4 and close confinement have been addressed by Deputy Superintendent Ross in this matter and in *Crawley*, *supra*. In North 4, inmates can have time out of their cell, at least two hours, with at least one peer. In addition, the amenities in general population are available such as: gaming, phone, showers, airing court, gym, television, video visits with family and canteen.

[33] Given the legislative regime, there is lawful authority for the creation and use of North 4 Unit.

[34] As stated at para. 32 of *Coaker v. Nova Scotia (Attorney General)*, 2018 NSSC 291:

> [32] There is express statutory authority for so-called "lockdowns" in s. 79 of the *Correctional Services Regulations*. By their nature, lockdowns are a blunt instrument of prison administration. This may explain why section 79 is so broadly drafted. Nevertheless, they are necessary. The administrators of correctional facilities are responsible for the safety and security of staff and inmates alike. They must have the latitude to act quickly and decisively – at times they will have to act based on imperfect information. In my opinion, in such situations, courts should be particularly deferential to prison administrators, absent compelling evidence of bad faith, which could include capricious disregard for procedural and substantive constitutional guarantees accorded to inmates in similar situations.

[35] In *Ryan v. Nova Scotia (Attorney General),* 2015 NSSC 286, Chipman, J. noted that decisions of prison administrators are afforded considerable deference by the court. I am to review the decision of the CNSCF administrators on the basis of reasonableness. According to *Canada (Minister of Citizenship and Immigration) v. Vavilov*, 2019 SCC 65, for a decision to be reasonable it must be internally coherent and justified in relation to the law and the facts which are relevant.

[36] The court in *Vavilov* reviewed several factors relevant to evaluating whether a decision is reasonable:

> 106 It is unnecessary to catalogue all of the legal or factual considerations that could constrain an administrative decision maker in a particular case. However, in the sections that follow, we discuss a number of elements that will generally be relevant in evaluating whether a given decision is reasonable, namely the governing statutory scheme; other relevant statutory or common law; the principles of statutory interpretation; the evidence before the decision maker and facts of which the decision maker may take notice; the submissions of the parties; the past practices and decisions of the administrative body; and the potential impact of the decision on the individual to whom it applies. These elements are not a checklist for conducting reasonableness review, and they may vary in significance depending on the context. They are offered merely to highlight some elements of the surrounding context that can cause a reviewing court to lose confidence in the outcome reached.

[37] The decision to place Mr. Alcorn on North 4 was reasonable as it was based on a constellation of factors requiring his removal from general population. These factors included his security assessment (a 12) and the number of infractions causing concern for the safety and security of staff and inmates and the institution.

[38] The Deputy Superintendent made the decisions imbued with the authority set forth in the *Correctional Services Act* and *Regulations*. Such institutional administrative decision makers have specialized knowledge of the facility. As

Jamieson, J. stated in *Cox v. Nova Scotia (Attorney General)*, 2020 NSSC 81, referring to *Vavilov*, *supra*:

> 31 The Supreme Court of Canada recently set out a revised framework for judicial review of administrative decisions in the companion decisions of *Canada (Minister of Citizenship and Immigration) v. Vavilov*, 2019 SCC 65 (S.C.C.) and *Bell Canada v. Canada (Attorney General)*, 2019 SCC 66 (S.C.C.). The Court said in *Vavilov* that the revised standard of review analysis begins with a presumption that reasonableness is the applicable standard of review in all cases. There are limited exceptions to this presumption that were set out by the Court; however, they have no applicability to these applications.
>
> 32 The Court said that a reasonableness review aims to give effect to the legislature's intent to leave certain decisions with an administrative body while fulfilling the constitutional role of judicial review to ensure that exercises of state power are subject to the rule of law. The majority further said that the focus is on the decision actually made (para. 83). The Court said:
>
>> 83 ... Accordingly, a court applying the reasonableness standard does not ask what decision it would have made in place of that of the administrative decision maker, attempt to ascertain the 'range' of possible conclusions that would have been open to the decision maker, conduct a *de novo* analysis or seek to determine the 'correct' solution to the problem. ... Instead, the reviewing court must consider only whether the decision made by the administrative decision maker — including both the rationale for the decision and the outcome to which it led — was unreasonable.
>
> 33 The Majority also indicated that in conducting a reasonableness review the court should be attentive to the application by decision makers of specialized knowledge. They said that expertise can play a role in the application of the reasonableness standard:
>
>> 93 An administrative decision maker may demonstrate through its reasons that a given decision was made by bringing that institutional expertise and experience to bear: see *Dunsmuir*, at para. 49. In conducting reasonableness review, judges should be attentive to the application by decision makers of specialized knowledge, as demonstrated by their reasons. Respectful attention to a decision maker's demonstrated expertise may reveal to a reviewing court that an outcome that might be puzzling or counterintuitive on its face nevertheless accords with the purposes and practical realities of the relevant administrative regime and represents a reasonable approach given the consequences and the operational impact of the decision. This demonstrated experience and expertise may also explain why a given issue is treated in less detail. (see also para 145)

[39] The Deputy Superintendent has experience and knowledge concerning institutional security and safety. He testified in a straightforward manner and I found

his evidence to be credible and reliable. He spoke of the reasons why Mr. Alcorn was placed in North 4 and why this placement was necessary in light of staff shortages and Mr. Alcorn's security assessment.

[40] Mr. Alcorn did not provide any written materials or submissions in advance of the hearing but did cross examine the Deputy Superintendent and did provide oral submissions at the hearing. In essence, he did not understand how it was fair and proper for him to be placed on North 4 without any new levels, and after having served his most recent levels and being returned to West 1. He asked: "How is this fair?". The answer is, given the circumstances -- the continuing issues and levels and given the inability to transfer inmates -- the decision to transfer him to North 4 was reasonable. In other words, the decision to place Mr. Alcorn in North 4 falls within a range of possible, acceptable outcomes which are defensible in respect of the facts and law.

Procedural Fairness

[41] In addition, the facility afforded Mr. Alcorn procedural fairness by advising him verbally of the reasons for the placement, along with how long he needed to demonstrate good behaviour before he would be placed onto the general population unit. However, in *Crawley, supra*, the court acknowledged that there is no legislative requirement to provide inmates with written reasons as to why their confinement was changing, but strongly encouraged the facility to do so. The facility did not do so in relation to Nick Alcorn, who claimed at the hearing that no written reasons were afforded to him.

[42] The evidence before me included background concerning the formation of the North 4, the reasons inmates are placed in the unit, and how one can be returned to general population. This too is set forth in *Crawley, supra*.

[43] The facility has the power to customize the use of the facility. I refer to s. 74 and s. 79 of the *Correctional Services Act and Correctional Services Act Regulations.*

[44] The evidence of the Deputy Superintendent was clear. He testified in a forthright manner and I accept his evidence. Mr. Alcorn was told why he was being placed in North 4 Unit. He understood that if he had 30 days of good behaviour, he would be released, and, in fact, he was. In relation to the actual confinement, I have no difficulty concluding that the matter was fair.

[45] However, I am concerned about one aspect of this proceeding. The hearing of this matter was to take place on August 26. Despite having nine days to provide materials to the court and to Mr. Alcorn, the Attorney General, while providing the court with the information in advance of the hearing, failed to ensure that Mr. Alcorn had the materials in time to address matters at the scheduled hearing.

[46] On August 26, 2020, Mr. Alcorn received a 146-page package of materials in relation to this matter including;

1. Admissions Form
2. Offender Incident Report
3. North Intensive Direct Supervision Unit (NSIDU) Guidelines
4. Several Discipline Reports from March 15, 2020, until July 20, 2020

[47] The court was called upon to adjourn the matter to afford Mr. Alcorn time to review the materials presented by the Attorney General and to be in a position to formulate and present his submissions. The Attorney General failed in this case to ensure that Mr. Alcorn received the necessary documentation to enable the *habeas corpus* application to proceed. More needs to be done to ensure that inmates receive materials in advance of court appearances to ensure that they can address the legal issues before the court. It is trite to say this is expected and necessary in every matter, let alone a *habeas corpus* application.

[48] Circumstances might arise in a facility for a period of time, that make it difficult to provide documents to an inmate. That will be for another court on another occasion. However, in the absence of such extraordinary circumstances, court materials must find their way into the hands of inmates without delay. It is the Attorney General's burden to justify such detentions.

[49] In making these comments, I am reminded of the statements made recently by our Court of Appeal in *Pratt, supra* reproduced below:

> 56 It is also important to recognize the additional challenges self-represented prisoners face in advancing their *habeas* claims. It cannot be seriously disputed that, as a general statement, prisoners face challenges in advancing litigation. These challenges are particularly pronounced for prisoners in restricted detention, such as solitary confinement.
>
> …

> 95 As stated, lower courts must diligently guard against the erosion of the habeas corpus remedy in the prison context. Fair and speedy processes are necessary to ensure the urgent objective of hearing *habeas corpus* applications on an expedited basis is realized.

Conclusion

[50] Despite the lack of timely provision of court filed documents, the Attorney General has satisfied me that Mr. Alcorn's *habeas corpus* application should be dismissed. No costs are claimed and the court orders none.

Brothers, J.