

SUPREME COURT OF NOVA SCOTIA

Citation: *Cain v. Correctional Services Canada*, 2013 NSSC 367

Date: 20131031

Docket: Amherst No. 419952

Registry: Amherst

Between:

Percy Cain

Applicant

v.

Correctional Services Canada, Springhill Institution

Respondent

DECISION

Judge: The Honourable Justice Elizabeth Van den Eynden

Heard: October 21 & 30, 2013, Amherst, Nova Scotia

Decision: October 31, 2013 (Orally)

November 15, 2013 (Written release)

Counsel: Percy Cain, Applicant, self-represented
Sarah Drodge, Counsel for the Respondent

By the Court:

Introduction

[1] The Applicant, Percy Cain, filed a *habeas corpus* application with the Court on September 27, 2013. It is important to deal with such applications in an expedited manner. I felt it important to render an oral decision without making the parties wait an additional period of time for a written decision, particularly in the circumstances of this case. I reserved the right to make clerical edits or changes which clarify or expand upon the content of my decision without changing the reasons or rationale for the decision.

Background

[2] The Applicant, Percy Cain, has brought forward a *habeas corpus* application. Mr. Cain is currently incarcerated at the Springhill Institution located in Springhill, Nova Scotia. The Springhill Institution is a medium security institution.

[3] The Court understands that Mr. Cain is currently serving a sentence of four years, seven months for break and enter and failure to comply with conditions and breach of recognizance.

[4] Following sentencing, Mr. Cain arrived at the Springhill Institution in July, 2013. Upon arrival he was confined to the Regional Reception Centre. The

Springhill Institution is the Regional Reception Centre for the Atlantic region. Inmates, like Mr. Cain, are initially sent to the Springhill Institution for the purpose of obtaining their initial security classification and penitentiary placement. This phase is referred to by the Respondent as the intake stage, which the Court understands may take upwards to 90 days to complete.

[5] Upon arrival at the Springhill Reception Centre, Mr. Cain had a preliminary security classification of medium. During the intake phase at the Springhill Reception Centre his classification would be determined as would his penitentiary placement.

[6] On September 11, 2013 Mr. Cain was placed in administrative segregation pursuant to Section 31(3) of the **Correctional and Conditional Release Act (CCRA)**. He was placed in administrative segregation for his alleged misconduct which the Respondent states gave rise to safety and security concerns.

[7] While in administrative segregation, a five day review was held on September 18, 2013 and a 30 day review hearing was held on or about October 11, 2013. Mr. Cain was present for both the five day and thirty day review hearing. The administrative segregation was continued at each review stage.

Mr. Cain raised a number of concerns with respect to procedural and due process issues.

[8] Subject to his initial placement in administrative segregation on September 11, 2013, Mr. Cain's security classification was undertaken. Prior to the 30 day review hearing, in particular on or about October 8, 2013, Mr. Cain was advised by his Parole Officer, Louise Poitras, of the likely recommended penitentiary placement at a maximum security facility. Mr. Cain's security classification assessment and penitentiary placement was subject to his right to file a rebuttal. On October 16, 2013, Mr. Cain was provided with a copy of his Custody Rating Scale and Assessment for Decision (also referred to as Mr. Cain's A4D). [These documents are found at Tab 1(I) and (J) of Ms. Poitras affidavit, sworn to on October 16, 2013].

[9] Mr. Cain was assessed as a maximum security offender and his penitentiary placement was determined to be at the Atlantic Institution located in Reneous, New Brunswick.

[10] Mr. Cain had the opportunity to file a rebuttal to the classification recommendation and penitentiary placement. He elected not to do so. Unless the security classification is changed, the Court understands Mr. Cain will be

placed on a transfer list and will be transferred to the Atlantic Institution as soon as a space becomes available.

[11] Because of Mr. Cain's elevated security classification to that of maximum, the Respondent maintains that Mr. Cain must remain in involuntary administrative segregation until moved to his penitentiary placement at the Atlantic Institution.

[12] Mr. Cain maintains that his placement in administrative segregation was unlawful. Mr. Cain also challenges his maximum security classification and resulting transfer.

[13] The allegations against Mr. Cain which led to his placement in administrative segregation are summarized in Ms. Poitras affidavit (Exhibit #1) paragraphs 46-52 and Exhibit # 1, Tab 1, A,B,C and D. The Respondent determined that from its perspective, the confidential source (who informed institutional staff of the alleged threat by Mr. Cain) was reliable. The Respondent stated it treats all threats for physical harm seriously and these threats cannot be tolerated in a medium security institution.

[14] The Respondent concedes that Mr. Cain's placement in administrative segregation and his assignment of an increased security classification is a

deprivation of his residual liberty interest. Initially, the Respondent only conceded deprivation of Mr. Cain's residual liberty with respect to his placement in administrative segregation; however, the Respondent, during the course of the proceeding, conceded Mr. Cain's deprivation of liberty respecting his increased security classification. The Respondent contends Mr. Cain's placement in administrative segregation and the decision to attach a maximum security classification to Mr. Cain was lawful and reasonable. Mr. Cain contends the opposite.

[15] Evidence was heard by the Court on October 21, 2013. The hearing could not be completed within the scheduled day. At the conclusion of the hearing on October 21, 2013, a phone conference with Mr. Cain and counsel for the Respondent, Ms. Sarah Drodge, was to be scheduled. The issues to be addressed included:

- The requirement that Mr. Cain identify the remaining witnesses he wished to subpoena and call;
- Any supplemental disclosure requested by Mr. Cain of the Respondent; and
- The scheduling of hearing dates to complete the matter.

[16] That conference call was held on October 25, 2013. (The call was on the Court record.) At that time Mr. Cain advised the Court he no longer wished to call any additional witnesses and did not wish to receive any further disclosure from the Respondent.

[17] During the conference call the issue of the removal of documentation from Mr. Cain's possession post our hearing date of October 21, 2013 was discussed and the Court gave directions to the Respondent.

[18] By way of additional background, the Respondent disclosed documents to Mr. Cain in advance of the hearing on October 21, 2013. The Respondent redacted information from the disclosed documents, in particular the identity of a confidential source. Mr. Cain indicated if he held up the documents to the light, he could determine the confidential source. Respondent counsel, Ms. Sarah Drodge, informed the Court that subsequent to the proceedings on October 21, 2013 she reported (to her client) Mr. Cain's representation that he believed redacted information to be visible. The Respondent determined this to be a safety and security risk and seized that information from Mr. Cain's cell. Mr. Cain indicated he made prepatory notes on the materials that were seized. In particular, Mr. Cain indicated the information that he wrote on the seized

documentation included questions he intended to pose to the witnesses and arguments he intended to make. The Court directed Ms. Drodge to do the following:

- Ensure that a copy of the documentation was returned to Mr. Cain forthwith;
- Determine whether any of the witnesses Ms. Drodge intended to call, in particular Security Officer, Ardena Austin, and Manager of Assessment and Intervention, Carolyn Coon, had reviewed the documentation, in particular the questions Mr. Cain intended to ask or submissions which he intended to make to the Court;
- If that had occurred, Ms. Drodge was advised that she must bring this to the Court's attention at the commencement of the hearing which was set for October 30 and 31, 2013; and
- In the event the witnesses had not reviewed Mr. Cain's notations on the documentation that was seized, Ms. Drodge was directed to ensure such information was not to be reviewed by any witnesses to be called by the Respondent. In particular, Ardena Austin and Carolyn Coon.

[19] At the continuation of Mr. Cain's direct evidence on October 30, 2013, he asserted that not all of the documentation which was seized from his possession was returned to him. Security Officer Adrena Austin, who directed the seizure of the documentation, stated that all documentation seized was copied and returned to Mr. Cain. Mr. Cain stated that although he believed all the documentation was not returned, the missing documentation did not impair his ability to continue with his case.

[20] At the commencement of the hearing on October 21, 2013, counsel for the Respondent made a preliminary motion to redact, and treat as confidential, certain information pursuant to Section 27(3) of the **CCRA**. In particular, the redaction of confidential information which would identify the source who reported the alleged threats to have been made by Mr. Cain towards an institutional correctional officer, namely Adam Watts. The motion to redact and treat as confidential, was granted by the Court with the exception of the following information contained in the affidavit of Louise Poitras (Exhibit #1, Tab 1C). In particular, the information that was requested to be redacted from the first sentence of that Exhibit included the words:

...an offender of unknown reliability...

[21] The Court declined to grant the redaction and the treating of this information as confidential. The Court noted the Respondent should only seek to redact and treat as confidential information which falls squarely within the meaning of Section 27(3) of the **CCRA**.

Summary of Issues

[22] Security Classification:

- Does the Respondent have the authority to determine Mr. Cain's security classification?
- Did the Respondent comply with its statutory and common law duties re: procedural fairness and due process?
- Is Mr. Cain's maximum security classification and resulting penitentiary placement lawful and reasonable?

[23] Administrative Segregation:

- Does the Respondent have the authority to place Mr. Cain in administrative segregation?

- Did the Respondent comply with its statutory and common law duties re: procedural fairness and due process?
- Is Mr. Cain's placement in administrative segregation lawful and reasonable?

Summary of Evidence

[24] The Court heard evidence over two days. The Respondent filed an affidavit of Louise Poitras, Parole Officer at the Springhill Institution. Ms. Poitras gave limited direct viva voce evidence. The Respondent called two additional witnesses; Inmate Security Officer, Ardena Austin and Manager of Assessment and Intervention, Carolyn Coon. Mr. Cain presented evidence. All the witnesses were subject to cross examination.

[25] **Brief Summary (not exhaustive) of evidence of Percy Cain**

Mr. Cain gave evidence to the following effect:

- There was, from his perspective, essentially no basis upon which to place him in administrative segregation;
- There was no proper investigation conducted into the allegations against him;

- There was no reason for the Respondent to treat the source of information as reliable;
- No weapon was found in his possession (including the can of tuna he was allegedly to have threatened to hit Officer Watts with in the head);
- There was a lack of specific detail respecting the time and date Mr. Cain allegedly made this threat of his intention to assault Officer Watts. From Mr. Cain's perspective this goes to the reliability of the information put forth by the confidential source;
- The allegations against Mr. Cain did not result in any institutional charges and Mr. Cain questioned why he should have been treated more harshly than other inmates who reportedly were also involved in the alleged plan to "get" Officer Watts;
- Mr. Cain raised concern respecting the lack of production of documentation in the possession of the Respondent. However, it is noted that Mr. Cain was given the opportunity by the Court to identify and request any supplemental information that he thought

was relevant to the matters before the Court prior to conclusion of the hearing. Mr. Cain declined such opportunity;

- Mr. Cain raised concerns respecting the documentation of his alleged inappropriate conduct (other than the alleged threat) prior to his placement in administrative segregation. The inappropriate conduct Mr. Cain was said to engage in while in the reception centre included: refusing to stand for counts; perhaps issues with noise, and compliance with other institutional rules and regulations. Mr. Cain stated that had he engaged in such alleged inappropriate conduct, it should have been recorded by correctional staff and specifics should have been disclosed to him. Mr. Cain maintains it is inappropriate that these verbal reports and such allegations are now being used against him.
- Mr. Cain raised concerns respecting the proper constitution of the Segregation Review Board both at the five day and thirty day review stage. He raised concerns respecting the Respondents compliance with its statutory and directive requirements respecting his placement in administrative segregation and his security classification;

- In short, Mr. Cain asserts all or the majority of the procedural safe guards required were not followed by the Respondent;
- Mr. Cain asserts he did not sign the documentation that appears at Tab 1(E) and (F) of Exhibit #1. Mr. Cain acknowledges that the signatures on Exhibit 4 and 5 are his signatures;
- Mr. Cain provided a description of the layout of the reception facility at the Springhill Institution and how inmates are housed in separate ranges with very limited opportunity to interact. Accordingly, this would limit the opportunity of “all” the black inmates to gang up on Officer Watts as alleged to have been contemplated. Mr. Cain asserts that there are black inmates in each range or unit and given the structure of the reception centre and the restrictions on interaction, it would be impossible for all the black inmates to get together and “get” Officer Watts, as was alleged. Mr. Cain asserts that his evidence respecting the layout of the reception facility negatively impacts the reliability of the confidential source’s disclosure of threat. The threat disclosure is summarized in Tab (A), (B), (C) and (D) of Exhibit #1; and

- Mr. Cain did not internally grieve his administrative segregation decision at any stage; stating that the process took far too long. Mr. Cain did not file a rebuttal to the maximum security classification, stating that he believed a rebuttal was of no useful effect. (Mr. Cain filed his *habeas corpus* application wherein he contests and seeks relief respecting both the administrative segregation and his increased security classification).

[26] **Brief Summary (not exhaustive) of evidence of Parole Officer, Louise Poitras**

Ms. Poitras gave evidence to the following effect:

- Ms. Poitras is a Probation Officer at Springhill Institution. She was assigned as Mr. Cain's Probation Officer on September 27, 2013. Ms. Poitras complete the security classification and penitentiary placement process respecting Mr. Cain;
- She classified Mr. Cain as a maximum security offender which classification was accepted by Correctional Service Canada (CSC);

- As a result of the classification Ms. Poitras contended Mr. Cain cannot be released to the general population at the Springhill Institution because that Institution is a medium security facility. Given that Mr. Cain has been classified as a maximum security prisoner he must remain in involuntary segregation until transferred out;
- Ms. Poitras filed a detailed affidavit with supporting attachments. Details of which I have not summarized. In her affidavit and supporting documents it makes reference to Mr. Cain being placed in both “administrative segregation” and “disciplinary segregation”. Ms. Poitras clarified that Mr. Cain was never in disciplinary segregation and this reference was an error. Ms. Poitras gave evidence that the reference to “disciplinary segregation” did not negatively impact Mr. Cain’s security rating scale, or his A4D assessment, or her ultimate recommendation for a maximum security classification;
- During cross examination by Mr. Cain, Ms. Poitras explained her findings under the Custody Rating Scale (found at Tab 1(I) of Exhibit #1) and the A4D assessment she completed respecting Mr.

Cain (found at Tab 1(J) of Exhibit #1). In preparation of the Custody Rating scale and A4D assessment Ms. Poitras stated she did take into consideration the circumstances which gave rise to Mr. Cain's placement in administrative segregation as well as Mr. Cain's extensive criminal institutional record which comprised of some 27 volumes of materials. Mr. Cain's back ground information was summarized in her A4D assessment;

- Mr. Cain cross examined Ms. Poitras extensively respecting the process she followed in completing the Custody Rating Scale and background information, including its completeness and accuracy as reflected in his A4D assessment. As previously noted, Mr. Cain initially requested the Respondent to disclose all the background records Ms. Poitras reviewed and relied upon in completing the Custody Rating Scale and the A4D assessment. Mr. Cain's request for additional disclosure was an item which was to be specifically, addressed during the scheduled telephone conference with Mr. Cain and counsel, Ms. Drodge, on October 25, 2013. As noted, at that time, Mr. Cain retracted his request for additional disclosure.

[27] **Brief Summary (not exhaustive) of evidence of Carolyn Coon**

Ms. Coon gave evidence to the following effect:

- Ms. Coon is a Manger of Assessment and Intervention at Springhill Institution. She testified her responsibilities include supervision of Parole Officers and that she is the chair of the Segregation Review Board;
- In her evidence Ms. Coon clarified that at the five day review hearing she was the chair and the only person present for the five day review hearing at which Mr. Cain was present. She clarified the reference to the Segregation Review Board members at Tab 1(H) of Exhibit #1. Ms. Coon testified that Mr. Griffin and Mr. Mitton were not in attendance although she did consult with them during the review process;
- Ms. Coon advised Mr. Cain that she would be making a recommendation with respect to his continued segregation placement and wanted to provide Mr. Cain with an opportunity to provide his side of the events;

- She stated that she reviewed the procedural checklist respecting the completion of safeguards with Mr. Cain;
- During the review hearing Mr. Cain claimed he was innocent;
- She reports that the time spent with Mr. Cain was approximately one half hour to forty-five minutes. She indicated that Mr. Cain was “quite a talker”. (I note that Mr. Cain gave evidence that the session may have lasted approximately five minutes);
- Ms. Coon recommended that Mr. Cain be maintained in administrative segregation. She took into consideration his history and the potential seriousness of the threat which gave rise to his segregation. Ms. Coon made reference to Mr. Cain’s past institutional history which reportedly included 28 prior placements in segregation. Ms. Coon stated that had this been Mr. Cain’s first time in segregation, she may not have recommended he be maintained in administrative segregation.

[28] **Brief Summary (not exhaustive) of evidence of Ardena Austin**

Ms. Austin gave evidence to the following effect:

- Ms. Austin is a Security Officer at Springhill Institution. She testified that part of her function is to assess security risks within the Springhill Institution. She was involved in the investigation into the allegations respecting the threats made by Mr. Cain to allegedly assault Officer Watts. In her testimony, Ms. Austin outlined how Mr. Cain was brought to her attention by a Security Officer and what interim steps were taken to mitigate any perceived risk to Officer Watts. The initial mitigation steps were taken on September 10, 2013 (the date of the initial report Exhibit 1, Tab 1(A)) pending the ability to conduct further interviews the following day. The interim mitigation step was to remove Officer Watts from his post. That was deemed sufficient to mitigate any immediate risk;
- Ms. Austin gave evidence respecting the follow up interviews that were conducted on September 11, 2013. This included an interview of the original confidential source as well as follow up interviews with other inmates. The document found at Tab 1 (C) of Exhibit #1 summarizes information of the reported threats made by Mr. Cain and the follow-up information received;

- Ms. Austin gave evidence respecting the reference to “unknown reliability” of the source and her subsequent determination that the source was reliable. Ms. Austin gave evidence to the effect that the initial reference to “unknown reliability” is a common phrase used when there has not been an opportunity to gather any additional information and assess/analyse that information. Ms. Austin stated that once the additional information was gathered from the other inmates and the original confidential source was interviewed, the determination was made that the original source was deemed reliable;
- That apart from the documentation contained at Tab 1(A),(B),(C) and (D) of Exhibit #1, there are no other documents, electronic or otherwise, that record the follow-up interviews that were conducted with the inmates and/or any reference to Mr. Cain’s noncompliance with rules, or otherwise disruptive behaviour;
- Although Ms. Austin stated that it is not documented anywhere, Correctional Officers Hanna and Watts gave a verbal report of their interactions and interventions with Mr. Cain prior to September 10,

2013. Reportedly, Mr. Cain was described as refusing or not complying with procedures such as:

- a. Stand at count;
- b. Lock up procedures;
- c. Meal procedures;
- d. Noise;
- e. Conflict with institutional staff (appeared to be in conflict and questioning required rules and regulations);

- Ms. Austin stated that she agreed with the recommendation that Mr. Cain be classified as a maximum security offender. That level of risk was not manageable in a medium security facility such as Springhill. Ms. Austin gave evidence respecting the number of inmates at Springhill, over 460 offenders and over 200 staff; and stated there is no room for violence at the Springhill Institution and threats to physical harm cannot be tolerated.
- If an inmate is making threats to physically harm, this is not part of a profile of an offender who has a medium security classification;

- That as a result of Mr. Cain's maximum security classification, Mr. Cain had to remain in administrative segregation (pending transfer). With the classification of a maximum security offender, Mr. Cain could not return to the general population/reception centre at a medium security institution.
- The Springhill Institution is the Reception Centre for the entire Atlantic Region. Ms. Austin spoke to the process Mr. Cain went through upon arriving at the Reception Centre respecting the assessment process for his security classification and penitentiary placement.

Analysis of Law

[29] The Respondent has conceded this Court has jurisdiction to hear Mr. Cain's *habeas corpus* application respecting both his administrative segregation and the increased security classification. Even though that is acknowledged, as authority for the Court to hear these matters, I refer to the decisions of **May v. Ferndale Institution** [2005] S.C.J. No. 84; **Bradley v. Canada (Attorney General)** 2011 NSSC 463 and 2011 NSSC 503; and **Bradley v. Canada (Attorney General)** 2012 NSSC 173.

Burden of Proof

[30] The Respondent has acknowledged deprivation to Mr. Cain's liberty, therefore, the onus shifts to the Respondent to establish the deprivation is lawful.

[31] In the analysis of whether the decision of the Respondent to place Mr. Cain in administrative segregation and to increase his security classification, an analysis of the reasonableness of the decision is triggered.

[32] As authority the Court refers to the following decisions:

- **May v. Ferndale Institution** [2005] S.C.J. No. 84.
- **Dunsmuir v. New Brunswick** [2008] S.C.J. No. 9.
- **Khela v. Mission Institution** 2011 BCCA 450.

Deference

[33] I have considered the principle of deference respecting the decision of administrators in penal institutions. I am mindful of the deference afforded respecting such administrative decisions, as is the subject matter of this case. In particular, administrative segregation and classifications respecting security.

Deference is referred to in many authorities including, **Khela v. Mission Institution** (supra), **Dunsmuir** (supra), and **Bradley** (supra), a decision of the New Brunswick Queens Bench, as well as **Samms v. LeBlanc**, 2004 NBQB 140.

[34] In short, this Court's role is not to determine whether the administrative segregation and/or the security classification was the "proper decision" but rather whether the Respondent had the jurisdiction to make those decisions and whether such decisions were lawful and reasonable in the circumstances, taking into consideration the rights and procedural safeguards which Mr. Cain is to be afforded at law.

Statutory Framework

[35] I have considered all the relevant provisions of the **Correctional Conditional Release Act**, the regulations under said **Act** as well as the relevant Corrections Service Canada Directives. These include the following sections of the **CCRA**: Section 4, 24(1), 27, 28, 29, 30, 31, 32, 33, 34, 35, 36 and 37.

[36] I have considered the principles under those sections with respect to placing an inmate in administrative segregation, and the classification principles which include being the least restrictive.

[37] I have considered the relevant regulations including regulations 11, 12, 17, 18, 19, 20, 21, 22, and 23.

[38] I have considered Commission Directives 706/705-7, 710-6, 710-2 and 709.

FINDINGS AND ANALYSIS

[39] **Security Classification:**

- **Does the Respondent have the authority to determine Mr. Cain's security classification?**
- **Did the Respondent comply with its statutory and common law duties re: procedural fairness and due process?**
- **Is Mr. Cain's maximum security classification and resulting penitentiary placement lawful and reasonable?**

[40] I find the Respondent had jurisdiction to make decisions respecting Mr. Cain's security classification. That authority is clearly found within the **Corrections and Conditional Release Act**.

[41] After considering all the evidence, the submissions from both Mr. Cain and counsel for the Respondent and after considering the relevant statutory framework and the legal principles which I have referred to, I find that due process and procedural fairness was afforded to the Applicant, Mr. Percy Cain.

[42] I find that any irregularities in process; challenges to the facts or information the Respondent relied upon (in particular the Parole Officer, Ms. Poitras in completing Mr. Cain's Custody Rating Scale and A4D Assessment) were not material or substantive such that the security classification assessment process was undermined.

[43] Considering the principle of appropriate deference and whether the classification was within the appropriate range of outcomes, I find the classification decision has been arrived at in a manner that is lawful and reasonable. Therefore, Mr. Percy Cain's *habeas corpus* application and the relief respecting the classification decision is dismissed.

[44] **Administrative Segregation:**

- **Does the Respondent have the authority to place Mr. Cain in administrative segregation?**
- **Did the Respondent comply with its statutory and common law duties re: procedural fairness and due process?**
- **Is Mr. Cain's placement in administrative segregation lawful and reasonable?**

[45] I find that the Respondent has jurisdiction to make decisions respecting administrative segregation. That authority is clearly found within the legislative framework of the **Corrections and Conditional Release Act**.

[46] After considering all the evidence and submissions by Mr. Cain and the submissions Ms. Drodge made on behalf of the Respondent and the applicable law, I find that the original placement of Mr. Cain in administrative segregation to be lawful and reasonable in the circumstances.

[47] Mr. Cain has raised procedural and due process concerns. Although the process followed by the Respondent might not be perfect, I find that overall on balance, Mr. Cain's segregation placement was handled in a manner that, in the circumstances of this case, was generally compliant with the Respondent's

obligation at law, including ensuring due process and procedural fairness was appropriately afforded to Mr. Cain.

[48] As an aside, the Court encouraged the Respondent to ensure information is properly documented as required by the legislative framework, regulations and directives and all required procedural safeguards are strictly followed by the Respondent.

[49] I also note that on the facts of this specific case, Mr. Cain's placement at the Springhill Institution was his first placement following his sentence. The Springhill Institution is the Reception Centre for the Atlantic Region. During the relevant time period of Mr. Cain being in administrative segregation, Mr. Cain was in the intake process as well. During this intake process the Respondent is dealing with Mr. Cain's security classification and his penitentiary placement decision.

[50] In this case, the classification decision increasing Mr. Cain's security rating to that of maximum from medium impacted Mr. Cain's placement in administrative segregation. As a result of the maximum security classification Mr. Cain remained in administrative segregation and could not be returned to

the reception centre or general population because Springhill is a medium security facility.

[51] I note there was no evidence respecting a reintegration plan as required in directive 709. Specifically, if an inmate is in administrative segregation there is a required reintegration plan. In this case, at or around the time of Mr. Cain's 30 day segregation review hearing, the recommendation respecting his increased classification and penitentiary placement was being formulated. These recommendations were ultimately presented to him on October 16, 2013. Mr. Cain had the right to rebut. He chose not to rebut and nothing in particular turns on his failure to rebut.

[52] Mr. Cain's administrative segregation placement would have been impacted in any event by his increased security classification decision. In these circumstances, I do not treat the absence of a reintegration plan or any other procedural irregularities as having any material negative impact on Mr. Cain or the process.

[53] I find the decision to place Mr. Cain in administrative segregation was reasonable and lawful. Accordingly, I dismiss Mr. Cain's *habeas corpus* application respecting his segregation placement.

Conclusion

[54] Application dismissed.

J.