SUPREME COURT OF NOVA SCOTIA

Citation: *Richards v. Springhill Institution*, 2014 NSSC 120

Date: 20140220
Docket: Amh. No. 421982
Registry: Amherst

Between:

Ryan Richardo Richards

Applicant

v.

Warden (Springhill Institution), Correctional Service of Canada and The Attorney General of Canada

Respondents

DECISION

Judge:	The Honourable Justice E. Van den Eynden
Heard:	Preliminary motion made respecting jurisdiction - February 3, 2014, in Amherst, Nova Scotia. Written submissions were filed and oral decision rendered on February 20, 2014.
Written Release:	April 2, 2014
Counsel:	Jill Chisholm, Solicitor for the Respondent Ryan Richards, Applicant, self-represented

By the Court:

Introduction:

[1] The preliminary issue before me is that of territorial competence and jurisdiction. The Respondents argue this Court lacks territorial competence to hear Mr. Richards's *habeas corpus* application or, alternatively, if this Court has territorial competence it should decline to exercise jurisdiction. The Applicant, Mr. Richards, argues this Court has territorial competence and requests this Court exercise its jurisdiction to hear his *habeas corpus* application.

[2] I rendered an oral decision on February 20, 2014 and reserved my right to edit my decision and expand upon my reasons while not in any way changing the substance of my decision.

Overview of Facts

[3] Mr. Richards filed his *habeas corpus* application on November 26, 2013. The first appearance before this Court was on December 5, 2013. The Chambers Judge set a hearing date for February 20, 2014. At that time (December 5, 2013) Mr. Richards was in involuntary segregation at the Springhill Institution; his security classification had been recently increased from medium to maximum and

a transfer to a maximum security institution was pending. His pending transfer was noted during the December 5, 2013 appearance.

[4] Mr. Richards original *habeas corpus* application did not expressly challenge his security reclassification. During the December 5, 2013 appearance Mr. Richards advised the Court he wished to amend his application. The Court directed his amended application to be filed by December 23, 2013.

[5] The intended amendments were not explored at the December 5, 2013 appearance. That said, the record indicates Mr. Richards did attempt to identify his security reclassification which is the subject matter of his amended *habeas corpus* application.

[6] Because of his pending transfer to a maximum security institution prior to this Court hearing his scheduled application, Mr. Richard requested the Court order him not to be removed from the Springhill Institution until his application could be heard. The Respondents objected; stating this Court was without jurisdiction to make such an order. The record indicates the Chambers Judge agreed with this position. With respect, in my view this Court has jurisdiction to make such an order. In fact, I have made such orders in appropriate circumstances dealing with *habeas corpus* applications. **Civil Procedure Rule** 7.14(i) provides as follows:

> **7.14** A judge giving directions as a result of an order for *habeas corpus* may provide directions necessary for a quick and fair determination of the legality of the applicant's detention, including any of the following:
>
> (i) adjourn the proceeding and make any order necessary to obtain the presence of the applicant.

[7] Mr. Richards explained that he prepared his amended *habeas corpus* application to include a challenge to his increased security classification and sought to have it commissioned and filed with this Court on or before December 11, 2013. I accept that he did so. Despite his efforts he was unable to get the application commissioned so he could file same; and on December 12, 2013 he was involuntarily transferred to the Atlantic Institution in Renous, New Brunswick.

[8] Mr. Richards stated that his amended application and supporting file materials were not transferred with him to the Atlantic Institution. He alleges this was intentionally done to frustrate his access to this Court. He alleges his speedy involuntary transfer was also intended to frustrate his access to this Court.

[9] The Respondents take the position this Court simply has no jurisdiction to hear Mr. Richards *habeas corpus* application. This is because Mr. Richards is now removed from the territorial jurisdiction of this Court. That, from the Respondents perspective, should end the matter.

[10] The Respondents request the *habeas corpus* application be dismissed because of the lack of territorial competence and given that Mr. Richards is now out of segregation in Nova Scotia, that part of his application is moot. The Respondents asserts he is free to file a new *habeas corpus* application in New Brunswick or seek judicial review from the Federal Court.

[11] Mr. Richards's security reclassification was conducted by personnel at the Springhill Institution prior to his involuntary transfer out of the Province of Nova Scotia on December 12, 2013. He had been at the Springhill Institution in excess of three years. Reportedly, this was the longest stationary period of time Mr. Richards served in any Federal Institution.

[12] Based on the specific circumstances and facts of this case and for reasons which I will elaborate on further, I permitted Mr. Richards to amend his *habeas corpus* application to formally include a challenge to his increased security classification. He subsequently filed that application. Inmates are typically self-represented. As is Mr. Richards. *Habeas corpus* applications are not always in perfect form when received from inmates with limited resources. Reasonable latitude must be given. The Court is concerned with the substance of the inmate's deprivation of liberty concerns. Post the amendment being permitted; the

Respondents then challenged the territorial competence of this Court. That brings us to the determination of this preliminary issue.

[13] The Respondents filed a brief on January 9, 2014 in support of its preliminary motion on territorial competence or the lack thereof. The initial submission did not address the real and substantial connection test respecting the issue of territorial competence and the discretion to exercise such jurisdiction if territorial competence is found to exist.

[14] I asked for and received further submissions from the Respondents on this issue. Mr. Richards was invited to file submissions on the jurisdictional issue as well. Mr. Richards elected to do so. I reviewed all filed submissions. I thank both counsel for the Respondents and Mr. Richards for their submissions on this preliminary issue.

[15] If jurisdiction is to be retained, I indicated to the parties it would be narrowed to the issue of Mr. Richards challenge to his increased security classification. Not the additional relief and/or compensation he identified in his original and amended application.

[16] I now want to briefly summarize the more specific position of the parties.

Position of the Respondents

[17] The Respondents argue a provincial superior court has no power to issue a writ of *habeas corpus* beyond its territorial limits; nor can it exercise jurisdiction over a Warden of a Federal Institution in another province. The proper and only jurisdiction is the jurisdiction in which the offender is incarcerated. In support of its position the Respondents rely upon several cases including: **McKenna v. Correctional Services Canada (Springhill Institution),** an unreported decision of this Court, (Court file number: SAM 2012-407091), and **Toodlican v. Kemball and AGG**, unreported, 2012 (BSCC) Docket: 25934.

[18] The Respondents also referred to both **Bradley** decisions of this Court, in particular, **Bradley v. Canada Correctional Services**, 2011 NSSC 503**; Bradley v. Correctional Services Canada**, 2012 NSSC 173. The Respondents argue now, as in **McKenna,** that **Bradley** (2012), (where this Court heard a security reclassification issue filed in Nova Scotia when the Applicant, Mr. Bradley, was being held in an institution in New Brunswick) cannot be used to support the proposition that this Court has territorial competence in this instance.

[19] The Respondent did not challenge territorial competence in **Bradley**. In **McKenna** the Respondents articulated that its reasons for not doing so related to

contempt concerns the Court had with the removal of Mr. Bradley beyond the jurisdiction of Nova Scotia. The two Bradley decisions need to be read together to gather that context.

[20] The Respondents argue Mr. Richards did not challenge his security application by actually filing his amended application while he was within the territorial jurisdiction of Nova Scotia. Technically I note that is correct. That said, I accept and find as a fact, Mr. Richards, who is an unrepresented party, clearly intended to do so prior to his involuntary transfer out of the Province on December 12, 2013. He took timely and concrete steps; however, despite his reasonable efforts, he was not able to do so.

[21] As noted, it appears Mr. Richards identified the issue of his security reclassification being a live issue related to his intended amendment during the December 5, 2013 docket appearance. It is clear from the materials Mr. Richards filed, the recommendation to increase his security classification occurred near or around the time of his original *habeas corpus* application. He indicated his intention to challenge such reclassification to Springhill personnel. That fact was known to Springhill personnel. It came as no surprise to this Court that such an amendment would be forthcoming in these circumstances. Mr. Richards

eventually did file his Amended Application which was not untimely in these circumstances.

[22] I continue to summarize the Respondents position respecting the specific challenge to territorial competence. I refer to the Respondents brief filed on February 6, 2014, in particular:

> *"Whereby it appears that two distinct jurisdictions maintain legal authority over a proceeding, it is appropriate to apply the real and substantial connection test. This is not the situation at hand. The courts of Nova Scotia and those of New Brunswick do not each have the jurisdiction to decide the lawfulness of the Applicant's deprivation of residual liberty. Only the court in the jurisdiction where the Applicant is allegedly unlawfully detained may determine that issue. In this case that is New Brunswick. …*
>
> *If the Court in one province cannot grant the relief sought then it is not in a position to "compete" with the jurisdiction of the court that does. Thus, it is improper to apply the real and substantial connection test in cases such as this one.*
>
> *If the test did apply the burden is on the Applicant, Mr. Richards, to prove that there is a real and substantial connection.*
>
> *Alternatively, if the territorial limits of this Court do not preclude it from maintaining jurisdiction over an application for habeas corpus by an inmate outside of those limits, and a determination of competing jurisdiction was required, the Court is bound by the* ***Court Jurisdiction and Proceedings Transfer Act."***

[23] I agree with the placement of the burden. I agree **CJPTA** is applicable. The **CJPTA** in essence codifies the common law on the issue of territorial competence based on a real and substantial connection.

[24] The Respondents argue that if this Court is satisfied the application of the test is appropriate and that Mr. Richards is successful in proving a real and substantial connection, I should decline to maintain jurisdiction. The Respondents argue this Court cannot enforce an order against a Warden of an out of province institution; so if this Court issues a judgment on this matter it will be unenforceable. The Respondents argue this necessitates a decline of jurisdiction.

[25] At this point, I note the **Correctional and Conditional Release Act (CCRA)** is a Federal Act. In my view, if Mr. Richards's security reclassification is found to be unlawful he will remain classified as medium; that classification will follow him through any Federal penal institution in Canada. There is no need to enforce against any particular Warden in another jurisdiction. In short, the classification follows the inmate.

[26] The Respondents also argue that:

> *"It is offensive to the fair and efficient working of the Canadian Legal System as a whole to require a proceeding that may be heard by either the Federal Court or the Court in which the inmate is located to be tethered to a province to which there is no connection. It cannot be said to be efficient for the proceeding to be maintained here even if territorially proper when there is an appropriate form readily available elsewhere."*

[27] Finally, the Respondents argue the application of the requisite jurisdictional factors *(in a real and substantial connection test)* illustrate that even if this Court could exercise territorial jurisdiction, it should decline to do so.

[28] If I were to accept the Respondents primary argument that a provincial superior court's territorial competence can be conclusively and forever defeated by simply moving an applicant inmate out of province, that would place the administrative decision makers in a most powerful position which arguably could not be checked by the Courts. CSC and the Institution could fully insulate against any *habeas corpus* application to a provincial superior court by simply shuffling a prisoner from province to province. That would not be a just result.

[29] Inmates might be transferred for completely legitimate reasons after a *habeas corpus* application is filed but not heard. Even if the transfer was for a legitimate purpose, a loss of jurisdiction could still be prejudicial to the applicant inmate. If a transfer was used to strategically frustrate a *habeas corpus* application that would be an improper purpose. Although Mr. Richards believes such a tactic was deployed in this case, I make no such finding at this time. I have not heard all the evidence. I am not in a position to decide that issue at this time.

[30] In addition to asserting Mr. Richards is at liberty to pursue relief in a New Brunswick Court or the Federal Court, the Respondents argue other issues impact the jurisdictional determination. In particular, the cost and coordination involved in moving a prisoner from province to province and, since Mr. Richards' records "go with him", some documents might not be available to Springhill personnel if they are not maintained on the computerized Offender Management System. The Respondents argue these factors should be taken into consideration by this Court.

[31] I now summarize the arguments Mr. Richards has made in support of his position that this Court has territorial competence and his request that I retain jurisdiction.

Position of the Applicant, Mr. Richards

[32] Mr. Richards argues his application will be further delayed should this Court decline jurisdiction. I note that although extensive materials have been filed with the Court and several preliminary appearances conducted; his *habeas corpus* application has not yet been adjudicated upon its merits; notwithstanding it was filed back in late November, 2013 and was first before the Court on December 5, 2013 for setting down. *Habeas Corpus* applications are time sensitive and are to take priority over all other business of the Court. I am concerned that if jurisdiction

is declined, much effort thus far will be for not. Particularly in a *habeas corpus* application, where important and legitimate liberty interests are at stake, the phrase justice delayed is justice denied is striking.

[33] If jurisdiction is declined Mr. Richards might be prejudiced by his ability to compel relevant witnesses to New Brunswick, particularly those who were key decision makers respecting his security reclassification. If he is transferred out of New Brunswick (as is planned) this becomes more challenging.

[34] In this particular case the key decision makers respecting his increased security classification rest with the personnel of Springhill. Mr. Richards argues his transport issue (from Renous to Amherst) is not a barrier or at least not any material barrier. He argues it is quite manageable and suggests the time to transport from New Brunswick to Nova Scotia is approximately two and a half hours. He noted he was transported on January 7, 2014 to the Amherst hospital for a medical appointment and that presented no difficulty.

[35] With respect to any documents not being available to the Respondents, Mr. Richards noted the bulk is available electronically on the Offender Management System. If any are not, this could be managed. In other words any issues with

respect to accessibility of documentation between the Springhill Institution and Atlantic could be worked. I agree.

[36] Mr. Richards is not seeking a return to the Springhill Institution. He is challenging his security reclassification. If he is successful, he recognizes this Court would not order him to be transferred to a specific medium security institution. That decision would be left to the CSC to determine.

[37] I now turn to review the law I have taken into consideration in rendering my decision on this preliminary issue.

Review of the Law

[38] In my view the case authorities referred to by the Respondents do not address the principles of a real and substantial connection test or the applicability of same to a *habeas corpus* application.

[39] With the exception of a recent and relevant decision of this Court in **Nodrick v. Correctional Services and National Parole Board,** 2014 NSSC 93, I have not located a case that addressed this specific issue in a *habeas corpus* application (being the real and substantial connection test of territorial competence). In **Nodrick** the territorial jurisdiction of this Court was also

challenged. The Court declined jurisdiction based on the specific facts of that case.

[40] As previously noted, if I were to find that Mr. Richards increased security classification was unlawful, his security classification would revert to medium. That classification follows him in any province he might be incarcerated in, thus no specific order of this Court need to be imposed on the Warden of the Atlantic Institution in New Brunswick. Any decision finding the reclassification unlawful is the ultimate remedy without regard to territorial boarders.

[41] The overarching legal principles I am mindful of and have taken into consideration include the following:

- *Habeas corpus* is not a static, narrow or formalistic remedy. *Habeas corpus* is a very important remedy. It exists to protect individuals against unlawful restrictions of their liberty or residual liberty in the case of an inmate already incarcerated;
- The *habeas corpus* remedy protects two fundamental **Charter** rights namely, Section 7 and Section 9 rights. Section 10(c) of the Charter guarantees the right to *habeas corpus* remedy;

- There is a constitutionally mandated need to provide timely and effective enforcement of **Charter** rights;
- The significance of the interest at stake here demands a speedy resolution process. Access to justice, particularly from an inmate's perspective is tied to the timeliness of the potential relief;
- Courts should be flexible when guaranteeing **Charter** rights;
- Courts should not hinder access to such protection or justice;
- Provincial Superior and Federal Courts have concurrent jurisdiction respecting the application before this Court. Provincial superior courts by way of *habeas corpus* application; the Federal Court by way of judicial review; and
- A provincial superior court should only decline to exercise *Habeas Corpus* jurisdiction in appropriate, and I add, compelling, circumstances. Not just because there is an alternate remedy elsewhere or something might be more convenient to the Court.

[42] For authority of the above principles I refer to **May v. Ferndale Institute**, 2005 SCC 82 and the authorities noted therein. As well the recent **Nodrick** decision and the authorities noted therein.

[43] If this Court, after applying the real and substantial connection test, determines it has territorial competence; we then have competing provincial superior courts that have territorial competence. The issue then becomes whether this Court should exercise jurisdiction.

[44] As noted, apart from the **Nodrick** decision, I have not found any case that refers to the real and substantive connection test or the factors of the **Court Jurisdiction and Proceedings Transfer Act** to a *habeas corpus* application. That is not to say that jurisdiction cannot be founded by using the real and substantial connection analysis. Given the liberty interest at stake, the priority to be given to *habeas corpus* application and the evolving and flexible nature of *habeas corpus*; I have determined it appropriate to undertake a real and substantial connection analysis.

The Real and Substantial Connection Test

[45] I refer to the **Court Jurisdiction and Proceeding Transfer Act of Nova Scotia ("CJPTA"), Bouch v. Penney,** 2009 NSCA 80 and **Muscutt v. Courelles** (2002) **60 O.R. (3D) 26,** in determining whether there is a real and substantial connection.

[46] Section 4 of the **CJPTA** lists five situations in which this Court would have territorial competence. Section 5(e) is the only section that is relevant and it provides:

> (5) A Court has territorial competence in a proceeding that is brought against a person only if …
>
> (e) there is a real and substantial connection between the Province and the facts in which the proceeding against the person is based.

[47] Section 11 of the **CJPTA** provides a list of circumstances which a real and substantial connection will be presumed. None of those presumptions apply. Given there is no statutory presumption under Section 11 we look to the common law for guidance. In this respect the decisions of **Bouch** and **Muscutt** are informative, particularly the eight factors set out in **Muscutt**.

[48] I now turn to the analysis of the **Muscutt** factors to the facts and circumstances of this case:

1. **The connection between the forum and the plaintiff's (applicant's) claim.** At the time his *habeas corpus* application was commenced, Mr. Richards was incarcerated at the Springhill Institution in Nova Scotia. He had been there approximately three (3) years. He had made reasonable attempts to formally amend his application to include a security reclassification challenge while he was being held in this Province. At all material times to his security reclassification assessment and decision he was being held at the Springhill Institution. The key witnesses and personnel involved in the decision making are employed at the Springhill Institution in Nova Scotia.

2. **The connection between the forum and the defendant (respondents)**. A very similar analysis to number one. The decision was made in Nova Scotia by prison administrators who are in this jurisdiction. Mr. Richards was in Nova Scotia slightly in excess of three years prior to his involuntary transfer. The incident he allegedly was involved in occurred at Springhill and was investigated by a Springhill Security Intelligence Officer.

3. **The unfairness to the defendant (respondents) in assuming jurisdiction**. Factors raised by the Respondents include transportation costs, concern with transporting a maximum security offender and prisoner related documentation being moved to Atlantic Institution where Mr. Richards was placed. These are not material barriers. Springhill is much closer for any Respondent witnesses. The transportation issues would not be a significant issue for the Respondents to contend with. Prisoners are transported fairly routinely from Atlantic Institute to this Province. Many of the documents that would comprise the Record are available to the Respondents on the electronic Offender Management System. Any documentation that was not, surely the two Institutions (Springhill and Atlantic) could coordinate the return of any hard copies that might have been transferred with Mr. Richards. The unfairness issues raised by the Respondents can be appropriately managed without any serious impact upon the Respondents.

4. **Unfairness to the plaintiff (applicant) if not assuming jurisdiction**. Mr. Richards argues he will be significantly prejudiced. I agree that a decline of jurisdiction could expose him to prejudice. There will be additional potential delay if he has to start afresh and seek relief elsewhere. He may be impaired in his ability to present his case by access to relevant witnesses in Nova Scotia. If a deprivation of residual liberty is established; the onus reverts to the Respondents to establish it was unlawful. That said, with *habeas corpus* applications, particularly a challenge to a security reclassification; inmates often seek to cross examine core decision makers. This includes witnesses that may not be presented by the Respondents originally. This Court has the authority under *Civil Procedure Rule* 7.*14* to order the attendance of a witness for direct and cross examination. Mr. Richards is concerned he may be

impaired in the presentation of his application by not having access to key witnesses. This concern is exacerbated should he be transferred from New Brunswick further west.

5. **Involvement of other parties to the suit**. In this case, there are no other parties to the suit. CSC and Warden (Springhill Institute) are the main Respondents. As an aside, *Civil Procedure Rule* 7.12 (3) requires the Attorney General to be named as a Respondent.

6. **The Court's willingness to recognize and enforce an extra-provincial judgment rendered on the same jurisdictional issues.** If the security reclassification is found to be unlawful; that is the ultimate remedy which Mr. Richards seeks. **CCRA** is a Federal statute. Mr. Richards is being detained in a Federal prison. If successful, he will then be classified as medium security. That classification (until changed) follows him; so there is no issue concerning extra-provincial enforcement of any judgment. Correctional Services Canada is a party and can ensure Mr. Richards is transferred to a medium security facility without further court order. The applicant is, in effect, in its sole control.

7. **Whether the case is inter-provincial or inter-national; and**

8. **Comity and the standards of jurisdiction, recognition and the standards of recognition prevailing elsewhere?** These factors might not seem to be material in this particular case; however, if this Court has territorial jurisdiction the Courts in both Nova Scotia and New Brunswick have jurisdiction. The applicable law is the same. Given the principles I referred to earlier of ensuring access to justice respecting *habeas corpus* applications, I expect all provincial superior courts dealing with *habeas corpus* applications would support the view that an applicant should have expedited and efficient access to the Courts. In this case, the Respondents position in challenging territorial jurisdiction seems counter-productive to the principle of ensuring efficient and expedited access to justice for such a serious remedy as *habeas corpus*.

Am I satisfied that a clear and substantial connection exists?

[49] I am satisfied and I find on the evidence, there exists a clear and substantial connection to the Province of Nova Scotia. This is not a case of a weak territorial nexus.

[50] I find, in the circumstances of this case, the nexus to be much stronger to Nova Scotia than to New Brunswick. The main nexus to New Brunswick is that Mr. Richards was involuntarily transferred there shortly after he sought relief from this Court.

[51] I again refer to the Respondents submission that if I were to retain jurisdiction this would be:

> *"offensive to the fair and efficient working of the Canadian legal system as a whole to require a proceeding that may be heard by either the Federal Court or the Court in which the inmate is located to be tethered to a province to which there is no connection."*

[52] I reject that contention. This is not a situation where Mr. Richards is *"tethered"* to the Province of Nova Scotia without the presence of any real and substantial connection.

[53] Having decided I have territorial competence, the next issue to decide is whether I should decline to exercise jurisdiction in favour of another jurisdiction.

Although the Respondents assert Mr. Richards can file a *habeas corpus* application in New Brunswick, that too could be frustrated if he is transferred out of New Brunswick; having to then perhaps file in a third province. With a further transfer being contemplated, that is a possibility.

[54] In the determination of whether I should exercise my discretion and in effect find Nova Scotia is the most convenient forum, I am guided by the provisions of the **CJPTA**, in particular Section 12. Essentially the analysis for forum convenience (where there are two jurisdictions with competing territorial competence) is similar to the analysis in the first instance of territorial competence. There are some slight differences but essentially the reasons which bring me to the conclusion that this Court has territorial competence are very relevant to the issue of convenient forum.

[55] I refer to the provisions of Section 12 of the **CJPTA**, which provides:

> 12(1) After considering the interests of the parties to a proceeding and the ends of justice a court may decline to exercise its territorial competence in the proceeding on the ground that a Court of another state is the more appropriate forum in which to hear the proceeding.
>
> 12(2) A court in deciding the question of whether it or a court outside the Province is the more appropriate form in which to hear a proceeding must consider the circumstances relevant to the proceedings including:
>
> (a) the comparative convenience and expense for the parties to the proceeding and for their witnesses in litigating in the Court or in any ultimate forum;

> (b) the law to be applied to issues in the proceeding;
> (c) the desirability of avoiding multiplicity of legal proceeding;
> (d) the desirability of avoiding conflicting decisions in different courts;
> (e) the enforcement of an eventual judgement; and
> (f) the fair and efficient working of the Canadian legal system as a whole.

[56] I considered the factors in Section 12; and I refer to my earlier reasons for finding territorial competence. They include the connection to Nova Scotia, the availability of witnesses in Nova Scotia; and the difficulties Mr. Richards might experience in having those witnesses brought to another jurisdiction. I have indicated any transportation concerns or document concerns are not material barriers to the Respondent. Those issues can be managed.

[57] Respecting the law to be applied, again **CCRA** is a Federal Act and the ultimate remedy, should Mr. Richards succeed, will follow him. The common law principles are the same. Respecting the desirability of avoiding multiple or legal proceedings, this Court can determine the application. Once determined there will be no duplication of a proceeding. There is no proceeding pending in New Brunswick.

[58] The desirability of avoiding conflicting decisions in different courts and enforcement concerns is not an issue. The fair and efficient working of the Canadian legal system as a whole is an important factor, particularly given the fact we are dealing with a *habeas corpus* application. Such applications require timely

access to justice; not an inflexible approach by the Courts. Courts are not to stand in the way of the enforcement of such an important remedy, neither should the Respondents. Courts are mandated to ensure timely access to justice in these matters.

[59] I have taken the relevant factors into consideration when determining whether I will continue to accept jurisdiction and whether Nova Scotia is the most convenient forum.

[60] I find the most convenient and appropriate forum is that of Nova Scotia. I retain jurisdiction to hear Mr. Richards *habeas corpus* application without any further delay. His timely access to any potential remedy is a paramount factor. A decline of jurisdiction in the circumstances of this case would be offensive to the fair and efficient working of our Canadian legal system.

[61] For the reasons herein the Respondents motion to challenge the territorial jurisdiction of this Court is dismissed. I retain jurisdiction to hear the restricted issue of the lawfulness of Mr. Richards increased security classification and resulting involuntary transfer.

Van den Eynden J.

04.02.14