

SUPREME COURT OF NOVA SCOTIA

Citation: R. v. V.-F., 2005 NSSC 71

Date:20050407

Docket: Cr. No. 226996

Registry: Halifax

Between:

C. A.V.-F. and
L.R.F.

Applicants

- and -

Her Majesty The Queen, Nova Scotia Crown Attorney
Nova Scotia Sheriff's Department, East Coast Forensic
Psychiatric Hospital (Capital District Health Authority),
and Central Nova Scotia Correctional Facility

Respondents

LIBRARY HEADING

Editorial Notice

Identifying information has been removed from this electronic version of the library sheet.

Judge: The Honourable Justice A. David MacAdam

Heard: **December 6, 10, 30, 2004; January 11, 14, 26, 27, 28, 31, February 3 and 8, 2005.**

Subject: ***Habeas Corpus - Prison Discipline Hearings - Procedural Fairness***

Summary: Accused remanded pending trial on a number of alleged offences arising out of a stand off with police. During remand he was accused of a number of breaches of the rules and regulations of the prison Facility. Under the Rules and Regulations of the Facility he was entitled to present evidence but was apparently never informed of this right.

Procedural fairness in prison disciplinary hearings must take into account the environment in which they are held, including the mandate on the prison authorities to manage the Facility. Nevertheless, even in prison disciplinary hearings, an inmate is entitled to at least a minimum level of procedural fairness.

Habeas corpus is only applicable in the case of unlawful arrest or where the residual liberty of the inmate is restricted without due process.

The inmate was not entitled to *habeas corpus* since at the time of his application his residual liberty, as an inmate, was no longer being restricted or limited. He is entitled to a declaration that he was denied procedural fairness by the failure of the prison authorities to advise and permit him to call evidence as he was entitled under the Rules and Regulations governing these hearings.

Other allegations were more appropriately matters to be dealt with under the prison grievance procedure, with its attendant right of appeal and review and possibly in some instances by accessing the office of the Ombudsman.

- Issue:** Procedural fairness at prison disciplinary hearings and the availability of *habeas corpus* where the residual liberty of the inmate is restricted without due process.
- Result:** Prison disciplinary hearings require at least a minimum level of procedural fairness and *habeas corpus* is applicable where the residual liberty of the inmate is restricted without due process, however, *habeas corpus* was not granted since the residual liberty was not at the time of the hearing being further restricted.

***THIS INFORMATION SHEET DOES NOT FORM PART OF THE COURT'S DECISION.
QUOTES MUST BE FROM THE DECISION, NOT THIS LIBRARY SHEET.***