Canadian Human Rights Tribunal

Tribunal canadien des droits de la personne

Citation: 2025 CHRT 57
Date: May 26, 2025
File Nos.: T2218/4017, T2282/3718, T2395/5419, T2647/2321

Between:

Ryan Richards

Complainant

- and -

Canadian Human Rights Commission

Commission

- and -

Correctional Service Canada

Respondent

Ruling

Member: Jennifer Khurana

I. OVERVIEW

[1] The hearing in this matter is scheduled to resume on June 16, 2025 to hear the remainder of the Complainant, Ryan Richards', case. The Respondent, Correctional Service Canada (CSC), objects to the proposed evidence of Renford Farrier and Nathanael Williams, two individuals Mr. Richards added to his witness list after he completed his testimony in the summer of 2024. CSC argues they will suffer prejudice because the proposed evidence is too broad and general, requires CSC to respond to a moving target, and will significantly lengthen the hearing. Mr. Richards says that he needs the witnesses' evidence to prove his case and that there is no prejudice to CSC. The Commission agrees and argues that the proposed evidence is relevant and probative of the allegations of systemic discrimination that it says are at the heart of Mr. Richards' complaints.

II. DECISION

[2] CSC's request to exclude the witnesses is allowed. The Tribunal will not hear from Renford Farrier or Nathanael Williams. The prejudice to the fairness and effective management of these proceedings outweighs the probative value of their proposed evidence. The Tribunal must proceed in a balanced and proportionate way and will not risk derailing its process to admit marginally relevant evidence. While Mr. Richards' complaints are broad in scope and include systemic allegations of discrimination, the central issues in these proceedings relate to Mr. Richards and his individual allegations of discrimination. Allegations of systemic discrimination do not transform Tribunal proceedings into a commission of inquiry into alleged discrimination across the federal correctional system.

III. BACKGROUND

[3] The hearing of these complaints began on April 23, 2024 in person at Warkworth Institution. Following the completion of Mr. Richards' testimony on April 26, 2024, I asked the parties to confirm their witness lists. Mr. Richards' revised list included Mr. Farrier and Mr. Williams. CSC wrote to the other parties to object to the addition of these witnesses, but

the parties were not able to resolve this dispute on their own. I therefore issued a ruling directing Mr. Richards and the Commission to file witness statements setting out the details of Mr. Farrier and Mr. Williams' proposed evidence, including the specific events they would speak about, the names of the individuals involved, locations, timeframe and any other materials facts (2025 CHRT 8 at paras 9-11[the "Will-say Ruling"]. I recalled that allegations of systemic discrimination do not absolve a party from their obligation to provide particulars of their intended evidence. I warned that if Mr. Richards and the Commission failed to comply with my directions, they may not be permitted to call the witnesses to give evidence.

[4] Carema Mitchell, who identifies as Mr. Richards' sister, contacted the Tribunal on behalf of Mr. Richards on March 6, 2025 and advised that Mr. Farrier would not be testifying. Yet the following day Ms. Mitchell provided updated willsay statements for both Mr. Williams and Mr. Farrier. On March 14, 2025, the Commission confirmed that the willsay statements for both individuals, as provided by Mr. Richards, "fully reflect the relevant information to this matter." CSC attempted to clarify with Mr. Richards and the Commission whether Mr. Farrier would be testifying, but neither party appears to have responded. My ruling therefore addresses CSC's request to exclude both witnesses.

The proposed evidence

[5] As CSC submits, according to the willsays, Mr. Williams' proposed testimony would deal with at least 17 broad subjects, some of which relate to more than one event, namely: interactions with staff, security classifications, transfers, access to programming, access to services, segregation placements, parole applications and decisions, use of force in 2011 and 2017, placement in maximum security following a transfer from a Young Offender facility in 2003, disciplinary charges, criminal charges laid in 2017, *habeus corpus* applications, the impact on classification of being gang affiliated, requests for service from a Black psychologist, a Black parole officer and holistic doctors, access to a diet he and Mr. Richards received at Donnacona in 2017-2018, inmate charges, and treatment of the inmates on range 2F at Donnacona Institution in 2017-2018.

[6] Similarly, Mr. Farrier's proposed testimony would deal with at least 14 subjects, some of which relate to more than one event, namely: initial placement in maximum security, instances of anti-Black racism, placements in three institutions, relationships with parole

officers and their impact, failed parole applications, use of force, diet, difficulties accessing meals during Ramadan, his observations concerning the preparation of kosher and halal meals in the kitchen, segregation placements, disciplinary charges (approximately 130), a 2010 incident involving an observation report, access to programs, lack of culturally relevant programming and staff.

IV. LEGAL FRAMEWORK

[7] When a member inquires into a complaint, parties before Tribunal proceedings must be given a full and ample opportunity to present evidence and make representations (s.50(1) of the *Canadian Human Rights Act*, RSC 1985, c H-6 [the "Act"]). The Tribunal must also conduct proceedings as informally and expeditiously as the requirements of natural justice and the rules of procedure allow (s.48.9(1) of the Act).

[8] The Tribunal has the discretion to admit evidence that may not be admissible in a court of law (s.50(3)(c) of the Act). It must exercise this discretion in a manner that is consistent with the scheme of the *Act*, and the principles of natural justice, balancing the rights of all parties to a full and fair hearing (*Clegg v. Air Canada*, 2019 CHRT 4 at para 68 ["*Clegg*"]; ss. 48.9(1), 50(1) of the Act). The fact that the Tribunal has considerable latitude in determining what evidence it can admit, and in determining the appropriate weight to give that evidence if admitted, does not mean it is required to admit all evidence that is tendered before it in every case (*Clegg* at para 73).

[9] In determining whether to admit evidence, the Tribunal may consider whether the evidence is relevant; if its admission is consistent with the principles of natural justice and procedural fairness; whether the probative value of the evidence is outweighed by its prejudicial effect; and if there is any bar to the admission of the evidence, including consideration of s. 50(4) and s. 50(5) of the *Act* (*Clegg* at para 84).

[10] The Tribunal is the master of its own procedure (*Prassad v. Canada (Minister of Employment and Immigration)*, [1989] 1 SCR 560 at 568-9 and may decide all questions of law or fact necessary to determining any matter under inquiry (s.50(2). This includes

determining when it should decide a motion or issue in dispute (*Canada (CHRC) v. (Canada AG),* 2012 FC 445, paras 129, 144-147).

V. REASONS

[11] While the Commission argues that the Tribunal has traditionally taken a permissive approach in admitting evidence, and that relevance is the 'golden rule', my analysis of whether to permit these witnesses to testify cannot end there. Finding a connection to the issues in dispute, however marginal, is not sufficient without measuring the value of the proposed evidence against the costs of its admission. This necessarily requires the Tribunal to weigh the benefits of the proposed evidence in assisting the Tribunal in determining the central issues in dispute against the potential prejudice to the other parties and to the proceedings, including the impact on hearing time and diversion from the focus of the inquiry.

[12] If 'relevance' were a binary question, and permissiveness the only approach—without any assessment of the intended evidence—there would be very little limit to what could be admitted in a proceeding. By that measure, any number of inmates' evidence would be admissible, given how broadly these complaints have been cast and how many allegations and issues are in dispute. More is at stake where the complaints are far-reaching and complex; in such cases, which typically involve large numbers of alleged incidents and a commensurately high volume of evidence, the Tribunal must safeguard against the proceeding becoming entirely unworkable.

[13] My analysis below therefore applies this balancing exercise.

A. Mr. Richards is the focus of this inquiry

[14] To evaluate the probative value of the evidence, I must identify who or what is central to these complaints, rather than examining how broad these complaints are, or how many allegations they cover. Ryan Richards is at the heart of these complaints and his allegations against CSC and the discriminatory events he alleges are the focus of this inquiry. Mr. Richards did not file his complaints on behalf of all Black or Muslim inmates. The complaints

themselves, as referred, do not challenge a specific practice or policy that was alleged to be discriminatory. It is the Tribunal's task to ensure that the rest of the hearing, already lengthy and complex for a number of reasons, does not expand to the point where we lose sight of the primary issues in dispute. Thus, in declining to hear from Mr. Farrier and Mr. Williams, I am also safeguarding against the proceedings drawing focus away from Mr. Richards.

B. The prejudicial effect exceeds the probative value of the proposed evidence

[15] Having determined that the main issues in this case center around Mr. Richards and the alleged discrimination he personally faced, in my view, the marginal value of Mr. Farrier and Mr. Williams' intended testimony does not outweigh its prejudicial effect and would likely divert attention and resources from the main issues in this case.

[16] Mr. Richards submits that he needs Mr. Farrier and Mr. Williams's evidence to support his credibility because CSC will have many more witnesses to testify against him. The Commission says that the proposed evidence is necessary and highly probative of the fair and full adjudication of the central issue of whether CSC engages in systemic discrimination against Black inmates. It argues that Mr. Farrier and Mr. Williams' evidence will provide crucial context and demonstrate a broad and persistent pattern of racial discrimination against Black inmates in the federal correctional system that is consistent with Mr. Richards' own experiences. According to the Commission, the proposed evidence will inform the Tribunal about whether the personal discrimination suffered by Mr. Richards is a result of a systemic problem within CSC. In support of its argument that general evidence of a systemic problem is admissible as is circumstantial evidence of discrimination, it relies on Tribunal decisions that recognize the importance of contextual evidence (*Hill v. Air Canada*, 2003 CHRT 9 at para 129).

[17] While the Tribunal recognized the context of systemic discrimination in its 2020 ruling (2020 CHRT 27 at para 27), the systemic character of some of the allegations does not absolve the Tribunal of its duty to balance the relevance and potential probative value of the proposed evidence with its possible prejudice. This includes weighing the impact of admitting the evidence against the effect its admission would have on the conduct of a

complex inquiry that has been ongoing for several years, and that has already consumed a significant amount of resources for all concerned.

[18] I acknowledge that discrimination can be subtle and may require a consideration of the broader context. However, I do not find that the proposed evidence is probative of the central questions in these complaints which relate to Ryan Richards' allegations that CSC subjected him to excessive physical violence, sexual harassment, retaliation, and various other forms of discrimination and harassment on the intersecting grounds of sex, religion, race, colour and/or disability. Mr. Farrier's and Mr. Williams' willsay statements do not refer to incidents involving Mr. Richards. Incidents involving other inmates, relating to interactions with different individuals, at different times, in separate institutions, that occurred under distinct circumstances, are not sufficiently similar to the facts and conduct at issue in Mr. Richards' proceeding. Even where the Tribunal applies the similar fact evidence rule, it engages in a balancing exercise and can impose proportional limits, including consideration of whether the introduction of the evidence will serve to confuse the issues in dispute (see, for example, *Hewston v. Auchinleck*, 1997 CanLii 699).

[19] Other than general statements about establishing a pattern of systemic discrimination and bolstering Mr. Richards' credibility, Mr. Richards and the Commission have failed to set out the specific facts they will seek to prove by the witnesses' proposed testimony. It is unclear whether Mr. Richards and the Commission have made or will make any efforts to communicate with the witnesses to prepare them for the hearing. It does not appear that either party has gone on record to detail any difficulties they may have encountered in trying to do so.

[20] Mr. Richards and the Commission submit that the willsays are sufficient and comply with Rule 18(1)(e) of the Tribunal's Rules of Procedure which require parties to provide a summary of the witness's anticipated testimony. However, the willsays remain general and vague for the most part, and do not support a finding that Mr. Farrier and Mr. Williams' evidence will help the Tribunal in its evaluation of Mr. Richards' allegations, or his credibility. In the Willsay Ruling I provided specific direction to Mr. Richards and the Commission to provide details in these summaries, which would have assisted in my assessment of the anticipated testimony's possible value. While the willsays provide some additional

information, they continue to include many broad categories of topics that have the hallmarks of being a discovery rather than an examination intended to support a case at a hearing. For example, Mr. Farrier's summary states that he will "outline his incarceration history form 2010-2020 and his placements in Donnacona, Cowansville and Springhill Institutions", without further detail. This means that the details of these categories would be revealed for the first time at the hearing, which would significantly impact CSC's ability to cross-examine the witnesses and prepare any rebuttal evidence.

[21] The Commission argues that Mr. Richards should not be 'handcuffed' by evidentiary requirements that are so onerous that it is effectively impossible to prove systemic discrimination, relying on *Richards* v*. Correctional Service Canada*, 2020 CHRT 27 at para 107; *Murray v Immigration and Refugee Board*, 2018 CHRT 32 at para 60; *Radek v. Henderson Development (Canada) Ltd*., 2005 BCHRT 302 at para 505 and *Starblanket v Correctional Service of Canada*, 2014 CHRT 29 at para 24. But ensuring that the probative value of proposed evidence exceeds its prejudicial effect does not render it impossible to prove systemic discrimination. Rather, engaging in this balancing exercise ensures that a years-long proceeding that is far from over focuses on the central issues in the case, and avoids jeopardising its coherence by allowing evidence which, based on the summaries presented, appears to be marginally relevant and of minimal value.

[22] I also do not agree that the proposed evidence is necessary for the Tribunal to address allegations of systemic discrimination as the Commission contends. Nothing in the nature of the evidence led, nor in the wording of s. 5, prevents Mr. Richards from asserting that the discrimination he allegedly experienced was systemic in nature. In broad terms, an inquiry into systemic allegations of discrimination requires determining how practices, systems or attitudes – whether by design or impact - have the effect of limiting opportunities for an individual or a group of individuals. Regardless of how the term is defined, the Commission has not presented me with any authority to support the position that establishing 'systemic discrimination' under s.5 of the Act requires evidence from multiple victims.

[23] Furthermore, nothing precludes Mr. Richards and the Commission from making claims for public interest or systemic remedies. Mr. Richards is a formidable litigant in his

own right and has represented himself admirably throughout these proceedings. He has given extensive evidence regarding the alleged discrimination he experienced and is the principal witness for his case and the Commission. The Commission is also calling an expert witness to provide an opinion on the experience of Black federally incarcerated inmates, including the conditions of confinement, access to correctional services and correctional outcomes for Black inmates, access to prison services and culturally relevant programming, and security classification. According to the expert report the Commission filed in January 2024, Dr. Owusu-Bempah will also testify about how Mr. Richards' individual experience aligns with the broader experience of Black inmates. This report was filed well before the two extra witnesses were added, and the Commission has not argued that Dr. Owusu-Bempah's expert evidence would be contingent on the evidence of Mr. Williams and Mr. Farrier.

[24] Mr. Richards and the Commission dispute that any prejudice will flow to CSC from hearing these witnesses. According to the Commission, curtailing Mr. Richards' and the Commission's evidence due to speculative or overstated claims of prejudice undermines the goals of a fair, thorough and comprehensive hearing.

[25] I agree with the Commission that the Tribunal's process must be fair and afford Mr. Richards and the other parties a full and ample opportunity to present their case. But it is not because Mr. Richards and the Commission included allegations of systemic discrimination that the Tribunal can set aside the basic tenets of procedural fairness in respect of the Respondent. Mr. Richards and the Commission have the right to make their cases, and CSC has the right to prepare and defend itself against what is alleged. This must also occur within a reasonable period of time, after a proportional commitment of resources, in keeping with s. 48.9(1) of the Act.

[26] In my view, the foreseeable prejudice for CSC is not negligible. I accept CSC's submission that as the hearing has begun, adding these witnesses obliges CSC to defend itself against a moving target, which is contrary to the rules of procedural fairness. Hearing evidence not only on the specific events cited by Mr. Richards, but also on other incidents not previously addressed in these proceedings, will cause prejudice to CSC in having to

defend itself against allegations that were not part of the original complaints at the time they were filed.

[27] As CSC argues, the proposed evidence and the many subjects it touches on (a minimum of 17 and 14 for Mr. Farrier) are in addition to the more than 60 events raised by Mr. Richards that are the subject of this hearing. I accept that CSC would be required to undertake an extensive search for, and analysis of, a large quantity of documents, given the volume of issues raised and the time period covered by the intended evidence. This is particularly so as most of the subjects in the willsays remain vague, with no details or dates provided. CSC argues that it would need to prepare for what could have been two entirely independent and distinct proceedings, without any prior documentary disclosure. This would likely require recalling Mr. Williams and Mr. Farrier after an adjournment, given the amount of work necessary to prepare their cross-examinations. Had detailed willsay statements been filed at the appropriate time, and not years into this inquiry, CSC could have identified potential witnesses to respond to the evidence of Mr. Williams and Mr. Farrier. The passage of time means that some witnesses will have retired or died, and memories have faded, particularly given the temporal scope of the complaints, that cover the period of 2010 to 2020. In some cases the Tribunal has held that prejudice stemming from late disclosure is curable with an adjournment. That is not an appropriate solution in these proceedings given the logistics and challenges that would attach to affording CSC the opportunity to fully respond to Mr. Williams' and Mr. Farrier's testimony, and the amount of time that that has already passed since the events and the start of these proceedings.

[28] In my view, adding these witnesses at this stage not only causes prejudice to CSC , but also jeopardises the effective conduct of what have already been complex and lengthy proceedings, with little demonstrable value for the determination of the main issues in this case. Even if there is marginal relevance to evidence tending to prove that there were other instances of discrimination against Black or Muslim inmates, this is not determinative of Mr. Richards' complaints. The Tribunal will still have to determine whether Mr. Richards' race, religion or other protected ground were factors in any of the specific incidents he alleges were discriminatory to make a finding of liability against CSC. These complaints have been framed and litigated on the premise that *Mr. Richards* is the individual who was denied a

service or differentiated against adversely in respect of its provision within the meaning of s. 5 of the Act.

[29] The Commission says it would suffer significant prejudice if it were denied a meaningful opportunity to present Mr. Farrier and Mr. Williams' testimony, and that CSC's attempt to bar the witnesses is extreme and unwarranted. It submits that the Tribunal should allow the evidence, and if necessary, defer cross-examination to a later date. According to the Commission, a self-represented complainant and the Commission must have a fulsome opportunity to present their evidence and a fair and complete hearing demands that this relevant and time-efficient testimony be heard. According to the Commission, it is in the best interests of justice to allow such evidence in a human rights case, particularly one alleging systemic discrimination, so that the Tribunal will have access to all relevant evidence for a fully informed decision.

[30] I do not accept these arguments. Despite their current assertions about the importance of the proposed evidence, Mr. Richards and the Commission did not include Mr. Farrier and Mr. Williams on their respective witness lists until four years after the Tribunal's 2020 ruling acknowledging the 'systemic' aspects of these complaints. Mr. Richards only added Mr. Farrier and Mr. Williams to his witness list after he concluded his own testimony in the summer of 2024. They were also not on Mr. Richards' January 28, 2024 witness list prior to the start of this hearing. Rather, unlike Mr. Farrier and Mr. Williams' proposed evidence, the summaries of proposed testimony contained in Mr. Richards' previous lists referred to evidence from individuals that could speak to their interactions with him, his character, and their observations.

[31] The Commission's intent to elicit evidence from these two witnesses is also new. If their proposed testimony was central, the Commission has not provided any explanation for why it did not previously include Mr. Farrier and Mr. Williams on its list, or why it did not make reference to these witnesses in its second amended SOP dated July 20, 2021 which followed the Tribunal's 2020 ruling recognizing the systemic allegations in this case. The Commission also did not include them when it filed its summary of Imam Dwyer's evidence and the expert report in January 2024. Neither party indicated that these witnesses were

added in response to any unexpected developments that occurred during Mr. Richards' evidence in the first part of the hearing.

[32] It is disingenuous for the Commission to now claim that it would be a "miscarriage of justice" to exclude witnesses it appears not to have considered as part of its case until 2024. The invalidity of this claim is further reinforced by the fact that the Commission has not indicated that it has any specific questions it would like to ask the witnesses that would require its own willsay, separate from that which Mr. Richards provided. Parties - including the Commission – cannot simply reserve their right to add witnesses at any stage, without regard to their obligations under the Tribunal's Rules of Procedure, or without considering how this will affect procedural fairness or the conduct of the inquiry.

[33] The Commission also says there is an imbalance with respect to the number of witnesses being called by each party. According to the witness schedule provided by the parties, Mr. Richards intends to call 9 fact witnesses other than the two contested witnesses, and the Commission has one name on its list, in addition to its expert. CSC has 30 witnesses on its list, for a total of 41 remaining witnesses. Prior to the start of the hearing, I directed the parties to work to reduce their witness lists, and CSC's list of 50 witnesses was significantly reduced to 30 witnesses (2023 CHRT 51 at para 28). Adding the proposed evidence will nullify some of the gains achieved with respect to reducing CSC's witness list, which is extensive because of the number of allegations Mr. Richards has made in four complaints that span more than a decade of carceral history across multiple institutions.

[34] Further, asymmetry in the number of witnesses called by each side is not an indicator of unfairness. This is especially true in a case in the correctional system where the nature of incarceration usually dictates that there are a large number of CSC employees interacting with the complainant, based on shift, unit and institutional changes. Moreover, in cases involving multiple allegations by incarcerated individuals, this asymmetry may become more pronounced. However, it goes without saying that in the absence of corroborative testimony, quantity does not supersede quality in the assessment of witness credibility and litigation is not a contest about who can call more witnesses.

C. Allowing the proposed evidence will lengthen the hearing and result in further delays

[35] The Commission argues that CSC's claims about unduly lengthening proceedings are overstated and unfounded. Prior to the Willsay Ruling, Mr. Richards estimated that he would need two hours to examine each of the two witnesses, and the Commission indicated it would need one hour for each witness. Despite the number and breadth of subjects set out in the willsays, the Commission maintains that allowing the two witnesses would require no more than a day, to a day and a half, in direct examination.

[36] In my view, these estimates are not realistic. It is unclear on what the Commission's estimates are based given the number and breadth of topics that were included in the willsays. While Mr. Richards says that willsays are just guides, neither he nor the Commission have indicated where they would focus their examination to fit within their estimates. While the Commission submits that it needs Mr. Farrier and Mr. Williams' evidence to establish a pattern of discrimination, CSC is entitled to refute those claims, which necessarily means expanding its documentary disclosure, witness list and adding hearing days. It is unquestionably going to lengthen the hearing, and not by a negligible amount. Based on the sheer breadth and number of areas the witnesses are potentially going to speak to, it is inconceivable that this will amount to 'minimal disruption to the hearing'. Each broad topic addressed in direct examination may include one or more events which will impact the number of witnesses called by CSC. As CSC submits, Mr. Williams intends to testify about his "interactions with staff", without indicating how many staff he intends to refer to, or who they are. He also intends to speak about "institutional charges" but it is not clear about how many, nor about the content of his testimony generally.

[37] The purpose of a hearing is not to have access to *all* relevant evidence, at any cost, without any regard to the impact that allowing that evidence will have on the proceedings, or on the rights of other parties. The addition of Mr. Farrier and Mr. Williams will result in further delays in proceedings that have been ongoing since Mr. Richards' first complaint was referred in 2017. Two weeks have been set aside for Mr. Richards' witnesses, and several more will be required to hear CSC's case. The proposed evidence risks adding months or more to a hearing process that will still require many weeks to complete. As I have previously

held, the parties do not have a right to infinite hearing time (see Richards v. Correctional Service Canada, 2024 CHRT 21 at para 17).

[38] Finally, past experience with these parties does not provide a strong basis for me to accept the Commission's time estimates at face value. I have previously recalled the need to respect the principle of proportionality and reminded the parties of their obligations to act in a way that minimises the time and cost associated with legal proceedings. The Commission's and Complainant's time estimates do not appear to be grounded in any engagement with the witnesses themselves, nor based on a focused summary of what they will each actually testify about in three hours total of examination in chief. As I held in the Willsay Ruling, the hearing is not the time for the parties, including the party calling the witness, to discover for the first time what the witness' evidence is going to be (Willsay Ruling at para 10).

D. It is not premature to dispose of this motion now

[39] Both Mr. Richards and the Commission argue that CSC's request is premature and that the proper place for objections is at the hearing. The Commission says it would be an injustice to limit the evidence before it has even been properly examined and argues that the full scope of the evidence should be allowed and tested at the hearing, ensuring that all relevant facts are explored before any determinations are made. It relies on *Christoforou v John Grant Haulage Ltd*, 2016 CHRT 14 at para 61 [*Christoforou*] in support of its position that the Tribunal should admit all arguably relevant evidence and evaluate the weight of the evidence at the conclusion of the hearing.

[40] I disagree. Further, even if cross-examination were to be deferred, nothing will be gained by having the parties expend considerable time and resources preparing for a hearing to examine or cross-examine two witnesses whose evidence has not been demonstrated to be anything more than minimally relevant to the central issues in this complaint, and where I find that the prejudice outweighs the potential probative value. It does not favour the Tribunal's mandate under the Act to expend valuable hearing time on their testimony and wait for objections about admissibility.

[41] The Tribunal in *Christoforou*, on which the Commission relies, held that all arguably relevant evidence from fact, observation and participation witnesses is usually admitted in keeping with the *scheme of the Act (*emphasis added*).* While the Member in that case referenced subsections 50(1) and 50(3)(a), I cannot ignore the wording of the legislative scheme as a whole, which includes s.48.9(1), and the need to conduct proceedings fairly, informally and expeditiously. In other words, the Tribunal is not a body that admits anything and everything if doing so would undermine the objectives and scheme of the Act and make its proceedings unworkable.

[42] The potentially prejudicial impact of proposed evidence in a proceeding will be assessed differently depending on the nature of the case and the proposed evidence itself. In a simple case involving one or two incidents and a finite number of documents, the impact of admitting circumscribed evidence of marginal or questionable relevance is much smaller and the risk created by a more permissive approach may be manageable. That is not the case here for all the reasons I have already set out.

[43] The Tribunal has discretion to determine how and when it will deal with motions and should do so in a way that favours expediency and fairness. It benefits no one to postpone determination of this issue when I have the information necessary to decide the issue right now. Mr. Richards and the Commission were directed to provide more detailed will-says, and the parties had the opportunity to make submissions on CSC's objection, which it has been voicing since the names first appeared on Mr. Richards' witness list, in June of 2024.

E. Systemic complaints have limits too

[44] The Commission argues that the concerns CSC raised about the burden of document review and potential delays are inherent features of complex human rights proceedings, particularly those involving systemic discrimination over an extended period. It argues that excluding relevant testimony based on anticipated 'inconvenience' would undermine the Tribunal's mandate to adjudicate human rights complaints in a thorough and meaningful manner, especially where systemic discrimination is at issue.

[45] I disagree. What will undermine the Tribunal's mandate is to refuse to set limits where they are warranted and to abdicate Tribunal management of an inquiry that must proceed fairly and expeditiously.

[46] Complex proceedings involving systemic issues are a reality of the Tribunal's caseload and the CHRT is ready and able to hear them. However, the fair and efficient adjudication of such complex proceedings requires parties to approach their case in an organized fashion, with proper planning and preparation, and a heightened attention to the rules of disclosure and particularization. All parties must make choices when they engage in litigation, and allowing an *ad hoc*, exhaustive foray into all potential evidentiary avenues will paralyse the Tribunal, to the detriment of these parties and other litigants waiting for their cases to be heard.

[47] Complex inquiries with allegations that span a decade and include scores of events may well take considerable time, but that does not mean that proceedings and the rights of the parties are limitless. Mr. Richards' complaints have a lengthy and complex procedural history, and it took years of case management, disclosure, resolution of preliminary issues, amended particulars and changes in representatives to start the hearing (see CHRT 2023 51 at paras 2-4).

[48] I also do not accept the Commission's claim that striking Mr. Williams and Mr. Farrier from the witness lists at this stage is inconsistent with the principles guiding human rights tribunals. Turning proceedings into a commission of inquiry is inconsistent with the principles guiding human rights tribunals which were put in place to provide a fast, flexible and informal alternative to the traditional court system" (See *Canada (CHRC) v. Canada (AG),* 2012 FC 445 at para 127).

[49] It is the Tribunal's responsibility to ensure it respects its mandate and stays within its legislative confines – this is an adjudicative body, not an investigative one, nor a Royal Commission (*Moore v. British Columbia (Education),* 2012 SCC 61, para 64). The Tribunal resolves disputes – through mediation or by rendering a decision on the merits at the end of an inquiry, after hearing the parties' evidence and submissions. Parliament's intention is not served by permitting an exhaustive examination of all aspects of the carceral system.

There are other avenues for such a process, but a CHRT inquiry is not one of them. Mr. Richards' case is not an opportunity to turn an individual's complaints under s.5 of the Act into a generalised inquiry into the treatment of Black and Muslim inmates in Canada, simply because he and the Commission made allegations of systemic discrimination.

[50] In making this decision, I have considered the potential impact that excluding Mr. Williams' and Mr. Farrier's evidence would have on Mr. Richards' and the Commission's right to be heard. However, in light of all the circumstances of the case, I am not persuaded that declining to hear from them jeopardises or interferes with this right in any significant way.

VI. ORDER

[51] CSC's request is allowed. The Tribunal declines to hear evidence from Mr. Farrier and Mr. Williams. The parties should adjust their provisional witness schedule accordingly and ensure they fill in any gaps left by the dates and times they tentatively allocated for Mr. Farrier and Mr. Williams. They must confer, revise them and resubmit them to the Tribunal, no later than June 2, 2025. Should summonses be required, it is the responsibility of the party calling the witness to request a summons from the Registrar.

[52] The Commission must also include a proposed date for its expert witness and revise its time estimates down, in light of the Tribunal's direction that it need not hear the expert recount what is already contained in the report. I will review the proposed time estimates and address this with the parties in a case management conference call.

Signed by

Jennifer Khurana
Tribunal Member

Ottawa, ON
May 26, 2025

Canadian Human Rights Tribunal

Parties of Record

File Nos.: T2218, T2282, T2395, T2647

Style of Cause: Ryan Richards vs Correctional Service Canada

Ruling of the Tribunal Dated: May 26, 2025

Motion dealt with in writing without appearance of parties

Written representations by:

Ryan Richards, Self-represented

Ikram Warsame, Sameha Omer and Laure Prévost for the Canadian Human Rights Commission

Dominique Guimond, for the Respondent