Federal Court  Cour fédérale

Date: 20141113

Docket: T-1941-13

Citation: 2014 FC 1065

[UNREVISED ENGLISH CERTIFIED TRANSLATION]

Ottawa, Ontario, November 13, 2014

PRESENT: The Honourable Madam Justice Bédard

BETWEEN:

BRYAN BOUCHER-CÔTÉ

Applicant

and

ATTORNEY GENERAL OF CANADA

Respondent

JUDGMENT AND REASONS

[1] The applicant is presently in custody at the Donnacona Institution (the Institution). He is seeking judicial review of a decision dated October 28, 2013, by an independent chairperson (IC) who convicted him of a serious disciplinary offence, namely assaulting a correctional officer. For the reasons that follow, the application for judicial review is dismissed.

I. **Background**

[2] At the time of the incidents, the applicant was an inmate at the Federal Training Centre. On September 14, 2013, the applicant's cell was searched by two correctional officers, Martine Champagne-Lefebvre and Cronic Victome, as part of a monthly search. During the search, the officers found a jar containing substances that had a strong odour. It is admitted that the applicant took the jar out of Officer Champagne-Lefebvre's hands and ran off with it.

[3] The same day, the applicant received a disciplinary report for violently pushing Officer Champagne-Lefebvre. The report states the following: [TRANSLATION] "Inmate Boucher Côté . . . pushed me violently after which I left his cell following a monthly search."

[4] The applicant was subsequently charged with a serious disciplinary offence. Section 40 of the *Corrections and Conditional Release Act*, SC 1992, c 20 [the Act] sets out a series of behaviours that constitute disciplinary offences. In this case, the applicant was charged under paragraph 40(*h*) of the Act, which states as follows:

Disciplinary offences	Infractions disciplinaires
40. An inmate commits a disciplinary offence who	40. Est coupable d'une infraction disciplinaire le détenu qui:
(h) fights with, assaults or threatens to assault another person;	*h)* se livre ou menace de se livrer à des voies de fait ou prend part à un combat;

[5] Where an indictment is laid with respect to a serious disciplinary offence, the charge is heard before an IC (subsection 27(2) of the *Corrections and Conditional Release Regulations*,

SOR/92-620 [the Regulations] appointed by the Minister of Public Safety and Emergency Preparedness.

[6] The onus of proof that applies to disciplinary offences is the same as in criminal cases. Accordingly, the evidence must establish beyond a reasonable doubt that the inmate committed the offence in question. In this regard, subsection 43(3) of the Act provides as follows:

Decision	Déclaration de culpabilité
(3) The person conducting the hearing shall not find the inmate guilty unless satisfied beyond a reasonable doubt, based on the evidence presented at the hearing, that the inmate committed the disciplinary offence in question.	(3) La personne chargée de l'audition ne peut prononcer la culpabilité que si elle est convaincue hors de tout doute raisonnable, sur la foi de la preuve présentée, que le détenu a bien commis l'infraction reprochée.

II. **Hearing and IC's decision**

[7] The hearing took place on October 28, 2013. The applicant denied doing the acts in question and pleaded not guilty at the hearing.

[8] The Institution's evidence consisted of two witnesses: the two officers who conducted the search. The defence evidence was composed of the applicant's testimony and that of another inmate.

[9] Officer Champagne-Lefebvre testified that the applicant had pushed her violently when he took the jar from her hands before running off. The applicant, for his part, acknowledged

taking the jar from the officer's hands and admitted it was a rash action on his part. However, he denied pushing the officer or having any intention to push her.

[10] The fellow inmate who testified stated that he had not seen the applicant push Officer Champagne-Lefebvre. He conceded, however, that he had not seen everything that had happened during the incident.

[11] The IC found the applicant guilty of committing the offence he was charged with: assaulting Officer Champagne-Lefebvre.

[12] It appears from the transcript of the hearing that the IC did not accept the applicant's version but did accept Officer Champagne-Lefebvre's. He also did not assign any probative value to the fellow inmate's testimony because he admitted that he had not maintained constant visual contact during the entire incident.

III. **Issue**

[13] This application raises only one issue: did the IC commit a reviewable error in convicting the applicant?

IV. **Standard of review**

[14] The applicant submits that the IC's decision should be reviewed on a standard of correctness because he committed an error of law in assessing the legal tests regarding the

prescribed burden of proof. From his perspective, this is an error on a question of law that is of central importance for the legal system and is outside the IC's area of expertise (*Dunsmuir v New Brunswick*, 2008 SCC 9 at para 55, [2008] 1 SCR 190 [*Dunsmuir*]).

[15] For his part, the respondent submits that the IC's decision raises questions of mixed fact and law that are reviewable on a reasonableness standard (*McDougall v Canada (Attorney General)*, 2011 FCA 184 at para 24, [2011] FCJ No 841).

[16] I agree with the respondent. In his decision, the IC had to determine whether the evidence enabled him to find, beyond a reasonable doubt, that the applicant had committed the offence he was charged with. To do so, he had to apply the legal principles on reasonable doubt to the facts put in evidence. His decision therefore raised questions of mixed fact and law that are reviewable on a reasonableness standard. On a number of occasions, our Court has recognized that the assessment of an inmate's guilt in cases of disciplinary law in a prison setting is subject to a reasonableness standard (*Forrest v Canada (Attorney General)*, 2002 FCT 539 at para 17-18, [2002] FCJ No 713 [*Forrest*], affirmed by *Forrest v Canada (Attorney General)*, 2004 FCA 156 at para 8, [2004] FCJ No 709; *Brennan v Canada (Attorney General)*, 2009 FC 40 at para 29, [2009] FCJ No 81; *Lemoy v Canada (Attorney General)*, 2009 FC 448 at para 14, [2009] FCJ No 589 [*Lemoy*]; *Cyr v Canada (Attorney General)*, 2011 FC 213 at para 13, [2011] FCJ No 245; *Tremblay v Canada (Attorney General)*, 2011 FC 404 at para 5, [2011] FCJ No 503; *Gendron v Canada (Attorney General)*, 2012 FC 189 at para 12, [2012] FCJ No 202 [*Gendron*]; *Fraser Piché v Canada (Attorney General)*, 2013 FC 632 at para 10, [2013] FCJ No 683).

V. **Positions of the parties**

A. *Applicant's arguments*

[17] The applicant makes two allegations against the IC that are closely related. He submits that the IC misapplied the appropriate legal tests where the burden of proof is proof beyond a reasonable doubt. He also criticizes the IC for issuing a brief decision with inadequate reasons. According to the applicant, the IC did not really explain why he accepted Officer Champagne-Lefebvre's testimony or why his testimony and that of his fellow inmate did not raise a reasonable doubt. In short, he criticizes the IC for assigning more weight to the correctional officer's testimony than to his own without explaining the reason for that choice.

[18] The applicant pointed out that in *Ayotte v Canada (Attorney General)*, 2003 FCA 429 at para 14, [2003] FCJ No 1699 [*Ayotte*], the Federal Court of Appeal clearly established that disciplinary tribunals in a prison setting are required to follow the teachings of the Supreme Court of Canada in *R v W(D)*, [1991] 1 SCR 742, [1991] SCJ No 26 [*R v W(D)*] on reasonable doubt.

[19] The applicant contends that the IC set out the three elements in the test developed in *R v W(D)* but did not apply them. He argues therefore that the IC's reasons are insufficient and that it is difficult, if not impossible, to know why he was found guilty. He bases his position on the following passage from *Cyr v Canada (Attorney General)*, 2010 FC 94 at para 22, [2010] FCJ No 90:

> [22] I believe that the remarks of Justice Binnie in *R. v. Sheppard*, 2002 SCC 26 (CanLII), [2002] 1 S.C.R. 869 may be of assistance. He mentions that the purpose of reasons is to preserve and enhance

> meaningful appellate review of the correctness of the decision (paragraph 25). He writes that "[t]he threshold is clearly reached . . . where the appeal court considers itself unable to determine whether the decision is vitiated by error" (paragraph 28). In *Ayotte*, the Federal Court of Appeal recognized that persons charged with disciplinary offences have the same procedural safeguards as those in ordinary trials, in terms of defences, and the same goes for the adequacy of reasons.

[20] The applicant also submits that the existence of two contradictory versions raised a doubt about two elements of the offence and that the IC erred by not really asking whether his testimony and the totality of the evidence raised a reasonable doubt. The applicant argues that the situation in this case is similar to the one in *Zanth v Canada (Attorney General)*, 2004 FC 1113 at para 17, [2004] FCJ No 1344 [*Zanth*]. In that case, the Court concluded that the IC had erred because he had simply given more credence to the correctional officers without considering whether the offence had been proven beyond a reasonable doubt.

[21] The applicant maintains that the same error was recognized in *Ayotte*, and he referred to the following passage from the judgment:

> 22 Moreover, the chairperson of the disciplinary court misdirected himself on the law in this case where credibility was important because all of the evidence rested on the contradictory testimony of the two witnesses. Even if he did not believe the appellant's testimony, he had to acquit him if a reasonable doubt subsisted as to his guilt. Even if he did not believe the appellant's deposition, he should have examined it in the context of the evidence as a whole and the reasonable inferences that he could draw from each and every piece of evidence. But after that examination he had to acquit him if he was not convinced of his guilt beyond a reasonable doubt. A reading of the transcript of the arguments clearly indicates that the chairperson of the disciplinary court did not conduct this exercise. He was content to make an inappropriate equation between the appellant's guilt and his

> absence of credibility, thereby altering the standard of proof required by the Act to support a guilty verdict.
>
> [Emphasis added]

[22] The applicant also referred the Court to the *Lemoy* decision, where the Court allowed an application for judicial review because the IC failed to consider a number of exculpatory elements cited by the inmate in the defence he had raised.

B. *Respondent's arguments*

[23] The respondent submits that the IC did not err in applying the tests developed by the Supreme Court in *R v W(D)* with respect to the principles that apply to the standard of proof beyond a reasonable doubt where credibility issues are involved.

[24] The respondent indicates that the IC himself had pointed out the principles enunciated in *R v W(D)* and argues that it is clear from his decision that he applied those principles even though he did not specifically use the terms utilized in *R v W(D)*.

[25] He contends that the IC considered the applicant's version but did not believe it and that he explained why he did not believe his version of the incident. As for the testimony of Officer Champagne-Lefebvre, the IC found that there was no basis for him to set aside and disbelieve her version. The respondent submits that the IC also analyzed the testimony of the other inmate and explained why he assigned no probative value to it. Accordingly, the respondent argues that the IC analyzed all the evidence before concluding that the evidence did not raise a reasonable doubt.

[26] The respondent maintains that the context of this case is quite different from that of *Ayotte*, *Zanth* and *Lemoy*. The respondent argues that, in those three judgments, the IC's error had been to not assess a defence raised by the inmate at the hearing, which is not the case here. The respondent contends that the applicant did not present a defence; instead, he denied doing the acts in question.

VI. **Analysis**

[27] It is well settled that disciplinary charges in a prison setting are heard as part of an administrative process, which must be flexible and fair, and that the IC plays an inquisitorial role. In *Forrest*, at para 16, the Court reiterated the principles that govern discipline in a prison setting and have been recognized by our Court for many years:

> 16 The nature of the standard of review for a disciplinary court in a penitentiary was set out in *Canada (Correctional Services)* v. *Plante*, [1995] F.C.J. No. 1509 (F.C.T.D.) per Pinard J.:
>
> > 6 The nature and functions of the disciplinary court in question were well summarized by my colleague Denault J. in *Hendrickson* v. *Kent Institution Disciplinary Court (Independent Chairperson)* (1990), 32 F.T.R. 296, at 298 and 299:
> >
> > The principles governing the penitentiary discipline are to be found in Martineau (No. 1) (supra) and Martineau v. Matsqui Institution Disciplinary Board (1979), 1979 CanLII 184 (SCC), 30 N.R. 119;50 C.C.C. (2d) 353 (S.C.C.); Blanchard v. Disciplinary Board of Millhaven Institution (1982), 69 C.C.C. (2d) 171 (F.C.T.D.); Howard v. Stony Mountain Institution Inmate Disciplinary Court (1985), 57 N.R. 280; 19 C.C.C. (3d) 195 (F.C.A.), and may be summarized as follows:
> >
> > 1. A hearing conducted by an independent chairperson of the disciplinary court of an

> institution is an administrative proceeding and is neither judicial nor quasi-judicial in character.
>
> 2. Except to the extent there are statutory provisions or regulations having the force of law to the contrary, there is no requirement to conform to any particular procedure or to abide by the rules of evidence generally applicable to judicial or quasi-judicial tribunals or adversary proceedings.
>
> 3. There is an overall duty to act fairly by ensuring that the inquiry is carried out in a fair manner and with due regard to natural justice. The duty to act fairly in a disciplinary court hearing requires that the person be aware of what the allegations are, the evidence and the nature of the evidence against him and be afforded a reasonable opportunity to respond to the evidence and to give his version of the matter.
>
> 4. The hearing is not to be conducted as an adversary proceeding but as an inquisitorial one and there is no duty on the person responsible for conducting the hearing to explore every conceivable defence, although there is a duty to conduct a full and fair inquiry or, in other words, examine both sides of the question.
>
> 5. It is not up to this court to review the evidence as a court might do in a case of a judicial tribunal or a review of a decision of a quasi-judicial tribunal, but merely to consider whether there has in fact been a breach of the general duty to act fairly.
>
> 6. The judicial discretion in relation to disciplinary matters must be exercised sparingly and a remedy ought to be granted "only in cases of serious injustice" (Martineau No. 2, p. 360).

[See also *Ayotte*, at para 9]

[28] These principles were reiterated recently in *Gendron*, at para 15. Moreover, section 37 of Commissioner's Directive 580 sets out the flexibility that prevails in the presentation of evidence:

> 37. The rules of evidence in criminal matters do not apply in disciplinary hearings. The Chairperson conducting the disciplinary hearing may admit any evidence he/she considers reasonable or trustworthy.

[29] This flexibility does not, however, relieve the IC from his or her obligation to be satisfied beyond a reasonable doubt, in light of all the evidence, that the inmate committed the offence that the inmate is charged with (subsection 43(3) of the Act).

[30] In *Ayotte*, at para 14, the Federal Court of Appeal clearly stated that the principles developed by the Supreme Court of Canada regarding the model for analyzing evidence where the burden is proof beyond a reasonable doubt constitutes a rule of law that applies to disciplinary matters in a prison setting. Justice Létourneau said the following:

> 14 With respect, the principles laid down by the Supreme Court in *R. v. W.(D), supra*, are much more than just model directions for the jury in a criminal case. They are in fact a rule of law applicable to all judges and all tribunals called upon to assess and weigh the evidence when the law requires that they be satisfied beyond a reasonable doubt of the accused's guilt. This is the case here.
>
> 15 In fact, subsection 43(3) of the Act provides that the person conducting the hearing of a prison disciplinary complaint "shall not find the inmate guilty unless satisfied beyond a reasonable doubt, based on the evidence presented at the hearing, that the inmate committed the disciplinary offence in question":
>
> . . .
>
> 16 The decision-maker's obligation to be satisfied beyond a reasonable doubt of the guilt of the accused as well as the onus imposed on the complainant or on the prosecutor to provide such evidence are inextricably linked to the presumption of innocence: *R. v. Lifchus*, 1997 CanLII 319 (SCC), [1997] 3 S.C.R. 320, at paragraph 13. "It is one of the principal safeguards which seeks to ensure that no innocent person is convicted.": *ibidem*. The failure to understand and to properly apply this standard of proof

> irreparably prejudices the fairness of the trial or the hearing: *ibidem*.

[31] In *R v W(D)*, the Court set out as follows the model of analysis that should guide the decision-maker who must apply the reasonable doubt rule in cases where credibility is important:

> 26 It is clear that the trial judge erred in his recharge. It is incorrect to instruct a jury in a criminal case that, in order to render a verdict, they must decide whether they believe the defence evidence or the Crown's evidence. Putting this either/or proposition to the jury excludes the third alternative; namely, that the jury, without believing the accused, after considering the accused's evidence in the context of the evidence as a whole, may still have a reasonable doubt as to his guilt.
>
> 27 In a case where credibility is important, the trial judge must instruct the jury that the rule of reasonable doubt applies to that issue. The trial judge should instruct the jury that they need not firmly believe or disbelieve any witness or set of witnesses. Specifically, the trial judge is required to instruct the jury that they must acquit the accused in two situations. First, if they believe the accused. Second, if they do not believe the accused's evidence but still have a reasonable doubt as to his guilt after considering the accused's evidence in the context of the evidence as a whole. See *R. v. Challice* (1979), 45 C.C.C. (2d) 546 (Ont. C.A.), approved in *R. v. Morin*, *supra*, at p. 357.
>
> 28 Ideally, appropriate instructions on the issue of credibility should be given, not only during the main charge, but on any recharge. A trial judge might well instruct the jury on the question of credibility along these lines:
>
> > First, if you believe the evidence of the accused, obviously you must acquit.
> >
> > Second, if you do not believe the testimony of the accused but you are left in reasonable doubt by it, you must acquit.
> >
> > Third, even if you are not left in doubt by the evidence of the accused, you must ask yourself whether, on the basis of the evidence which you do accept, you are convinced beyond a reasonable doubt by that evidence of the guilt of the accused.

> If that formula were followed, the oft repeated error which appears in the recharge in this case would be avoided. The requirement that the Crown prove the guilt of the accused beyond a reasonable doubt is fundamental in our system of criminal law. Every effort should be made to avoid mistakes in charging the jury on this basic principle.

[32] The applicant contends that, although the IC indicated he was bound by this model of analysis, in fact he did not apply it. With respect, and despite the effective representations of counsel for the applicant, I disagree. I agree that the IC's decision could have been better structured and clearer, but I believe that the transcript of the hearing shows that the IC applied the principles established in *R v W(D)*.

[33] First, it is clear from the decision that the IC did not believe the applicant's version that he did not push the correctional officer. In my opinion, the IC explained why he did not accept the applicant's version based on his testimony when he explained why he had wanted to grab the jar that the correctional officers found in his cell during the search. The applicant explained that he had an interest in not being caught with illicit substances because that would adversely affect his hearing before the Parole Board of Canada, which was scheduled for shortly thereafter. The IC found that, for the same reasons, the applicant had an interest in not giving an accurate version of what had happened when he took the jar from Officer Champagne-Lefebvre's hands. The transcript also shows that the IC also considered the fact that the applicant had admitted taking the jar from the officer's hands and that this action must have involved some force. Here is the relevant passage from the transcript of the hearing:

> [TRANSLATION]
>
> You . . . you even said yourself that you had an interest in not being caught with substances because that would have an impact on your hearing that was coming before the Board in April. I am inclined to apply the same principle: you would have an interest in not giving an accurate version of the assault because that could also have an impact on your hearing at the . . . the hearing before the Parole Board in April; I am saying that with respect.
>
> The evidence I have before me, which is undeniable, is that you yourself admitted . . . you took, removed, stole, the term doesn't matter, the jar from an officer's hands. I assume that that still takes force to do it. Regardless of whether it was slight, that still takes force, and an assault is the application of force to a person.
>
> Whether it was a violent push or you had some contact, for my part, I will not change my decision on this point.
>
> You said yourself that it happened in . . . a fraction of a second. She did not have time to react. If it was too fast for everyone, maybe it was too fast for you as well.
>
> [pp. 144-145 of the transcript, pp. 149 and 150 of the Applicant's Record]

[34] I therefore find that the IC explained why he did not believe the applicant's version. The IC then addressed the other evidence, including the testimony of Officer Champagne-Lefebvre and the other inmate before concluding that there was no evidence, in his mind, that raised a reasonable doubt.

[35] The IC indicated that he believed the testimony of Officer Champagne-Lefebvre, who stated that the applicant had pushed her and, in my opinion, he explained why he believed her version. The transcript of the hearing shows that the IC determined there was no reason to doubt Officer Champagne-Lefebvre's testimony and that, in his opinion, the testimony of the other

inmate did not contradict the officer's testimony because he admitted that everything happened quickly and that he may not have seen everything. Here is the relevant passage:

> [TRANSLATION]
>
> . . . It is Officer Lefebvre who stated . . . stated that you pushed her.
>
> I have no reason to doubt her testimony. However, the jurisprudence teaches me that I cannot assign more credibility to an officer based on the mere fact that he or she is an officer. I have always said: for me, those two witnesses are at the same level, and I am convinced that there are officers who occasionally also lie before the Court. Therefore, I must be very careful about that.
>
> But I assume she told you that you pushed her, and I tend to believe her on that issue.
>
> What contradicts this is the testimony of inmate Seehing Kee, who said that he did not see 100%, that he saw a commotion—that was his expression—and that he . . . that he saw you in the process of taking the jar and leaving. He also agreed that it happened quickly.
>
> Yes, in the. . . in answer to a question asked by Mr. Tabah, he stated that he did not see a push when he looked, and when he was looking, it was most of the time, but he also admitted that there was maybe some times when I did not see. But he also said in a . . . in answer to a question asked by the assessor Alexandre Marc: he could not say whether there was physical contact, whether it was violent in the sense that it could be interpreted or violent in the sense that someone could give it. From the time that there was physical contact, I think that is . . . the criteria for an assault have been met, and that is the primary element of the offence.
>
> <u>And I must take the offence as a whole</u>, which took place in a few seconds, the fact that you had an interest in not taking . . . in not being caught with substances, that you decided, a conscious decision. . . .just removing a piece of paper or a pencil from an officer, that is already going too far. You left in a few seconds, you went over the other agent.
>
> <u>For all the circumstances, I have no basis for setting aside, quite the opposite, Officer Lefebvre's testimony. . . .</u>

> [Emphasis added]
>
> [pp. 145-147 of the transcript, pp. 150 and 152 of the Applicant's Record]

[36] The IC then indicated that the evidence apart from the applicant's testimony did not raise a reasonable doubt in his mind:

> [TRANSLATION]
>
> The decision has been made. I'm going to explain it just once, with all due respect, it's not just the fact that you took a jar, but at that point, you did not . . . considering all the circumstances of the case, I believe the officer who says that you pushed her. I consider that the evidence, other than your testimony, which says that there was no physical contact, the independent witness cannot categorically state that there was none.
>
> As for me, he talks about commotion and, as for me, if there was a commotion, you removed something, and there was shouting. This happened in a fraction of a second. I must believe the officer, then everything that took place incidentally does not raise a reasonable doubt for me,
>
> [Emphasis added]
>
> [pp 148-149 of the transcript , pp 153-154 of the Applicant's Record]

[37] Accordingly, I find that the IC applied the *R v W(D)* principles. I also find that the evidence as a whole could support a conclusion that no reasonable doubt had been raised. It is not the role of the Court to substitute its own assessment of the evidence for that of the IC. His conclusion, in light of all the evidence, appears reasonable to me.

[38] The circumstances of this case are different from those in the authorities cited by the applicant.

[39] First, in *Ayotte*, the Court faulted the IC for not making a determination on one of the inmate's defences. In addition, the IC had limited his analysis to the contradictory testimony of the inmate and a correctional officer, found that he did not believe the applicant and convicted him. Accordingly, the Court criticized the IC for ignoring the defence. It also faulted him for disregarding the evidence provided by the applicant in support of his defence rather than weighing and assessing it. In this case, the applicant did not put forward a defence; he denied committing the offence. Moreover, the IC did not fail to analyze the evidence. He considered and weighed the evidence that consisted of the testimony of the applicant, the fellow inmate and the two correctional officers before concluding that the evidence did not raise a reasonable doubt in his mind.

[40] In *Zanth*, the inmate had also put forward a defence: self-defence. The Court held that the IC had not really considered the inmate's defence. Furthermore, in that case, it was clear from the IC's decision, which is reproduced at paragraph 9 of the Court's judgment, that he had limited his analysis to assessing the credibility of the applicant and the two correctional officers in convicting the inmate. He did not ask himself whether the evidence, in its totality, raised a reasonable doubt about the inmate's guilt. This is how the IC concluded:

> [TRANSLATION]
>
> So, given that I am assigning much more credibility to the institution's testimony, then, in the circumstances, I find inmate Zanth guilty.

In such a context, Justice Blais' conclusion, at para 17 of the judgment, is readily understood:

> It is clear in this matter that the chairperson of the court did not comply with this model. He assigned more credibility to the officers, and his analysis ended there. He did not ask himself whether the evidence had been made beyond a reasonable doubt.

[41] In this case, the IC did not limit his analysis to assessing the credibility of the applicant and the other witnesses. The IC clearly stated that he thought the alleged events had happened (p 143 of the transcript, p 148 of the Applicant's Record) and that the evidence did not raise a reasonable doubt in his mind (p 149 of the transcript, p 154 of the Applicant's Record).

[42] In *Lemoy*, the inmate invoked the defence of self-defence and relied on a number of factual elements to support his defence. The IC rejected the inmate's defence because he had used more force than necessary. The Court intervened because the IC had not considered a number of relevant contextual elements for the purposes of analyzing the defence of self-defence (para 31) and, in doing so, had not seriously considered the inmate's defence (para 35). The situation in this case is different because the IC in his decision dealt with each piece of evidence that the applicant presented.

[43] For all these reasons, I find that the IC applied the model of analysis dictated by *R v W(D)*, that his assessment of the evidence was reasonable and that his decision shows the reasons

that led him to conclude that the evidence did not, in his mind, raise a reasonable doubt with respect to the applicant's guilt. As Justice Abella stated in *Newfoundland and Labrador Nurses' Union v Newfoundland and Labrador (Treasury Board)*, 2011 SCC 62 at para 16, [2011] 3 SCR 708: "In other words, if the reasons allow the reviewing court to understand why the tribunal made its decision and permit it to determine whether the conclusion is within the range of acceptable outcomes, the *Dunsmuir* criteria are met." I find that in this case the IC's reasons provide insight into why he determined that it had been established beyond a reasonable doubt that the applicant had committed an assault on Officer Champagne-Lefebvre. I also consider that the IC's decision falls within "a range of possible, acceptable outcomes which are defensible in respect of the facts and law" (*Dunsmuir*, at para 47).

JUDGMENT

THIS COURT ORDERS AND ADJUGES that the application for judicial review is dismissed with costs.

"Marie-Josée Bédard"

Judge

Certified true translation
Mary Jo Egan, LLB

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	T-1941-13
STYLE OF CAUSE:	BRYAN BOUCHER-CÔTÉ v ATTORNEY GENERAL OF CANADA
PLACE OF HEARING:	MONTRÉAL, QUEBEC
DATE OF HEARING:	OCTOBER 7, 2014
JUDGMENT AND REASONS:	BÉDARD J.
DATED:	NOVEMBER 13, 2014

APPEARANCES:

Pierre Tabah	FOR THE APPLICANT
Claudia Gagnon	FOR THE RESPONDENT

SOLICITORS OF RECORD:

Pierre Tabah Montréal, Quebec	FOR THE APPLICANT
William F. Pentney Deputy Attorney General of Canada Montréal, Quebec	FOR THE RESPONDENT