

Federal Court



Cour fédérale

**Date: 20141203**

**Docket: T-1320-14**

**Citation: 2014 FC 1164**

**Ottawa, Ontario, December 3, 2014**

**PRESENT: The Honourable Mr. Justice Zinn**

**BETWEEN:**

**BARRY D. CHALLICE**

**Applicant**

**and**

**ATTORNEY GENERAL OF CANADA**

**Respondent**

**JUDGMENT AND REASONS**

[1] Barry Challice is a prisoner at the Bath Institution in Bath, Ontario. He brings an application for judicial review of an inmate grievance. In early 2003, Mr. Challice submitted a first level grievance with respect to the removal of his Sony Playstation One memory card by Correctional Services of Canada [CSC]. It was denied. On June 4, 2003, he brought a second level grievance which was also denied on July 23, 2003.

[2] The relevant directive in effect at the time provided that the third (and final) level grievance should be brought within ten working days. Mr. Challice brought his final level grievance on November 6, 2013 – more than 10 years after the last decision. The final level grievance was denied for delay on March 30, 2014.

[3] Mr. Challice has offered an explanation for his delay in an affidavit filed with the application. He offered no such explanation to the third level decision-maker. I agree with the respondent that those paragraphs must be struck from his affidavit as they reflect facts not before the decision-maker.

[4] The only issue that needs to be addressed is whether the decision to dismiss the grievance for delay was reasonable. The respondent submits, and I agree, that dismissing the grievance for delay based a ten year gap in bringing the third level grievance is reasonable. The Federal Court of Appeal in *McConnell v Professional Institute of the Public Service of Canada*, 2007 FCA 142, and the Federal Court in *Vidlak v Canada (Attorney General)*, 2007 FC 1182 held that it was not patently unreasonable to dismiss grievances for delay much shorter than that here.

[5] The respondent submitted that the appropriate avenue for redress is for Mr. Challice to submit a new grievance at the first level and make the forceful submissions made in his memorandum as to the unreasonableness of the policy's application to the Playstation One memory card. The Court was informed by counsel that if he did so, the grievance would be determined on its merit.

[6] At the request of counsel the style of cause will be amended to reflect the only appropriate respondent, the Attorney General of Canada.

**JUDGMENT**

**THIS COURT'S JUDGMENT is that:**

1. The style of cause is amended by deleting all respondents, save and except the Attorney General of Canada;
2. Paragraphs 9-12 of the applicant's affidavit filed in this matter are struck;
3. This application is dismissed, without costs.

"Russel W. Zinn"

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Judge

**FEDERAL COURT**  
**SOLICITORS OF RECORD**

**DOCKET:** T-1320-14

**STYLE OF CAUSE:** BARRY D. CHALLICE v ATTORNEY GENERAL  
OF CANADA

**PLACE OF HEARING:** BY VIDEOCONFERENCE BETWEEN TORONTO,  
ONTARIO AND BATH, ONTARIO

**DATE OF HEARING:** DECEMBER 1, 2014

**JUDGMENT AND REASONS:** ZINN J.

**DATED:** DECEMBER 3, 2014

**APPEARANCES:**

Barry D. Challice APPLICANT  
(ON HIS OWN BEHALF)

Aileen Jones FOR THE RESPONDENT

**SOLICITORS OF RECORD:**

Nil SELF-REPRESENTED APPLICANT

William F. Pentney FOR THE RESPONDENT  
Deputy Attorney General of Canada  
Toronto, Ontario