

PENITENTIARIES

INMATE INCOME

Judicial review of Correctional Service Canada (CSC) decision to withhold entirety of applicant's inmate income — Applicant disagreeing with transfer to other penitentiary — Filing application for judicial review — Court ordering costs following dismissal of application as abuse of process — Total reduction of applicant's inmate income to pay for outstanding costs order continuing until applicant's release — Applicant contending that CSC having no legal authority to make deductions from inmate income to discharge costs order — Main issue whether reasonable for CSC to deduct all of applicant's inmate income to discharge unpaid costs order — *Financial Administration Act*, R.S.C., 1985, c. F-11, s. 155 granting CSC legal authority to make deductions from inmate's income in accordance with Commissioner's Directive 860 to discharge debt to Crown, including outstanding costs order — However, deductions from applicant's inmate income not made in accordance with those authorities — Given purpose of correctional system, incumbent upon CSC to consider potential consequences of deducting income from inmate to discharge debt to Crown — Applicant's right to seek reduction or waiver of deduction from institutional head not absolving CSC of that responsibility before beginning to make deduction — Offenders may seek relief under *Corrections and Conditional Release Regulations*, SOR/92-620 (CCRR), s. 104.1(7) in relation to deductions made to discharge debt to Crown — Internal process needed for seeking relief when deductions being made from inmate income for purposes beyond those contemplated by *Corrections and Conditional Release Act*, S.C. 1992, c. 20, s. 78(2) — Such a process for seeking relief important after-the-fact safeguard — CSC having responsibility to consider question posed in CCRR, s. 104.1(7) before starting to make deductions, i.e. whether deduction from offender's income will unduly interfere with ability to meet objectives of offender's correctional plan or meet basic needs or family or parental responsibilities — Court-ordered obligation such as costs order serious matter — Appropriate for CSC to step in, facilitate payments by offenders in relation to such obligations — Guiding principle must be to act consistently with offender's correctional plan, with overarching goals of correctional system — Limiting deduction to certain percentage of offender's income might help to avoid impact — In present case, outcome untenable — CSC decision to withhold 100 percent of applicant's inmate income to discharge costs order unlawful — Application allowed.

JOHNSTON V. CANADA (ATTORNEY GENERAL) (T-2038-18, 2020 FC 352, Norris J., reasons for judgment dated March 9, 2020, 35 pp.)