SUPREME COURT OF NOVA SCOTIA
Citation: *Ivezic v. Attorney General (Canada)*, 2025 NSSC 421

Date: 20251217
Docket: Amh No. AMH 549216
Registry: Amherst

Between:

Michael Ivezic

Applicant

v.

Attorney General (Canada)

Respondent

Endorsement Regarding Habeas Corpus
Stage One Assessment

Judge:	The Honourable Justice Jeffrey R. Hunt
Hearing:	December 11, 2025 at Amherst, Nova Scotia
Oral Decision:	December 17. 2025
Counsel:	Michael Ivezic, self-representing Ami Assignon, counsel to the Respondent

By the Court (orally):

Introduction

By the Court:

[1] The Applicant seeks an order within the *habeas corpus* remedy granting him access to computer and digital file materials as he works on his appeals. He advises the Court, and I accept, that he is advancing various steps within a number of courts directed at appealing his convictions, which he frames as wrongful convictions based in wrongful acts by the state.

[2] He further indicates that, until November 2025, he had adequate access to two laptops and his voluminous electronic file material. This ended following the distribution of a November 14, 2025 memo regarding "Laptop Use and E-Disclosure Process". This memo was from Kim Terrio, Acting Assistant Warden Management Services at Springhill Institution. It was distributed to the entire population at Springhill Institution and framed to be of general application.

[3] I will return to this memo in a moment, and comment further, but it is evident that the memo is based on certain Commissioner's Directives.

[4] Mr. Ivezic says that since the distribution of this memorandum his access to his digital materials has been effectively cut off.

[5] He argues that this constitutes a deprivation of his residual liberty which is unlawful and unreasonable. He asks for a *habeas* order restoring the access he enjoyed before the changes in late November.

[6] I note in passing that the memo does set out a process for getting some access to digital and e-disclosure material. But I accept, for the purposes of this proceeding, that this would be lesser access than he enjoyed previously.

[7] The Respondent argues that Mr. Ivezic's allegations do not amount to a deprivation of his residual liberty. They point out that this policy is drawn directly from Commissioner's Directives 225 and 226. These Directives are in the record. The policy applies across the entirety of the Institution.

[8] The Attorney General seeks the dismissal of the *habeas corpus* application at the first stage.

[9] In this decision I will not be engaging in a deep dive into the various stages of the *habeas* remedy. In summary, the steps are as follows:

1. Can the applicant demonstrate a deprivation of residual liberty?
2. Can the applicant raise a legitimate basis on which to question the lawfulness of the deprivation?

3. If the two answers above are yes, then the burden shifts to the respondent to demonstrate the lawfulness and reasonableness of the actions taken by the institution.

[10] In a high percentage of cases, the Attorney General accepts that the applicant can show a deprivation of residual liberty and raise a legitimate basis on which to question the deprivation. At the third stage, however, they argue there are lawful and reasonable reasons for the residual deprivation.

[11] A typical scenario would be one where Correctional Services has raised the security classification of an inmate, but they argue this was because the inmate engaged in some action that impacts on the security and safety of the institution. This would be a conventional *habeas* seen in this Court.

[12] The matter being advanced by the Applicant here is not a conventional *habeas*. The position of the Attorney General is that this is one of those rare cases where the Court ought not take jurisdiction because a deprivation of residual liberty cannot be shown, according to the law as it applies to *habeas corpus* applications.

[13] I have weighed the entirety of the record before me including the submissions of the parties. I am aware of the scope and power of the *habeas*

remedy. I am aware that this Court ought to be very cautious when it considers whether to decline to take jurisdiction in *habeas* matters.

[14] I am also aware however, that in the recent Supreme Court of Canada case of *Dorsey v. Attorney General (Canada)*, 2025 SCC 38, the majority of the Court provided what I take to be unmistakable commentary with respect to *habeas* matters involving factual situations such as the one presently before the Court.

[15] The clear direction is that matters such as those being raised in this present application do not constitute a deprivation of residual liberty

[16] While I appreciate that the *habeas* remedy is not a static one, and the scope of the remedy can evolve over time, the recency of these remarks from the Supreme Court means that their position is clear and applicable to the present circumstances.

[17] I must dismiss the petition, and I do so. I will briefly discuss below the specific commentary from the Supreme Court that has led me to conclude that the Applicant can not meet his burden at first stage.

Discussion

[18] In *Dorsey* the Supreme Court reaffirmed the point that the writ of *habeas corpus* does occupy a unique position as a constitutionally enshrined remedy which requires an urgent response from the courts.

[19] The filing of a *habeas* petition obligates the party detaining an inmate to immediately respond to the suggestion of illegality with respect to the inmate's detention. Applications routinely result in a first appearance before a provincial superior court within a few days and a hearing within a few weeks of filing. This is an expectation which makes a *habeas* petition unlike nearly every other legal process currently available within our system.

[20] Trial courts have been repeatedly reminded of the point that provincial superior courts, such as this one, should not decline to take jurisdiction except in the clearest of cases.

[21] Following *Dorsey*, an inmate may now make an application for *habeas corpus* following an unsuccessful application to transfer to a lower security level. The majority of the Supreme Court in *Dorsey* confirmed that, if prison officials failed to consider the transfer request lawfully, the continued detention at the higher security classification may have become illegal even though the inmate did not experience a heightened degree of liberty deprivation.

[22] Types of unlawfulness that might render a transfer decision vulnerable to challenge via *habeas corpus* are noted to be largely procedural: for example, failure to review and discuss the transfer application with the inmate, to consult with the proposed lower security institution, to provide a detailed rationale of the reasons for the decision or otherwise failing to comply with applicable Commissioner's Directives.

[23] Accordingly, in *Dorsey,* the Supreme Court of Canada has expanded the scope of the *habeas* writ.

[24] But in the course of doing so, and in the course of discussing the history of the *habeas* remedy in Canada, the majority of the Court attempted to address a concern raised by the dissent in the case with respect to whether the decision of the majority would open a floodgate of analogous claims.

[25] The majority reaffirmed a number of traditional limits on what constitutes a residual deprivation of liberty and made specific reference to matters which would not constitute a residual deprivation of liberty - and to which the majority was proposing no change in approach:

> 55 Undoubtedly, not all carceral conditions will constitute deprivations of liberty. My colleagues note that "*habeas corpus* is not an unrestricted remedy to challenge an ever-widening range of conditions of incarceration" (para. 160). I do not contend otherwise. Again, in *Miller*, this Court explained that *habeas corpus* is not meant "to challenge any and all conditions of confinement in a penitentiary or prison, including the loss of any privilege enjoyed by the general inmate population" (p. 641).

> 56 Since the *Miller* trilogy, courts have held that denial of or inability to access rehabilitative programming does not constitute a deprivation of liberty (*Mapara v. Ferndale Institution (Warden)*, 2012 BCCA 127, 318 B.C.A.C. 139, at paras. 12-15; *Lord v. Coulter*, 2007 BCSC 1758, 72 Admin. L.R. (4th) 264, at paras. 60-63, aff'd 2009 BCCA 62, 266 B.C.A.C. 122; *Rain v. Canada (Parole Board)*, 2015 ABQB 639, at para. 15). Furthermore, in *Ewanchuk v. Canada (Attorney General)* 2017 ABQB 237, 354 C.C.C. (3d) 119, the court held that *habeas corpus* does not apply in situations involving temporary lock downs and other intermittent forms of detention; rude, abusive, or inattentive staff; exposure to dangerous inmates; complaints about food, medical accommodations, and hygiene; complaints that the inmate grievance procedures are ineffective; inadequate mail services and searches of mail; **inadequate access or excessively expensive telephone communications; and restrictions that impede legal research, document preparation, and litigation activities (para. 65)**. Likewise, in *Mennes v. Canada (Attorney General),* 2008 CanLII 6424, the Ontario Superior Court of Justice held that housing an inmate in a double occupancy room instead of a single occupancy room does not engage a deprivation of liberty (paras. 27-28).
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> 57 Contrary to my colleagues' suggestion, access to *habeas corpus* has not undergone and, following this appeal, does not risk undergoing unrestrained expansion. The examples listed above demonstrate that *habeas corpus* is circumscribed to carceral conditions which amount to a deprivation of liberty. Carceral conditions which do not result in a deprivation of liberty cannot form the basis for *habeas corpus* review. …
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> (emphasis added)

[26] In my view the issues being raised by the Applicant clearly fall within those noted above by the Supreme Court, and about which the majority was clear that they propose no change in treatment.

[27] I acknowledge the point made by Mr. Ivezic that *habeas* is meant to be an evolving as opposed to a static tool. There can be no reasonable argument advanced, however, that the remedy can have evolved so much in the extremely short time since the majority in *Dorsey* made clear their position on these matters.

[28] I will directly address one further point made by the Applicant. He argued that the Supreme Court, in making their comments in paragraph 56 with respect to

access to legal paperwork etc., must have been addressing legal papers and research other than those directly impacting the ultimate liberty of the inmate by way of a pending trial or appeal.

[29] I have not been able to accept this argument. Had the Court wanted to limit the scope of their remarks in such a critical way they would have done so explicitly. It is apparent to me that they intended their words to apply to situations such as the present.

[30] While the Applicant may not be without a remedy. These were discussed, to some extent, during submissions. I conclude that, in these circumstances, the potential remedies do not include *habeas corpus*.

Conclusion

[31] Accordingly, the Applicant has not met the burden of demonstrating a residual deprivation of liberty and the *habeas* petition must be dismissed.

[32] In the circumstances and given that this matter has been addressed summarily at the screening stage, the dismissal will be without costs.

Hunt, J.