

## **HAVE YOU BEEN PLACED IN SOLITARY CONFINEMENT FOR DISCIPLINARY REASONS?**

### **YOU COULD BE A MEMBER OF A CLASS ACTION.**

The Superior Court has granted **George Michael Diggs** permission to institute a class action against the **Attorney General of Quebec** (the “AGQ”) for the use of solitary confinement as a disciplinary sanction.

The authorization judgment is a preliminary step that allows the class action to begin. This judgment does not determine whether the AGQ is liable; it will be able to present its defence at trial. Following the trial, the Superior Court will decide whether the Defendant should be ordered to pay damages to class members and, if so, in what amount.

### **WHO IS ELIGIBLE?**

You could be a member of the class action if you meet **all the following criteria**:

1. You have been placed in "solitary confinement" (i.e. confined or locked in a cell for at least 22 hours a day) in a Quebec detention facility;
2. That confinement occurred between October 1, 2017, and June 29, 2021; and
3. You were confined for disciplinary reasons, that is, following a decision of the detention facility's disciplinary committee.

**If you meet these criteria, you are automatically a member of the class action.** All individuals who meet the criteria could be entitled to a compensation if the class action is successful.

**Individuals who were placed in solitary confinement for any reason other than a disciplinary reason are excluded from this action.**

### **THE CASE**

The class action alleges that the use of solitary confinement more than 22 hours per day as a disciplinary sanction violates the *Canadian Charter of Rights and Freedoms* and the *Quebec Charter of Human Rights and Freedoms*. The action alleges that the Quebec Correctional Services intentionally violate the class members' fundamental rights.

This class action seeks an order for the defendant to pay damages that compensate class members for the prejudice they suffered, as well as punitive damages.

The Correctional Services of Quebec, represented by the AGQ, will contest the class action. The Court has not yet decided if the use of solitary confinement as a disciplinary sanction is unlawful and no compensation has been granted at this time. Class counsel will have to prove the merits of the case before the Court prior to any distribution of an award to members.

**To determine the merits of the case, the Superior Court will answer the following questions:**

1. Does disciplinary segregation, as practiced by the defendant, violate the rights of class members protected by sections 7 and 12 of the *Canadian Charter of Rights and Freedoms*?
2. What is a mental health disorder for the purposes of this demand?
3. Does disciplinary segregation, as practiced by the defendant, violate the rights of members with a mental health disorder protected by section 15 of the *Canadian Charter of Rights and Freedoms* and by section 10 of the *Charter of Human Rights and Freedoms*?
4. Does placement in disciplinary segregation for more than 12 days, as practiced by the defendant, violate section 9 of the *Canadian Charter of Rights and Freedoms* and section 24 of the *Charter of Human Rights and Freedoms*?
5. Does disciplinary segregation, as practiced by the defendant, violate the rights of class members protected by sections 1 and 25 of the *Charter of Human Rights and Freedoms*?
6. Does the directive entitled "*Discipline and responsibility of the incarcerated person*" violate sections 7, 12 and 15 of the *Canadian Charter of Rights and Freedoms* and sections 1, 10 and 25 of the *Charter of Human Rights and Freedoms*?
7. Are class members entitled to damages as a just and appropriate remedy under section 24(1) of the *Canadian Charter of Rights and Freedoms*?
8. To what extent do people with mental health disorders suffer injury that is distinct from the whole group?
9. Should all class members with mental health disorders benefit from specific special isolation conditions?
10. Did the defendant commit a civil wrong against the class members through its use of disciplinary segregation?
11. What is the nature of the damages suffered by the class members?
12. Did the defendant unlawfully and intentionally violate the rights of class members protected by the *Charter of Human Rights and Freedoms* through its disciplinary segregation practises?
13. Does disciplinary segregation, as practised by the defendant, entitle class members to punitive damages under the *Charter of Human Rights and Freedoms*?

## **THE CONCLUSIONS SOUGHT**

Here's what the plaintiff is seeking from the Court on behalf of class members:

**GRANT** the Plaintiff's class action on behalf of all class members;

**DECLARE** that the defendant's practice of disciplinary segregation unjustifiably infringes the rights of class members protected by sections 1 and 25 of the *Charter of*

*Human Rights and Freedoms* and sections 7 and 12 of the *Canadian Charter of Rights and Freedoms*;

**DECLARE** that the defendant's practice of disciplinary segregation unjustifiably infringes the rights of group members with a mental health disorder protected by section 15 of the *Canadian Charter of Rights and Freedoms* and by section 10 of the *Charter of Human Rights and Freedom*;

**DECLARE** that the defendant's practice of disciplinary segregation unjustifiably infringes on the rights of class members protected by section 24 of the *Charter of Human Rights and Freedoms* and section 9 of the *Canadian Charter of Rights and Freedoms* when the placement in disciplinary segregation exceeds 12 days;

**DECLARE** that the directive entitled "*Discipline and responsibility of the incarcerated person*" violates sections 7, 12 and 15 of the *Canadian Charter of Rights and Freedoms* and sections 1, 10 and 25 of the *Charter of Human Rights and Freedoms*;

**CONDEMN** the defendant to pay each class member an amount of \$2,000 per placement in disciplinary segregation, with interest at the legal rate plus additional compensation from the date of the filing of the request for authorization to institute a class action;

**CONDEMN** the defendant to pay each class member an additional amount of \$2,000 per placement in disciplinary segregation, with interest at the legal rate plus additional compensation from the date of the filing of the request for authorization to institute a class action;

**CONDEMN** the defendant to pay to each class member an additional amount of \$250 per day spent in disciplinary segregation, with interest at the legal rate plus the additional indemnity from the date of the filing of the request for authorization to institute a class action;

**CONDEMN** the defendant to pay an additional amount of \$250 per additional day spent in disciplinary segregation when the duration exceeds 12 days, with interest at the legal rate plus the additional indemnity since the filing of the request for authorization to institute a class action;

**ORDER** that the claims of the class members be subjected to collective recovery;

**RECONVENE** parties within 30 days of the final judgment to determine the measures for distribution of the amounts recovered collectively;

**THE WHOLE** with costs, including costs of experts, opinions and expenses of the administrator, notices and distribution to members;

## **WHO REPRESENTS THE MEMBERS?**

The law firm **Trudel Johnston & Lespérance** represents the class members.

**LAWYER'S FEES** will be paid only if the class action is successful and will need to be approved by the Court. As a result, you do not have to pay **anything** unless you obtain compensation.

## WHAT COULD YOU GET?

You could be entitled to monetary compensation for the time spent in disciplinary segregation during the applicable period.

Compensation could vary depending on the number of days you spent in segregation and the number of placements you experienced. Mental health issues could also be taken into consideration when determining the amount.

## YOU CAN ASK TO INTERVENE

The case will be heard in the judicial district of Montreal.

A member may ask the Court to intervene in the class action. The Court will allow the intervention if it is useful to the class.

## YOU MAY OPT OUT UNTIL DECEMBER 15, 2021

If you do nothing, you will be a class member and will be bound by any judgment rendered in this action. Being a class member do not require you to do anything.

If you prefer to pursue your own legal action against the Quebec Correctional Services, you may opt out from the class.

If you opt out, you will not be entitled to any compensation if a favourable judgment or settlement is reached in this class action.

You have until December 15, 2021, to opt out from the class action.

To opt out, you must send a **letter to the clerk of the Superior Court of Quebec** with a copy to Mr. Diggs' lawyers, indicating court number 500-06-001094-206, at the following addresses:

**Clerk's Office of the Superior Court of Quebec**  
1 Notre-Dame Street East  
Montreal (QC) H2Y 1B6

**Trudel Johnston & Lespérance**  
750 Place d'Armes, Suite 90  
Montreal (QC) H2Y 2X8

## STAY INFORMED

If you wish to receive information on the progress of the case, you may **subscribe to the mailing list for this action** with Trudel Johnston & Lespérance by completing the form at: <https://tjl.quebec/en/class-actions/disciplinary-confinement-of-individuals-incarcerated-in-a-provincial-prisons/>

**BEWARE! Your subscription to the newsletter list is not a claim for compensation!** If the class action is successful, you will have to submit your claim following the procedure determined by the Court.

You can also consult the Central Registry of Class Actions where all proceedings must be published: <https://www.registredesactionscollectives.quebec>.

You can contact Mr. Diggs' lawyers at the following coordinates:



TRUDEL JOHNSTON & LESPÉRANCE  
750 Côte de la Place d'Armes, Suite 90  
Montreal, Quebec H2Y 2X8  
Toll free: 1-844-588-8385  
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