

Canadian woman settles suit over being tortured in “dry cell” solitary confinement

Steve Hill
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A civil lawsuit filed by Nova Scotia resident Lisa Adams seeking damages from the federal government after being subjected to what amounts to torture in a Canadian correctional institution was settled last month, with her attorney reporting that the details could not be disclosed.

Held for 16 days in a “dry cell”—a solitary room with no running water or flushing toilet—Adams was kept under lighted observation by sight and security camera, with no privacy whatsoever for the entire duration. She had been segregated on suspicion of hiding drugs in her vagina at the Nova Institution for Women in Truro, Nova Scotia.

Dry celling is an extreme form of solitary confinement that is generally used for male and female inmates who are suspected of concealing contraband inside their bodies, with the expectation that the item will inevitably be passed by normal bodily functions.

Adams found herself in the correctional system after years of living with mental health and substance use issues. A period of abusive relationships with men and a bout of severe postpartum depression following the birth of her son led to a reliance on drugs to cope with the trauma. This unfortunate situation was compounded by the fact that Adams also came to rely on the sale of drugs to support her family. In 2019 she was sentenced to two years at the Nova Institution for selling methamphetamines in her hometown of Saint John, New Brunswick. Such a path is all too common, with the Canadian Association of Elizabeth Fry Societies reporting that approximately 80 per cent of women serving at least two years in a Canadian federal prison are survivors of physical or sexual abuse.

Furthermore, studies have shown that federal inmates (those sentenced to two years or longer) overwhelmingly come from conditions of social and economic disadvantage such as poverty, low-paying jobs and high unemployment—in other words the increasingly common features of working-class life across Canada.

The state currently responds to this situation by warehousing approximately 13,000 inmates in 43 federal institutions across the country at a cost of well over \$3 billion a year. There are also dozens of provincial institutions through which far more people pass, either on remand, serving shorter sentences or

awaiting transfer.

Lisa Adams’ experience is a particularly egregious example of the dehumanizing methods employed by the state to maintain order and discipline in these facilities. In a letter that made its way to Emma Halpern, Executive Director of the Elizabeth Fry Society of Mainland Nova Scotia and Co-Founder of PATH Legal, Adams expressed her hopelessness and lack of control over her body while subjected to the oppressive dry cell conditions.

Halpern and Jessica Rose, PATH Legal’s Managing Lawyer, represented Adams pro-bono to bring an application for habeas corpus and to file a constitutional challenge against Section 52(b) of the Corrections and Conditional Release Act (CCRA). They argued that being placed in a dry cell violated multiple provisions of the Canadian Charter of Rights and Freedoms. These included Section 12, the prohibition against cruel and unusual punishment; Section 7, the right to life, liberty, and security of the person; and Section 15, the right to equality and freedom from discrimination. Specifically as to discrimination, it was argued that dry celling due to suspicion that contraband was being carried in the vagina, as opposed to the rectum, could not reasonably be expected to be expelled within the same timeframe and therefore those with vaginas may undergo more prolonged and severe treatment than those without vaginas.

The chronology of Adams’ dry celling, as retold in the decision of Justice John A. Keith of the Supreme Court of Nova Scotia in a case separate from the civil suit, illustrates the arbitrary and crushing nature of the treatment applied to inmates who collide with the regulations of the correctional system.

On May 2, 2020 Adams was caught using methamphetamine at a community residential facility in Cape Breton and returned to the higher security Nova Institution in Truro. She had undergone a body scan prior to transportation and those responsible for interpreting the results expressed no concerns about contraband being hidden in a body cavity.

On May 5, 2020 Adams was caught smoking a cigarette, which she admitted smuggling into the institution in her vagina. Subsequent testing of Adams’ personal belongings suggested the presence of methamphetamine so the original body scan at the Cape Breton residential facility was re-checked. Claiming

that the person who originally reviewed the images was inexperienced, the conclusion the second time around was that the scan actually revealed multiple round packages resembling balloons hidden in Adams' vagina.

With this 'evidence' the Nova Institution Warden had Adams placed in a dry cell on May 6.

The next day a mental health clinic note indicated that Adams was considered at low risk for suicide and self injury even though it also acknowledged that she had a heightened level of anxiety, was unable to regulate her emotions without support and had previously attempted suicide five times.

It was merely recommended that she be monitored regularly and be provided with a chair to help with performing her grounding exercises when experiencing anxiety. The chair was not offered until Adams herself had to repeat the request a week later.

After 72 hours, on May 9, the recommendation was made that Adams remain in the dry cell because no contraband had been retrieved. For the next two days, due to the unrelenting surveillance, she began to display symptoms of "great mental distress" such as staring, rocking and having difficulty articulating clear responses.

A report from Nova Institution's health services on May 11 specifically noted that a "prolonged stay in such an environment would likely result in a deterioration of the mental stability of this client."

Adams consented to an X-ray to prove that she was not carrying contraband but the physician refused on the basis that her consent was coerced and invalid because she had been given an ultimatum that she would remain in isolation unless she went through the procedure.

Over the next ten days, Adams' mental health fluctuated to the point that she was prescribed clonazepam to deal with a number of very troubling symptoms, including hallucinations and articulating the wish to die rather than go on indefinitely under the same conditions.

On May 20, on the grounds of medical necessity and with Adams' consent, a pelvic examination was conducted which proved that she was not concealing contraband—but still it was not until two days later that she was finally released from the dry cell.

Correctional investigator Ivan Zinger has called the conditions of dry cell confinement "by far the most degrading, austere and restrictive imaginable in federal corrections" and "even more so than the conditions of administrative segregation."

Two reports from federal correctional investigators, Howard Sapers in 2011-12 and Zinger in 2019-20, recommended that the practice be restricted to a maximum of 72 hours. In fact, in 2020, Zinger wrote, "In my opinion, beyond 72 hours there can be no further reason or justification to detain or keep a person in such depriving conditions," adding, "After three days, surely this procedure becomes unreasonable, if not strictly punitive."

The Correctional Service of Canada rejected the recommendation.

According to the United Nations Standard Minimum Rules for the Treatment of Prisoners (also known as the Nelson Mandela Rules) solitary confinement should be used "only in exceptional cases as a last resort." And prolonged solitary confinement, that is, for more than 15 consecutive days, constitutes torture, according to the UN.

Justice Keith, the judge in Adams' constitutional challenge against Section 52(b) of the CCRA, found that the form of solitary confinement she endured was unconstitutional and gave the federal government six months to reform the provisions of the corrections law that discriminate against women.

The government amended the CCRA to prohibit the use of dry cells for those suspected of concealing contraband in their vaginal cavity but continued their use under other circumstances with a 72-hour maximum, although the head of the institution can extend that by an extra 24 to 48 hours under certain conditions. Advocates wanted to see the highly invasive practice eliminated altogether, given that there are other means to accomplish the stated goal of intercepting contraband.

Adams was offered no compensation after suffering an immense amount of psychological damage while her rights under the Charter were being violated, and it was only with the greatest reluctance and the least effort that the practices that led to her suffering were minimally reformed. Her lawyers correctly state that the correctional system needs to be held to account and the only way the current judicial system is able to do that is through financial means—hence the lawsuit.

But any system of government or "justice" that must be forced to respect the inherent rights and needs of all, especially the most vulnerable, does not deserve to stand. Only the reorganization of society on a socialist basis can offer every individual the means and opportunities to pursue meaningful lives of dignity free from the despair and brutality of the current regime of capitalist exploitation.



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