



# SUPREME COURT OF CANADA

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## Case in Brief: **John Howard Society of Saskatchewan v. Saskatchewan (Attorney General)**

Judgment of March 14, 2025 | On appeal from the Court of Appeal for Saskatchewan

Neutral citation: 2025 SCC 6

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### ***The Supreme Court holds that the standard of proof of guilt beyond a reasonable doubt applies in inmate disciplinary proceedings.***

Inmates charged with disciplinary offences in Saskatchewan's provincial correctional institutions must appear before a disciplinary panel to answer to those charges. Under section 68 of Saskatchewan's *Correctional Services Regulations, 2013* ("*Regulations*"), the standard of proof in such proceedings is a balance of probabilities, meaning, it must be more likely than not that the inmate committed the offence. This standard of proof is used in all disciplinary proceedings, including major offences for which sanctions can include disciplinary segregation for up to 10 days or loss of up to 15 days of earned remission.

The John Howard Society of Saskatchewan challenged the regulations, asserting that the presumption of innocence requires that the standard of proof in disciplinary proceedings be proof of guilt beyond a reasonable doubt. In the lower courts, the John Howard Society based his argument only on section 7 of the *Canadian Charter of Rights and Freedoms*, which guarantees the right to life, liberty and security of the person except in accordance with the principles of fundamental justice. The John Howard Society could not rely on section 11(d) of the *Charter*, which provides that any person charged with an offence has the right to be presumed innocent until proven guilty, because of the Supreme Court of Canada's decision in *R. v. Shubley*, [1990] 1 S.C.R. 3. In that case, the Court held that inmate disciplinary proceedings in which disciplinary segregation and loss of earned remission are possible sanctions do not engage section 11 of the *Charter*.

The application judge held that section 68 of the *Regulations* does not violate section 7 of the *Charter*, concluding that neither the nature of inmate disciplinary proceedings, nor the severity of disciplinary segregation and loss of earned remission necessitated the heightened standard of proof of guilt beyond a reasonable doubt. The Court of Appeal agreed.

The John Howard Society appealed the section 7 issue to the Supreme Court. It also raised, as a new constitutional issue, the question of whether section 68 of the *Regulations* infringes section 11(d) of the *Charter*.

The Supreme Court has allowed the appeal

### **The presumption of innocence applies to inmate disciplinary proceedings**

The Chief Justice, writing for the majority of the Court, concluded that section 68 of the *Regulations* infringes sections 7 and 11(d) of the *Charter* because it permits the imposition of imprisonment when a reasonable doubt as to the accused's guilt may exist. *Shubley's* conclusion that disciplinary segregation and loss of earned remission do not engage section 11 because they do not amount to imprisonment has been attenuated by this Court's consistent direction that judges must interpret the *Charter* in a generous, rather than a formalistic, manner that gives effect to the purpose of the rights guarantee in question. The infringements to sections 7 and 11(d) cannot be saved by section 1 of the *Charter*, because the impairment to the inmates' *Charter* rights was not minimal. To the extent that section 68 of the *Regulations* permits the imposition of disciplinary segregation and loss of earned remission for an inmate disciplinary offence on a lower standard of proof, it is inconsistent with the Constitution and must therefore be declared to be of no force or effect.

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**Breakdown of the decision:** **Majority:** Chief Justice [Wagner](#) allowed the appeal (Justices [Karakatsanis](#), [Martin](#), [Kasirer](#), [O'Bonsawin](#) and [Moreau](#) agreed) | **Dissenting:** Justices [Côté](#), [Rowe](#) and [Jamal](#) would have dismissed the appeal.

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