

Update: Court Orders the Federal Government not to Move Prisoners

In light of the federal government's plans to close Canada's only minimum security prison for women four of the prisoners currently housed in the Isabel McNeill House have launched a Charter challenge, claiming that their ss. 7 (security of the person), 12 (protection against cruel and unusual punishment) and 15 (equal treatment regardless of sex) rights will be violated if they are transferred to a higher security facility. The s. 15 argument is advanced on the basis that male prisoners have access to a number of minimum security institutions across the country, whereas, without the Isabel McNeill House, female prisoners will not.

The prisoners applied to the Ontario Superior Court for an order preventing Correctional Services of Canada from transferring them to another institution until the merits of their case could be heard. On April 5, 2007 the applications judge concluded that, "there would be no deprivation of liberty if the applicants are transferred" [i] and denied the prisoners' request. The applicants appealed the decision to the Ontario Court of Appeal.

The Court of Appeal's decision in *Dodd v. Canada* (Correctional Services of Canada) came to a different conclusion. The court found that the prisoners' materials were enough to show that a transfer would, *prima facie* (on its face), constitute a deprivation of liberty. The court accordingly set aside four days beginning October 9 for the case to be heard in full; until this date the prisoners cannot be transferred, effectively requiring the federal government to keep the prison open until that date.

Sources:

- [Dodd v. Canada \(Correctional Services of Canada\) 2007 ONCA 250 \(CanLII\).](#)
- Women's prison will get day in court: Fight to keep Isabel MacNeill house open set to resume in October - The Kingston-Whig Standard (2 May 2007)

Further Reading

- [Backgrounder - Equality Rights](#)
- [Closure of the Isabel McNeill House Corrections Services Canada \(19 February 2007\).](#)
- [Wendy Tso, Closure of Women's Prison Sparks Charter Challenge Centre for Constitutional Studies.](#)
- [i] Cited in [Dodd v. Canada \(Correctional Services of Canada\) 2007 ONCA](#)

[250 \(CanLII\)](#) at para. 4.