



Case in Brief: **Ward v. Commission des droits de la personne et des droits de la jeunesse**

Judgment of October 29, 2021 | On appeal from the Court of Appeal of Quebec
Neutral citation: 2021 SCC 43

The Supreme Court finds the Quebec Human Rights Tribunal did not have jurisdiction to proceed with the case of a comedian who mocked a well-known teen singer with a disability, because it was not discrimination under the Quebec Charter of human rights and freedoms.

The Court also explains the legal framework that applies to a discrimination claim involving a public figure's right to dignity and a professional comedian's freedom of expression. The Court said a reasonable person would not view the comedian's comments as inciting others to detest or vilify the young person's humanity.

This case involves professional comedian Mike Ward, who mocked a well-known young person with a disability, Jérémy Gabriel. Between September 2010 and March 2013, Mr. Ward performed a popular show called “Mike Ward s'Expose”, where he mocked several prominent people from Quebec’s artistic community. Mr. Gabriel, a high school student with a singing career, was among them. Mr. Ward also posted video clips of himself mocking the Quebec artists. In 2012, Mr. Gabriel’s parents filed a complaint with the Commission des droits de la personne et des droits de la jeunesse (Commission), on their own behalf and on behalf of their son. The Commission concluded that there was a basis for discrimination. It took Mr. Ward to the Quebec Human Rights Tribunal (Tribunal) on behalf of Mr. Gabriel. Before the Tribunal, the Commission argued that Mr. Ward’s show and online content infringed the Quebec *Charter of human rights and freedoms*, on the basis of Mr. Gabriel’s disability. In his defence, Mr. Ward argued that he had the right to say what he did about Mr. Gabriel, under the Quebec *Charter’s* protected right to freedom of expression.

The Tribunal sided with the Commission. It found Mr. Ward had infringed Mr. Gabriel’s right to dignity, without discrimination, because of his disability under sections 4 and 10 of the Quebec *Charter*. The Tribunal also found that Mr. Ward’s comments exceeded the limits of what a “reasonable person” can tolerate as freedom of expression under section 3 of the Quebec *Charter*. In law, a reasonable person is a hypothetical individual that is used as a legal standard to determine how a typical person would think or behave. This concept is applied in many areas of the law. Mr. Ward’s appeal of the Tribunal’s decision was dismissed by a majority of the judges of the Quebec Court of Appeal. He then appealed that decision to the Supreme Court of Canada.

The Supreme Court has found that the Tribunal did not have jurisdiction to proceed with this case, because it was not a discrimination complaint.

This was a not discrimination complaint.

Chief Justice Wagner and Justice Côté wrote for the majority of judges. As they explained, the Tribunal had found that Mr. Gabriel was the target of Mr. Ward’s jokes due to his fame, not due to his disability, and fame is not a prohibited ground of discrimination under the Quebec *Charter*. As a result, the Tribunal did not have jurisdiction (that is, authority) to proceed with the case.

The majority noted that the comments made by Mr. Ward about Mr. Gabriel did not lead to an action in defamation, but rather to a discrimination claim. This distinction is important because the Tribunal has no power to decide actions in defamation or other civil liability actions, since its jurisdiction is limited to complaints of discrimination under the Quebec *Charter*. The Tribunal can hear disputes involving comments like those made in this case only if they are allegedly discriminatory.

Legal framework

The majority went on to explain the legal framework that applies to a discrimination claim involving a public figure’s right to dignity, on the one hand, and a professional comedian’s freedom of expression, on the other.

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Under the first requirement of this framework, the majority said a reasonable person would not view Mr. Ward's comments about Mr. Gabriel as inciting others to detest or vilify his humanity. They wrote, "making fun of a person's physical characteristics may be repugnant; it most certainly is when the person in question is a young person with a disability who contributes with determination to society. But expression of this kind does not, simply by being repugnant, incite others to detest or vilify the humanity of the person targeted."

Under the second requirement of this framework, the majority said a reasonable person could not view the comments as likely to lead to discriminatory treatment of Mr. Gabriel.

As a result, the majority concluded that the comments, "exploited, rightly or wrongly, a feeling of discomfort in order to entertain, but they did little more than that".

Breakdown of the decision: *Majority:* Chief Justice [Wagner](#) and Justice [Côté](#) allowed the appeal. They said Mr. Ward's comments did not infringe the Quebec *Charter* (Justices [Moldaver](#), [Brown](#) and [Rowe](#) agreed) | *Dissenting:* Justices [Abella](#) and [Kasirer](#) would have dismissed the appeal. They said Mr. Ward's comments did infringe the Quebec *Charter* and were therefore discriminatory (Justices [Karakatsanis](#) and [Martin](#) agreed)

More information (case # 39041): [Decision](#) | [Case information](#) | [Webcast of hearing](#)

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