



Case in Brief: **British Columbia (Attorney General) v. Council of Canadians with Disabilities**

Judgment of June 23, 2022 | On appeal from Court of Appeal for British Columbia  
Neutral citation: 2022 SCC 27

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***The Supreme Court rules that the Council of Canadians with Disabilities can challenge British Columbia’s mental health laws.***

In this case, the Supreme Court was asked to decide if the Council of Canadians with Disabilities (Council) qualifies for public interest standing in a lawsuit. Public interest standing allows individuals or organizations to bring a legal issue to court that is in the public interest even when they are not directly affected. This happens most often in cases concerning the *Canadian Charter of Rights and Freedoms*, where issues may broadly affect society as a whole. The Council is a not-for-profit organization working for the rights of people living with disabilities in Canada.

In 2016, the Council and two individuals challenged the constitutionality of British Columbia’s mental health legislation. The law allows doctors to administer psychiatric treatment to patients with mental disabilities without their consent or the consent of someone else on their behalf. According to the Council and the two people who experienced such treatment without their consent, the law violates sections 7 and 15(1) of the *Charter*. Section 7 guarantees everyone the right to life, liberty and security of the person. Section 15(1) says everyone has the right to be treated equally without discrimination, including on the basis of mental or physical disability.

In 2017, the two individuals withdrew from the lawsuit, which left the Council to continue the case on its own. The Council sought public interest standing from British Columbia’s Supreme Court. The Supreme Court of Canada had already established a test to qualify for public interest standing in a previous case. It consists of three requirements: (1) the case must raise a serious issue the court can decide; (2) the party raising the issue must have a genuine interest in the matter; (3) the lawsuit must be a reasonable and effective way to bring the issue to court.

In this case, the trial judge said the Council failed to meet this test because the two individuals and the facts of their experiences were no longer part of the lawsuit. The Council appealed to British Columbia’s Court of Appeal, which said the judge was mistaken in finding the case had no factual context.

The Supreme Court says the Council has public interest standing and can continue the lawsuit.

**The Council meets the test for public interest standing.**

Writing for a unanimous Supreme Court, Chief Justice Richard Wagner said the Council meets the three-part test for public interest standing. Firstly, it raises an important issue: the *Charter* rights of people with mental disabilities. Secondly, the Council has a genuine interest in the challenges faced by people with mental disabilities. Thirdly, its claim is a reasonable and effective way to bring the matter before the courts. The Chief Justice said a court’s decision to grant or deny public interest standing is discretionary. Each factor in the three-part test must be duly considered and no factor takes priority over the others.

The Chief Justice said this case does not turn on individual facts and the Council could establish a sufficient factual context at trial. “A strict requirement for a directly affected co-plaintiff would pose obstacles to access to justice”, the Chief Justice wrote. The Council raises important issues with the potential of affecting many people with mental health disabilities. The granting of public interest standing in this case “will promote access to justice for a disadvantaged group who has historically faced serious barriers to bringing such litigation before the courts”, the Chief Justice wrote.

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**Breakdown of the decision: *Unanimous*:** Chief Justice [Wagner](#) granted the Council public interest standing (Justices [Moldaver](#), [Karakatsanis](#), [Côté](#), [Brown](#), [Rowe](#), [Martin](#), [Kasirer](#) and [Jamal](#) agreed)

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