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CANADIAN CHARTER OF RIGHTS ANNOTATED Dunn • Bernstein Greenspan • Laskin Release No. 1, January 2025
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In this Update

Caselaw Highlights

- *R. v. Wahabi*: the Manitoba Court of Appeal held that the term “person” in the provisions of the *Criminal Code* that permit justices to make production orders, is broad enough to include jails and correctional centers.
- *R. v. Samuels*: the Ontario Court of Appeal excluded a gun where police delayed access to counsel for 9 hours while search warrants were executed.

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Highlights (cont'd)

- *Sri Lankan Canadian Action Coalition v. Ontario (Attorney General)*, 2024 ONCA 657: the Ontario Superior Court concluded that legislation commemorating Tamil-Ontarians' experiences of the Sri Lankan war did not violate Sri Lankan Coalitions' section 2(b) and 15(1) rights;
- *Wright v. Yukon (Government of)*, 2024 YKSC 41: legislation authorizing the territorial Director of Public Safety to initiate accelerated evictions was found to infringe tenants' section 7 and 15(1) *Charter* rights;
- *Mathur v. Ontario*, 2024 ONCA 762: the Ontario court of Appeal remitted a novel section 7 and 15(1) claim relating to provincial climate change measures back for a new hearing, rejecting its original characterization as a positive rights case;
- *Nunavut Tunngavik Incorporated et al v. The Commissioner of Nunavut et al*, 2024 NUCA 9: the Nunavut Court of Appeal rejected the argument that section 15(1) cannot be used to advance a claim related to language protections for non-English and French populations;
- *Ontario (Minister of Health) v. Grassroots for Affordable Jewish Education Inc.*, 2024 ONCS 4905: the Ontario Superior Court reaffirmed that section 93 of the Constitution cannot be utilized to expand freedom of religion and equality rights under sections 2(a) and 15(1) of the *Charter*;
- *Vancouver Island University v. Kishawi*, 2024 BCSC 1609: the British Columbia Supreme Court rejected the argument that the common law of trespass should evolve in accordance with *Charter* values to derogate from the property rights of private landowners;
- *Jacob v. Canada (Attorney General)*, 2024 ONCA 648: the Ontario Court of Appeal concluded that the income thresholds prescribed by federal income replacement schemes during the COVID-19 pandemic infringed the appellant's section 15(1) rights, but found that the infringement was justified by section 1; and
- *Matsqui-Abbotsford Impact Society v. Abbotsford (City)*, 2024 BCSC 1902: the British Columbia Supreme Court declined to grant an interim injunction to prevent the removal of an unhoused encampment on section 7 and 15(1) grounds, but ordered that occupants be removed gradually in a phased, *Charter*-compliant manner.