

NOVA SCOTIA COURT OF APPEAL

Citation: *Evely v. Nova Scotia (Human Rights Commission)*, 2025 NSCA 73

Date: 20251017

Docket: CA 541268

Registry: Halifax

Between:

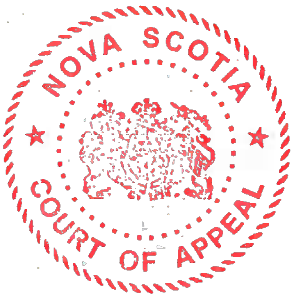
Jeffrey Lloyd Evely

Appellant

v.

Nova Scotia Human Rights Commission,
Minister of Justice and Attorney General of Nova Scotia

Respondent



Judges: Bourgeois, Fichaud and Gogan, JJ.A.

Appeal Heard: October 8, 2025, in Halifax, Nova Scotia

Held: Appeal dismissed without costs per reasons for judgment of Fichaud J.A., Bourgeois and Gogan JJ.A. concurring

Counsel: Jeffrey Lloyd Evely on his own behalf
Kendrick Douglas for the Nova Scotia Human Rights Commission
Minister of Justice and Attorney General of Nova Scotia not appearing

IN THE NOVA SCOTIA
COURT OF APPEAL

I hereby certify that the foregoing document,
identified by the Seal of the Court, is a true
copy of the original document on file herein.

Dated the 17th day of October A.D., 2025

Sharon MacLeod
Deputy Registrar

Reasons for judgment:

[1] In March 2020, under the *Emergency Management Act*, S.N.S. 1990, c. 8, the Government of Nova Scotia declared a state of emergency to contain the COVID-19 pandemic.

[2] Sections 20(1) and 32(1) of the *Health Protection Act*, S.N.S. 2004, c. 4 authorize Nova Scotia's Chief Medical Officer of Health to issue orders to safeguard the public health. Section 53(1) of the *Health Protection Act* says, if there is a declared emergency, the Chief Medical Officer of Health may exercise further powers.

[3] According to ss. 20(1), 22(5), 24(1), 27, 32(1), 37(1), 38(1) 66(1) and 71(1) of the *Health Protection Act*, the Chief Medical Officer of Health's health protection orders are legally binding.

[4] On March 23, 2020, and May 13, 2021, under the authority of these provisions, the Chief Medical Officer of Health issued health protection orders with restrictions. The restrictions included the requirement to wear a mask when entering business premises.

[5] The Appellant Jeffrey Evely chose not to wear a mask when he entered local businesses. These businesses included Pipers & Puffs Smoke Shop, Walmart, the Nova Scotia Liquor Corporation and Long & McQuade Musical Instruments. In obedience to the public health orders, the businesses declined to serve Mr. Evely.

[6] Mr. Evely then filed complaints with the Nova Scotia Human Rights Commission. He alleged the businesses discriminated against him with respect to the provision of access to services based on political belief, affiliation or activity and religion or creed. These are prohibited grounds under s. 5(1) of the *Human Rights Act*, R.S.N.S. 1989, c. 214.

[7] Mr. Evely says his political belief is "liberalism" and his creed is "atheism".

[8] The Commission asked that he elaborate. His email of January 19, 2022, to the Commission, elaborated on the former:

Politically, I am liberal. I believe that there can be no human dignity without human liberty. ...

As to his atheism, his email said:

Additionally, I have been a skeptic, my entire life. I have been a loud and proud atheist since I was 10. I deployed to shit-hole countries to try to give little heretics what I thought I had in Canada. In the absence of logical, empirically-based reasons to support the idea that mask mandates are helping, I am simply not capable of believing it. It is nothing more than a face-burka, to show fealty to this authoritarian regime. This goes against everything I have ever stood for, and I will not bend the knee to these theocrats. ...

[9] Section 29(4)(b) of the *Human Rights Act* states:

The Commission or the Director may dismiss a complaint at any time if ... the complaint is without merit.

[10] The Commission dismissed Mr. Evely's complaint at the screening stage. On June 22, 2022, the Commission emailed Mr. Evely:

The information you have provided does not appear to be based on a religion or creed but based on your own personal views and opinions. For these reasons, the Commission is unable to accept your inquiry.

[11] Mr. Evely sought reconsideration. On July 12, 2023, the Commission denied his request for reconsideration.

[12] On August 17, 2023, Mr. Evely applied to the Supreme Court of Nova Scotia for judicial review.

[13] On January 22, 2025, Justice Shane Russell of the Supreme Court released a decision that dismissed Mr. Evely's application (2025 NSSC 28). The judge's reasons included:

[45] The record reflects that the rationale for the denied complaint was not so much rooted in the Applicant not demonstrating that he was affiliated with an actual recognized political party but rather that he never established a nexus between the protected characteristics and the harm. In plain terms, the reasoning path outlines that he was denied access and services not because of political belief, religion or creed but rather because he was simply not wearing a mask as mandated.

[14] An Order for Dismissal followed on June 24, 2025.

[15] On February 28, 2025, Mr. Evelyn filed a Notice of Appeal to the Court of Appeal. He amended his Notice on March 5, 2025.

[16] Mr. Evelyn filed written submissions. On October 8, 2025, Mr. Evelyn presented his appeal with oral submissions in this Court.

[17] Mr. Evelyn submitted that the Commission's dismissal of his complaint was unreasonable under *Canada (Minister of Citizenship and Immigration) v. Vavilov*, 2019 SCC 65 and offended principles of procedural fairness.

[18] Throughout, Mr. Evelyn disputed that masks helped to safeguard against COVID-19 and, consequently, he was entitled to enter premises maskless in contravention of legislated public health orders of the Chief Medical Officer of Health.

[19] As did the Commission and reviewing judge, I respectfully disagree.

[20] Nobody denied Mr. Evelyn service before the public health orders or after their expiry. While the public health orders were in effect, according to the *Health Protection Act* the merchants were legally obligated to deny him service. The denial of service had no connection with his political views or creed. Service was denied because the law required the merchants to do so or face a penalty, whatever might be Mr. Evelyn's politics or creed. The merchants were simply obeying the law. Obedience to the law is not a prohibited ground under the *Human Rights Act*.

[21] Mr. Evelyn's dispute is with the *Health Protection Act* and its public health orders, not with Pipers & Puffs, Walmart, and the other merchants who obeyed the legislation. There is no constitutional challenge to the *Health Protection Act* or *vires* challenge to the public health orders. The forum for such a challenge would be the Supreme Court of Nova Scotia.

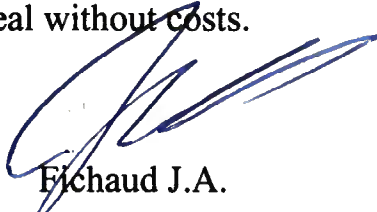
[22] Mr. Evelyn's complaints to the Commission had no merit. The Commission was entitled to say so under s. 29(4)(b) and dismiss them at the screening stage.

[23] In *EMC Emergency Medical Care Inc. v. Canadian Union of Postal Workers* 2024 NSCA 55, paras. 32-47, this Court summarized *Vavilov*'s principles. I incorporate those passages without quoting them. The Commission's dismissal of Mr. Evelyn's complaint at the screening stage is reasonable under *Vavilov*'s tests.

[24] Paragraph 45 of the application judge's reasons, quoted above, reflects my reasons. The judge made no error.

[25] The Commission's written exchanges with Mr. Evelyn invited Mr. Evelyn to elaborate and gave Mr. Evelyn the opportunity to explain his views. He was informed by Commission's correspondence that his complaint did not invoke a prohibited ground under the *Human Rights Act*. He was given reasons but just disputes them. I agree with the application judge's review of the process in paras. 55-61 of his decision. There was no infringement of a principle of procedural fairness.

[26] I would dismiss the appeal without costs.



Fichaud J.A.

Concurred:

Bourgeois J.A.



Gogan J.A.

