

Federal Court of Appeal



Cour d'appel fédérale

Date: 20250922

Docket: A-426-24

Citation: 2025 FCA 169

**CORAM: GLEASON J.A.
ROUSSEL J.A.
WALKER J.A.**

BETWEEN:

DAMON ATWOOD

Appellant

and

ATTORNEY GENERAL OF CANADA

Respondent

Heard at Ottawa, Ontario, on September 22, 2025.

Judgment delivered from the Bench at Ottawa, Ontario, on September 22, 2025.

REASONS FOR JUDGMENT OF THE COURT BY:

GLEASON J.A.

Federal Court of Appeal



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REASONS FOR JUDGMENT

(Delivered from the Bench at Ottawa, Ontario, on September 22, 2025)

GLEASON J.A.

[1] The appellant appeals from the judgment of the Federal Court in *Atwood v. Attorney General of Canada*, 2024 FC 1890 (*per* Pallotta J.) in which the Federal Court dismissed his application for judicial review. The Federal Court provided two reasons for the dismissal. It first determined that the appellant had impermissibly altered the nature of his judicial review

application because he abandoned all the remedies sought in the application and instead sought a declaration that the open court principle applies to the grievance process of the Royal Canadian Mounted Police (the RCMP), which fundamentally altered the nature of the application. Second, and in the alternative, the Federal Court held that it would have been inappropriate for the Court to exercise its discretion to grant declaratory relief in the absence of a live controversy and evidence about the RCMP grievance process. The Federal Court also noted that there were alternate means which could be used to obtain decisions rendered in the RCMP grievance process.

[2] We see no error in the Federal Court's decision that would warrant our intervention.

[3] The appellant was told in paragraph 26 of an earlier Federal Court decision in *Atwood v. Attorney General of Canada*, 2023 FC 959 (*per* Sadrehashemi J.) that if he wished to seek a declaration regarding the application of the open court principle to the RCMP grievance process, a request to amend his notice of application could be made to the Case Management Judge. The appellant did not do so and instead sought to raise the request for declaratory relief in his memorandum of fact and law. His failure to properly amend his pleadings meant that the issue of the requested declaration was not in issue in the pleadings, with the result that the respondent was deprived of a meaningful opportunity to file evidence about the RCMP grievance process.

[4] We agree with the Federal Court that the request for declaratory relief fundamentally altered the nature of the application for judicial review and that it was not open to the appellant to make this alteration in his memorandum.

[5] In addition, in the absence of the respondent's evidence about the grievance process (or of an informed decision to decline to file evidence), we see no reviewable error in the Federal Court's determination that it would not have been appropriate for it to exercise its discretion to issue the declaration the appellant sought.

[6] The foregoing is sufficient to dispose of this appeal and we decline to comment on the additional reasons given by the Federal Court for dismissing the appellant's application for judicial review.

[7] The appeal is therefore dismissed, with costs, which we fix in the all-inclusive amount of \$500.

"Mary J.L. Gleason"

J.A.

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET: A-426-24

STYLE OF CAUSE: DAMON ATWOOD v.
ATTORNEY GENERAL OF
CANADA

PLACE OF HEARING: OTTAWA, ONTARIO

DATE OF HEARING: SEPTEMBER 22, 2025

REASONS FOR JUDGMENT OF THE COURT BY: GLEASON J.A.
ROUSSEL J.A.
WALKER J.A.

DELIVERED FROM THE BENCH BY: GLEASON J.A.

APPEARANCES:

Damon Atwood ON HIS OWN BEHALF

James Elford FOR THE RESPONDENT

SOLICITORS OF RECORD:

Shalene Curtis-Micallef FOR THE RESPONDENT
Deputy Attorney General of Canada