



## NEWS RELEASE

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### **COURT OF APPEAL RULES THAT GOVERNMENT MUST COMPENSATE INDIVIDUAL FOR INADVERTENTLY INFRINGING HIS CHARTER RIGHTS**

The BCCLA applauds the British Columbia Court of Appeal judgment released last week in *Ward v. Province of British Columbia* and *Ward v. City of Vancouver*, which holds that damages are an appropriate remedy when police or other government agents inadvertently infringe an individual's constitutional rights.

The appeals stem from a case brought by a Vancouver lawyer, Cameron Ward. Ward was wrongly jailed for several hours and strip-searched and had his car illegally seized after police authorities received a report that someone intended to throw a pie at Prime Minister Jean Chretien.

The BCCLA was an intervener and argued that it was necessary to award damages to Ward in order to provide him with full and effective remedies for the violation of his Charter rights.

This is the first appellate-level ruling that a person whose constitutional rights are violated by the state can be awarded monetary damages even if the government did not intentionally or willfully violate the person's rights.

Kent Roach, lawyer for the BCCLA: "This decision recognizes that in order for our Charter rights to be meaningful, courts must provide individuals with tangible remedies. Individuals who are not charged with an offence are extremely unlikely to commence Charter litigation if the only remedy that they can realistically obtain is a declaration that their rights have been violated."

The Supreme Court has addressed the issue of Charter damages but only in the context of whether and when damages are available in conjunction with a declaration that legislation is unconstitutional. Those cases have held that officials should be entitled to assume that actions specifically authorized by legislation are constitutional. In this case, there was no legislative authorization for the unlawful searches and periods of detention suffered by Ward.

Grace Pastine, lawyer for the BCCLA: "This case makes it clear that courts will hold police and other government agents accountable for Charter violations. Awarding damages to individuals whose rights have been violated encourages governments to change their behavior and prevents future constitutional rights violations."

The 2-1 ruling was written by Justice Richard Low and endorsed by Chief Justice Lance Finch. The majority agreed with the trial judge in 2007 who determined that Ward was entitled to damages for the way he was treated in 2002.

Kent Roach, University of Toronto Faculty of Law and Grace Pastine, BCCLA Litigation Director represented the BCCLA.

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