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Canadian Jehovah's Witnesses challenge permit law

Reuters (04.10.2000) / HRWF International Secretariat (06.10.2000) - Website: <http://www.hrwf.net> - Email: info@hrwf.net - Canadian Jehovah's Witnesses said on Wednesday they had taken the city of Blainville, Quebec, to court over a law that requires a permit for making house-to-house visits of a religious nature.

The lawsuit, filed in a Quebec provincial court, came after Blainville police fined 15 members of the Christian denomination -- among them an 86-year-old woman -- C\$240 (\$161) each for going door-to-door without a permit.

Under the 1996 law, religious groups must get the \$25 (\$16.75) permit that restricts their visiting hours to weekdays and is valid for two months a year.

The Jehovah's Witnesses argue the measure is unconstitutional and unfairly targets their proselytizing sect.

"Not only does it infringe on freedom of speech and exercise of religion, but it infringes on each individual homeowner's freedom to decide for themselves whether they want to listen to the message," church spokesman Dennis Charland said.

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Case of Muslim man tossed out of court because of religious head covering

raises questions about who should judge the behavior of a judge

IDELLA STURINO

Vancouver Sun (28.01.2000)/ HRWF International Secretariat (01.02.2000) - Website: <http://www.hrwf.net> - email: info@hrwf.net - For the first time in Canada, a court is being asked to rule on whether judges, who cannot be prosecuted for actions they take on the bench, are also protected from investigation for alleged human rights violations.

The case was brought before the Federal Court of Appeal on Thursday by a man who was thrown out of a Toronto courtroom in 1993 for refusing to remove his Muslim head covering.

Michael Taylor, 39, says he felt he was treated with disrespect when Ontario court Judge Arthur Whealy barred him from attending a friend's criminal trial because he didn't recognize Taylor's small white cap as legitimate religious dress.

Taylor lodged a complaint with the Canadian Human Rights Commission, but in 1996 the commission ruled it does not have jurisdiction to investigate because judges enjoy absolute immunity from civil prosecution.

"After all these years, Mr. Taylor is just asking for someone to look into the merits of his complaint," his lawyer Peter Rosenthal told the court.

Rosenthal argued the panel of three appeal court judges should find that the commission has authority to examine complaints of judicial wrongdoing under the Canadian Human Rights Act.

"This is a case where judicial immunity should not apply," he said.

"It goes beyond any proper scope of judicial immunity that could be defined in a multicultural society . . . (for a judge to rule) over a religious cap that a person does not belong in a courtroom."

In essence, the case pits the constitutional principles of judicial independence and equality rights against each other.

Allowing judges to make their rulings free of concern they could be prosecuted is key to ensuring the Canadian public has an impartial justice system, Richard Kramer, a lawyer representing the attorney general, told the court.

The three judges, who reserved their decision, are being asked to overturn a 1997 ruling by federal court Judge Jean-Eudes Dube that found the Human Rights Commission does not have authority to probe a judge's professional conduct.

Taylor, an African of Muslim descent who works as a chaplain, was a spectator in a Toronto court when Whealy prohibited his head covering, saying it didn't obviously signal a well-established religion and was disruptive to court proceedings.

Religious head dress is not forbidden in Canadian courts, and it's common, for example, for Jewish men to wear kippahs or Sikh men to wear turbans.

Whealy upheld the ban even after Taylor explained some Muslim men wear such caps for religious purposes.

"I wear a head dress, as it is regarded, as a symbolic act as a Muslim," Taylor wrote in an affidavit read in court.

Taylor did not address the court Thursday, but he sat behind his lawyer throughout the proceedings wearing the same white cap that seven years ago got him tossed out of court.

Rosenthal questioned Whealy's explanation for banning Taylor and other Muslim men from his courtroom.

In a 1994 letter to the Canadian Judicial Council Whealy described a "kaleidoscopic array of undefinable head gear that dotted the courtroom," court heard.

"I considered it important to make sure that the courtroom and the audience should not be turned into a cheering section."

Four years later, Whealy tried to clarify his position, saying: "I regret if the impression was created I am insensitive to the rights of minority groups. That is not the case and that was not the intention."