

***** UNOFFICIAL TRANSLATION – NOT FOR COURT USE *****

C A N A D A

PROVINCE OF QUÉBEC
DISTRICT OF QUÉBEC

SUPERIOR COURT

No. 200-17-033287-228

GUILLAUME BOUCHER-ROY, [REDACTED]

et

ÉGLISE BAPTISTE DE SAINT-
AUGUSTIN, [REDACTED]

Applicants

c.

ATTORNEY GENERAL FOR QUÉBEC
[REDACTED]

Respondent

APPLICATION FOR JUDICIAL REVIEW
(Code of Civil Procedure, section 529)

IN SUPPORT OF THEIR APPLICATION, THE APPLICANTS DECLARE :

1. The Applicants are challenging the legality and constitutionality of provincial regulations that purport to determine the access to and capacity of places of worship based on the vaccination status of the faithful.

A. THE PARTIES

2. The Applicant Guillaume Boucher-Roy ("**Applicant**") is a minister of religion serving the applicant Église Baptiste de Saint-Augustin ("**Church**"), whose REQ form is attached as **P-1**. He leads a congregation of some 60 worshippers who usually meet every Sunday.
3. The Applicant is in good health. He has chosen not to be inoculated against Covid 19 because of the risks associated with this new biological drug. He prefers to develop natural immunity (at least as effective as available vaccines, none of which prevent transmission of the virus) and accepts the risks associated with his decision.
4. The Respondent represents of Her Majesty the Queen in right of Québec and the Ministre de la Santé et des Services sociaux ("**MSSS**").

B. THE QUÉBEC IMPFAUSWEIS

5. As of September 2021, with Order in Council 1173-2021, the MSSS has implemented a pan-Québec regime to control the movement and activities of individuals based on their vaccination status.
6. The preferred tool of this regime consists of a kind of electronic vaccine passport (hereinafter "**Impfausweis**").

C. THE STATE INVITES ITSELF TO THE CHURCH

7. On January 23, 2022, officers of the Québec City Police Department entered the Applicants' church and interrupted a religious ceremony on the grounds that it constituted, in their opinion, an "illegal gathering". They then identified the worshippers before evicting them.
8. On January 28, 2022, Applicant's attorney forwarded the letter, **P-2**, to the Chief of Police of Québec City, inviting him to exercise his discretion so that religious services at the Church would not be interrupted again.
9. The police have not returned to the church since. Although he has no direct evidence of this, the Applicant wants to see this forbearance as a sign of benevolence (that the MSSS should follow).

D. ORDERS AND DECREES

10. Between September 2021 and February 2022, the MSSS at times conditioned access to places of worship on the presentation of an Impfausweis, and at other times reduced their capacity based on it. It has

- ordered the closure of places of worship and then allowed them to be partially reopened (with Impfausweis) under various terms and conditions.
11. These measures are buried in a mass of decrees and orders that the MSSS and the Respondent did not make the effort to codify as they went along to allow proper understanding by the public. Presumably, the impugned measures can be found in Order in Council number 885-2021 of June 23, 2021 or Orders numbers 2021-049 of July 1, 2021, 2021-050 of July 2, 2021, 2021-053 of July 10, 2021, 2021-055 of July 30, 2021, 2021-057 of August 4, 2021, 2021-058 of August 13, 2021, 2021-059 of August 18, 2021, 2021-060 of August 24, 2021, 2021-061 of August 31, 2021, 2021-062 of September 3 2021-063 of 9 September 2021, 2021-065 of 24 September 2021, 2021-066 of 1 October 2021, 2021-067 of 8 October 2021, 2021-068 of 9 October 2021, 2021-069 of 12 October 2021, 2021-073 of 22 October 2021, 2021-074 of 25 October 2021, 2021-077 of 29 October 2021, 2021-078 of 2 November 2021, 2021-079 of 14 November 2021, 2021-083 of 10 December 2021, 2021-086 of 13 December 2021, 2021-087 of 14 December 2021, 2021-089 of 19 December 2021, 2021-090 of 20 December 2021, 2021-092 of 22 December 2021, 2021-096 of 31 December 2021, 2022-001 of 2 January 2022, 2022-004 of 15 January 2022, 2022-011 of January 29, 2022, 2022-012 of February 4, 2022, 2022-013 of February 5, 2022, and 2022-015 of February 11, 2022, or in Orders in Council number 1173-2021 of September 1, 2021 or number 1276-2021 of September 24, 2021, or Orders numbers 2021-067 of October 8, 2021, 2021-079 and 2021-081 of November 14, 2021, 2021-082 of November 17, 2021, 2021-089 of December 19, 2021, 2022-004 of January 15, 2022, 2022-007 of January 23, 2022, 2022-013 of February 5, 2021, 2022-015 of February 11, 2022, and 2022-017 of February 15, 2022 (collectively "**Orders**").
 12. Finally, on February 15, 2022, at a press conference, MSSS representatives announced the gradual withdrawal of the Impfausweis. However, they urged Québecers to keep their Impfausweis close to hand, as it could become mandatory again at any time.
 13. The Orders made access to and capacity of places of worship conditional on the presentation of an Impfausweis by the faithful, and thus they enlisted the clergy in the state's repressive, systematic discrimination and harassment of unvaccinated persons.

E. THE LAW AGAINST CHARITY AND FAITH

14. The Applicant – unlike, perhaps, the MSSS – believes that human beings enjoy free will and that freedom is an essential condition of their dignity.
15. Christianity postulates the incarnation of the Word. The Baptist faith is lived in the material universe and not in the abstract.
16. The Applicant sincerely believes that the Holy Scriptures, as well as the most elementary charity, prescribe that he welcome people to church regardless

- of race, gender, economic, medical or physical condition. The Impfausweis is repugnant to his conscience.
17. Applicant sincerely believes in the duty of the faithful to gather in person for communion, prayer, and worship of their Lord Jesus Christ.
 18. Teams, Zoom, Skype and other virtual platforms offer only ersatz human presence, without depth and without much spiritual value.
 19. The Applicant and his flock sincerely believe that communion, prayer, and worship of the Lord are necessary for eternal salvation.
 20. Weekly worship is a central ritual in biblical Christianity; it makes possible the organization and maintenance of the bonds of the community of the faithful attached to the Church.
 21. Many of the Church's members find in the Sunday meeting an irreplaceable source of psychological well-being and a form of support in their daily struggle with emotional problems and addictions.

F. SUMMARY OF GOUNDS FOR JUDICIAL REVIEW

22. The Orders are so abstruse that they should be declared illegal and unconstitutional. They are unreasonable, arbitrary, capricious, unintelligible and contrary to the rule of law.
23. At all relevant times, the requirement of Impfausweis in places of worship was irrational; the Impfausweis never prevented any significant risk to public health.
24. Places of worship do not present an increased risk of spreading Covid-19 compared to other places whose access and capacity have not been subject to the Impfausweis.
25. The Orders violated the freedoms of religion, association, expression, and peaceful assembly of the Applicant, the Church and its congregants.
26. The Orders have violated the liberty and security of Applicant and his flock by preventing them - through coercive, arbitrary, excessive and grossly disproportionate means - from practicing their religion except by submitting to vaccination against their will.
27. The Orders violated the right of the Applicant and his flock to equality without discrimination, by treating the non-vaccinated as second-class citizens while allowing Impfausweis-ed Québécois to assemble without any particular restriction.
28. The Orders sought to punish the Applicant and the unvaccinated for exercising their fundamental rights.

29. The Orders are part of a segregationist discourse and policy of the Québec government, which constitutes an unusual form of harassment of the unvaccinated minority.
30. The Orders violated the privacy rights of the Applicant and his flock by forcing them to disclose medical information without legitimate reason.
31. The Orders were not and are not justified in terms of democratic values, public order and the general welfare of Québécois. They do not protect the public health and are not a rational means of pursuing the stated objective. The Orders do not minimally impair the rights of the Applicants and this impairment is not proportionate to the benefits, if any, that are expected.

FOR THESE REASONS, MAY IT PLEASE THE COURT:

32. **ORDER** that this application be tried on a priority basis and **REFER** the matter for special case management.
33. **VACATE** the provisions of Order in Council number 885-2021 of June 23, 2021 or Orders numbers 2021-049 of July 1, 2021, 2021-050 of July 2, 2021, 2021-053 of July 10, 2021, 2021-055 of July 30, 2021, 2021-057 of August 4, 2021, 2021-058 of August 13, 2021, 2021-059 of August 18, 2021, 2021-060 of August 24, 2021, 2021-061 of August 31, 2021, 2021-062 of September 3 2021-063 of 9 September 2021, 2021-065 of 24 September 2021, 2021-066 of 1 October 2021, 2021-067 of 8 October 2021, 2021-068 of 9 October 2021, 2021-069 of 12 October 2021, 2021-073 of 22 October 2021, 2021-074 of 25 October 2021, 2021-077 of 29 October 2021, 2021-078 of 2 November 2021, 2021-079 of 14 November 2021, 2021-083 of 10 December 2021, 2021-086 of 13 December 2021, 2021-087 of 14 December 2021, 2021-089 of 19 December 2021, 2021-090 of 20 December 2021, 2021-092 of 22 December 2021, 2021-096 of 31 December 2021, 2022-001 of 2 January 2022, 2022-004 of 15 January 2022, 2022-011 of January 29, 2022, 2022-012 of February 4, 2022, 2022-013 of February 5, 2022, and 2022-015 of February 11, 2022, or in Orders in Council number 1173-2021 of September 1, 2021 or number 1276-2021 of September 24, 2021, or Orders numbers 2021-067 of October 8, 2021, 2021-079 and 2021-081 of November 14, 2021, 2021-082 of November 17, 2021, 2021-089 of December 19, 2021, 2022-004 of January 15, 2022, 2022-007 of January 23, 2022, 2022-013 of February 5, 2021, 2022-015 of February 11, 2022, and 2022-017 of February 15, 2022, which provide or have provided for the requirement of being "adequately protected" for access to places of worship, or have conditioned any modality of access to or management of places of worship on the immunization status of the worshippers or on the presentation, by the worshippers, of proof that they are or were "adequately protected," and **DECLARE** that these same provisions are or were *ultra vires* of the *Public Health Act*, RLRQ c S-2. 2.

