

**Federal Court of Appeal**



**Cour d'appel fédérale**

**Date: 20220622**

**Docket: A-344-21**

**Citation: 2022 FCA 120**

**CORAM: BOIVIN J.A.  
LASKIN J.A.  
LEBLANC J.A.**

**BETWEEN:**

ADAM WOJDAN, ALANA MATHESON, ALEXANDER NEVIN HOBBS,  
ALEXANDRA BODE, ALEXANDRA JANE HARRISON, ALICIA DIAZ DE LA  
SERNA, ALLAN EMMETT NOLAN, AMANDA JOANNE WELLS, ANA LUCIC,  
ANA POTAKIS, ANASTASIA DALY, ANDREA B. MILLER, ANDREEA LIVIA  
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EPPS, CALVIN BEDROS, CALVIN JOHN KOTOWICH, CARL THIESSEN, CARLY  
VIOLA LARSEN, CAROL-ANN MARY DODD, CAROLEE ANNE STEWART,  
CATALIN MIHAI OBREJA, CATALINA CAZAN-MACISANU, CATALINA  
SOLOMON, CHAD MICHAEL GAGNON, CHARLES-PHILIPPE SAJOUS,  
CHRISTIAN FESTEJO, CHRISTIAN JOSEPH ANDRÉ GAGNÉ, CHRISTINE  
SERBAN, CHRISTINE SUSAN GRAY HUTCHINS, CHRISTINE SYLVIA DANIS,  
CHRISTOPH PHILIPPE DAUDIN, CHYLOW NADINE HALL, CINDY MILDRED  
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COREY JOHN CHARLES CRABTREE, CORY LALONDE, CRAIG STUART  
MCGUIGAN, DAISY-IVY BODE, DANA TOMA, DANIEL EMANUEL ANINOIU,  
DANIEL GEORGE GERALD KRAUTER, DANIEL LIONEL GASTON GIROUX,  
DANIEL NATHAN BUDD, DANIEL WILLIAM ADSHADE, DANNY ALLEN  
EDWARD HONE, DAVID JOHN DEMPSTER, DAVID MC NICOLL, DEAN ALLAN  
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DENISE GABRIELLA NICOLE RAMSANKAR, DERRICK ANTHONY BELL,  
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FLYNN, DONEEN COXE, DONNA JUNE STAINFIELD, EDMUND MCLAUGHLIN,  
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EMILIE GABRIELLE CYR, FARRAH ESPERA, FILIPPAS LAVIDAS, FRANCE  
RENÉE PARADIS, FRANCIS EMOND, FRANCK ARMEL DIEDRO, FRANK  
MOURA RODRIGUES, GAËL BRASSARD, GIUSEPPE SALERA, GIUSEPPINA  
TRAPANI, GORDON WILLIAM HILL, GREGORY J D DALE, HAMID NAGHDIAN-  
VISHTEH, HANNA "JOHN" GEBARA, HEIDI SCHENKEWITZ, HOLLY ANN  
JEFFERD, IKECHUKWU PRECIOUS ARUNGWA, JACOB ALLEN ELLIOTT,  
JACQUELYN ANN STEVENSON, JADE BERGERON, JAMES EDISON JOHN  
SNIVELY, JASBIR SINGH KAILA, JAY CHRISTOPHER SINHA, JEFFREY  
LADOUCEUR, JENNIFER ANN THIESSEN, JENNIFER LYNN MCKEOWN,  
JENNIFER LYNNE STANNARD, JENNIFER MARIE JUST, JÉRÉMY BENOIT,  
JESSICA LEIGH WADDELL, JILI LI, JOHANNE LAROCHE, JOHN DONALD  
MARSHALL JR., JONATHAN CHARLE SERGIUS MANKOW, JONATHAN DAVID  
GIROUX, JONATHAN TASKER, JOSEE SIVRET, JOSEPH BREFNI WARREN  
MACDONALD, JOSHUA NATHANIEL TORTORICI, JULIE BLOUIN, JULIE  
DIANE SOOK HARN MA, JULIE DONNA MOUNCE COMBER, KALIN  
KOSTADINOV STOYANOV, KARINE MARIE ELIZABETH GÉLINAS, KATHLEEN  
BRIDGET MULHOLLAND, KELLY ANN GRENIER, KELSEY WARNOCK,  
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**LIM, WENDY DENNIS, YANNICK VEZINA, ZACHARY WILLIAM ANTHONY  
LINNICK**

**Appellants**

**and**

**ATTORNEY GENERAL OF CANADA**

**Respondent**

Heard by online video conference hosted by the Registry

on June 22, 2022.

Judgment delivered from the Bench at Ottawa, Ontario, on June 22, 2022.

REASONS FOR JUDGMENT OF THE COURT BY:

BOIVIN J.A.



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DANNY ALLEN EDWARD HONE, DAVID JOHN DEMPSTER, DAVID MC  
NICOLL, DEAN ALLAN LEROY DAVIS, DEANNA GETZ, DEBBIE LYNN  
PREVOST, DENIS LECOMPTE, DENISE GABRIELLA NICOLE RAMSANKAR,  
DERRICK ANTHONY BELL, DÉsirÉE-LYNN ROCHON, DHEEPA MURTHY,  
DIANNE EVERLYNE MARIE FLYNN, DONEEN COXE, DONNA JUNE  
STAINFIELD, EDMUND MCLAUGHLIN, ELAINE J. HEYINK, ELENA PALMIERI,  
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ESPERA, FILIPPAS LAVIDAS, FRANCE RENÉE PARADIS, FRANCIS EMOND,  
FRANCK ARMEL DIEDRO, FRANK MOURA RODRIGUES, GAËL BRASSARD,  
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**Appellants**

**and**

**ATTORNEY GENERAL OF CANADA**

**Respondent**

**REASONS FOR JUDGMENT OF THE COURT**  
**(Delivered from the Bench at Ottawa, Ontario, on June 22, 2022).**

**BOIVIN J.A.**

[1] The appellants appeal a decision of the Federal Court (*per* Fothergill J.) rendered on December 2, 2021 (2021 FC 1341). The Federal Court declined to grant an interlocutory injunction rendering inoperative the Policy on COVID-19 Vaccination for the Core Public Administration (CPA) Including the Royal Canadian Mounted Police (the Policy) issued by the Treasury Board of Canada on October 6, 2021.

[2] The Federal Court concluded that the appellants had not met the test for an interlocutory injunction, failing to establish that there was a serious issue to be tried or that they would suffer irreparable harm if the injunction was not granted (*RJR-MacDonald Inc. v. Canada (Attorney General)*, [1994] 1 S.C.R. 311, 111 D.L.R. (4<sup>th</sup>) 385 at page 334). Consequently, the Federal Court declined to grant the injunction.

[3] Following the filing of the appeal on December 9, 2021, the Government of Canada announced on June 14, 2022 that the Policy will be suspended as of June 20, 2022 and that public servants who were subject to administrative leave without pay, as a result of the Policy, may resume regular work duties with pay. Thus, federal employees of the CPA are no longer required to be vaccinated, as a condition of employment.

[4] We are all of the view that this appeal is now moot, as the Policy that the appellants seek to suspend is no longer in force (*Borowski v. Canada (Attorney General)*, [1989] 1 S.C.R. 342, 57 D.L.R. (4<sup>th</sup>) 231). Having considered the *Borowski* factors, we all agree that the exercise of our discretion to hear this case is not warranted.

[5] Therefore, the appeal will be dismissed without costs.

"Richard Boivin"

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J.A.



**FEDERAL COURT OF APPEAL**

**NAMES OF COUNSEL AND SOLICITORS OF RECORD**

<b>DOCKET:</b>	A-344-21
<b>STYLE OF CAUSE:</b>	ADAM WOJDAN ET AL. v. ATTORNEY GENERAL OF CANADA
<b>PLACE OF HEARING:</b>	BY ON LINE VIDEOCONFERENCE
<b>DATE OF HEARING:</b>	JUNE 22, 2022
<b>REASONS FOR JUDGMENT OF THE COURT BY:</b>	BOIVIN J.A. LASKIN J.A. LEBLANC J.A.
<b>DELIVERED FROM THE BENCH BY:</b>	BOIVIN J.A.

**APPEARANCES:**

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