



Case in Brief: **Ethiopian Orthodox Tewahedo Church of Canada
St. Mary Cathedral v. Aga**

Judgment of May 21, 2021 | On appeal from the Court of Appeal for Ontario
Neutral citation: 2021 SCC 22

The Supreme Court finds that five Toronto-area churchgoers have no legal basis to ask the courts to restore their voluntary church membership.

Five Toronto-area churchgoers sued their former church, the Ethiopian Orthodox Tewahedo Church of Canada St. Mary Cathedral, for having expelled them from the congregation. This followed the Church having appointed them as part of a committee to investigate a movement within the congregation that was said to go against its beliefs. When the committee concluded its investigation, it made recommendations to the senior leadership of the Church. However, the Archbishop and other senior leaders of the Church did not follow the committee's recommendations. The five churchgoers voiced their dissatisfaction, and in the end, the Church decided to expel them. They took the Church to court over this and asked to be reinstated.

The Superior Court of Ontario dismissed their case, stating that there was no legal issue requiring a trial. In so doing, the judge referred to a Supreme Court of Canada case from 2018 – [*Highwood Congregation of Jehovah's Witnesses \(Judicial Committee\) v. Wall*](#) – which found that membership decisions of religious associations are not subject to review by a court if there is no underlying legal right at issue. In order for a court to review the internal procedures of a voluntary association like a church, there needs to be an actual legal right at issue, such as a contractual dispute to resolve between the parties.

The Court of Appeal noted that the five churchgoers had completed membership forms to join the Church and made monthly voluntary contributions and the Church had a constitution and bylaws. On the basis of its assessment of this evidence, the Court of Appeal granted the appeal, finding that the bond between the Church and the churchgoers was in fact a contractual one. The Court of Appeal ordered a trial to determine if the Church had breached the contract. The Church appealed that decision to the Supreme Court of Canada.

No contract between the Church and the churchgoers

Canada's highest court said the Court of Appeal made an error in finding that a contract was formed between the Church and the churchgoers. It noted that many informal agreements that people undertake do not necessarily result in a contract. An essential component for the formation of a contract was missing in this case, which was the intention to create legal rights and obligations towards one another.

In this unanimous decision, the judges of the Supreme Court noted that in the pursuit of common goals, many voluntary associations have rules, and sometimes even a constitution, bylaws and a governing body to adopt and apply the rules. These are practical measures to help in the pursuit of shared objectives. But, they do not in and of themselves give rise to contractual relationships between the individuals who join. To illustrate their point, the judges said: "*the members of the local minor hockey league, or a group formed to oppose development of green spaces, or a bible study group, for example, do not enter into enforceable legal obligations just because they have joined a group with rules that members are expected to follow.*"

Joining a congregation or voluntary association and making financial contributions does not in itself form a legally binding relationship.

Breakdown of the decision: **Unanimous:** Justice Malcolm [Rowe](#) allowed the appeal (Chief Justice [Wagner](#) and Justices [Abella](#), [Moldaver](#), [Karakatsanis](#), [Côté](#), [Brown](#), [Martin](#) and [Kasirer](#) agreed)

More information (case # 39094): [Decision](#) | [Case information](#) | [Webcast of hearing](#)

Lower court rulings: summary judgment motion (Ontario Superior Court of Justice - unreported) | [appeal](#) (Court of Appeal for Ontario)

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