

FREEDOM OF RELIGION

Multani v. Commission scolaire Marguerite-Bourgeoys Supreme Court of Canada (2006)

FACTS

Gurbaj Singh Multani, a 12-year-old student in a Montreal school, was a practising member of the Sikh religion. He wore a kirpan (ceremonial knife) under his clothes as part of his religious clothing.

One day, Gurbaj accidentally dropped his kirpan in the schoolyard. After hearing about this, the school principal told Gurbaj not to wear the kirpan to school. The school had rules prohibiting dangerous objects such as knives and weapons on school premises.

The school board supported the principal's decision and suggested Gurbaj instead wear a replica of the kirpan made from another material, such as plastic.

Gurbaj and his father challenged the school board's decision, arguing it violated Gurbaj's freedom of religion under the Canadian and Québec Charters and that he had a right to wear the kirpan to school.

QUESTIONS

1. Did the school board decision preventing Gurbaj from wearing his kirpan to school violate his freedom of religion?
2. If so, was this limit on his rights reasonable and justified under Section 1 of the Canadian Charter and Section 9.1 of the Québec Charter?



PREPARATION FOR PLEADINGS

Lawyers for Gurbaj (appellant)

The lawyers representing Gurbaj must show that his freedom of religion was violated. To do this, they must prove the following:

- Gurbaj has a sincere belief in his religious practises.
- The school rule he is challenging substantially interferes with the observance of his religious practises.

What you need to know:

- ⇒ Freedom of religion includes the right to practise religious beliefs openly and without fear.
- ⇒ No one can be forced to act contrary to his or her beliefs or conscience, except as required by safety, order, health, morals or the rights of others.

Don't forget to anticipate arguments the other side might raise.

Lawyers for the School Board (respondent)

The lawyers for the school board must show the following:

- Gurbaj's freedom of religion was not violated.
- Even if there was a violation, it was justified under Section 1 of the Canadian Charter and Section 9.1 of the Québec Charter. When applying the Section 1 (and Section 9.1) test, think about whether the school board tried to accommodate Gurbaj.

Don't forget to anticipate the arguments of the lawyers for the other side and their responses to your arguments. Remember that they have a right to respond.