

Federal Court of Appeal



Cour d'appel fédérale

Date: 20260311

**Docket: A-262-23 (Lead)
A-263-23**

Citation: 2026 FCA 45

**CORAM: MONAGHAN J.A.
ROUSSEL J.A.
PAMEL J.A.**

BETWEEN:

DR. SATYAM PATEL

Appellant

and

ATTORNEY GENERAL OF CANADA

Respondent

Heard at Vancouver, British Columbia, on March 2, 2026.

Judgment delivered at Ottawa, Ontario, on March 11, 2026.

REASONS FOR JUDGMENT BY:

PAMEL J.A.

CONCURRED IN BY:

**MONAGHAN J.A.
ROUSSEL J.A.**

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REASONS FOR JUDGMENT

PAMEL J.A.

[1] The Appellant, Dr. Satyam Patel, appeals from two judgments of the Federal Court dismissing, in a single set of reasons (2023 FC 922 *per* Lafrenière J.), his applications for judicial review of two decisions (CJC decisions) of the interim executive director (executive director) of the Canadian Judicial Council (CJC) who determined at the screening stage that Dr. Patel's complaints against two judges of Saskatchewan did not raise issues of judicial conduct

but rather fell within the ambit of judicial decision-making and the exercise of judicial discretion, issues which are subject to appellate review and not of the nature reviewable by the CJC. In his complaints to the CJC, Dr. Patel primarily alleges that the two judges before whom he had appeared were in a conflict of interest and should have recused themselves. In essence, he complained that prior to their appointment to the bench, the two judges were partners at the same law firm that represented one of the parties with whom he was involved in the litigation and that one of the judges actually undertook work for that party, thus purportedly violating the CJC's *Ethical Principles for Judges* (the CJC's Ethical Principles).

[2] On judicial review, the Federal Court found that Dr. Patel had not met his burden of establishing that the CJC decisions were unreasonable. The Federal Court also found that it need not address the procedural fairness argument raised by Dr. Patel during the hearing on account of him not having addressed the issue in his Notice of Application.

[3] On appeal from the Federal Court on a judicial review decision, this Court is to determine whether the Federal Court identified the correct standard of review and, if so, whether it applied it properly (*Agraira v. Canada (Public Safety and Emergency Preparedness)*, 2013 SCC 36, [2013] 2 S.C.R. 559 at paras. 45 and 47). Effectively, this Court steps into the shoes of the Federal Court and focuses on the administrative decision, having regard to the reasons given by that court (*Canada (Attorney General) v. Canadian Civil Liberties Association*, 2026 FCA 6 at paras. 154 and 161; *Bank of Montreal v. Canada (Attorney General)*, 2021 FCA 189 at para. 4, leave to appeal to SCC refused, no. 39899 (April 7, 2022)).

[4] The Federal Court concluded the standard of review for the CJC decisions is reasonableness. Dr. Patel argues that the screening decisions of the executive director that effectively deprive claimants of a decision on the merits of their complaints should be reviewed on a standard of correctness. It was therefore incumbent upon the Federal Court, argues Dr. Patel, to undertake a line drawing exercise to define conduct which amounts to judicial decision-making and the exercise of discretion on the one hand and conduct which rises to the level of threatening the very integrity of the judiciary on the other, and thereafter to review the merits of his complaints so as to determine whether the impugned conduct of the judges crossed that line.

[5] Dr. Patel challenges the level of deference shown by the Federal Court to the executive director's determination of whether the conduct complained of amounted to judicial decision-making. In particular, he distinguishes the situation in *Moreau-Bérubé v. New Brunswick (Judicial Council)*, 2002 SCC 11, [2002] 1 S.C.R. 249 (*Moreau-Bérubé*) where the Supreme Court of Canada espoused a high degree of deference be afforded to decisions of the CJC (*Moreau-Bérubé* at para. 60) by arguing that the CJC decisions were made by the executive director acting alone, and not a panel of three judges investigating a complaint on the merits. Dr. Patel further supports his argument for correctness review by pointing to two other decisions of the CJC which he suggests stand for the proposition that conduct similar to that he complains of in this case actually does amount to judicial misconduct for which CJC involvement is appropriate.

[6] I cannot agree with Dr. Patel. I am not persuaded that either the context in which CJC screening decisions are made or their nature fall within any of the existing categories for

correctness review or warrant a distinct correctness category under the principles set out by the Supreme Court in *Canada (Minister of Citizenship and Immigration) v. Vavilov*, 2019 SCC 65, [2019] 4 SCR 653 (*Vavilov*). In *Vavilov*, the Supreme Court addressed the situation of possible discord within an administrative body and determined that the prospect of conflicting decisions does not warrant a distinct correctness category for judicial review (*Vavilov* at para. 72). In any event, it seems to me that Dr. Patel's argument is predicated upon the notion that the CJC's Ethical Principles create a code of conduct or a list of prohibited behaviours setting out a standard for defining judicial conduct; they expressly do not.

[7] Thus, I agree with the Federal Court. The standard of review for the CJC decisions is reasonableness for all issues other than procedural fairness (*Duhamel v. Canada (Attorney General)*, 2022 FCA 219 at para. 19). Consequently, this Court must ask whether the CJC decisions bear the hallmarks of reasonableness—justification, transparency, and intelligibility—and whether they are justified in relation to the relevant factual and legal constraints that bear on them (*Vavilov* at para. 99). Allegations of a breach of procedural fairness are reviewed on a standard akin to correctness, with the central question being whether the procedure was fair, having regard to all of the circumstances (*Canadian Pacific Railway Company v. Canada (Attorney General)*, 2018 FCA 69, [2019] 1 F.C.R. 121 at para. 54).

[8] On the whole, Dr. Patel has failed to persuade me that the CJC decisions are unreasonable, or that there has been a breach of his rights to procedural fairness. Notwithstanding Dr. Patel's argument to the contrary, whether the two judges should have recused themselves, or whether another judge may have recused himself when faced with similar

circumstances, are of no moment in the context of the applications before the Federal Court or these appeals. Nor was it necessary for the executive director to also have undertaken his own line drawing exercise. As stated clearly by this Court in *Cosentino v. Canada (Attorney General)*, 2021 FCA 193 at paragraph 5: “An unbroken line of jurisprudence suggests that matters that can be appealed are not the proper subject of a judicial conduct complaint.” Here, the issues raised by Dr. Patel were open to redress by an appellate court through the normal appeal process (see, for example, *Yukon Francophone School Board, Education Area #23 v. Yukon (Attorney General)*, 2015 SCC 25, [2015] 2 SCR 282). Accordingly, it was not unreasonable for the executive director to have considered the availability of such remedies as relevant in deciding whether the complaints raised issues of conduct justifying the CJC’s intervention.

[9] Moreover, I am not convinced by Dr. Patel when he argues that the CJC has a duty to investigate all complaints and that the failure to do so amounts to a breach of procedural fairness. The CJC’s mandate and procedures limit its obligations to investigate to matters where judicial conduct may threaten the integrity of the judicial function itself and where the “harm alleged is not curable by the appeal process” (*Moreau-Bérubé*, at para. 58). Also, I am far from convinced that the CJC’s Ethical Principles can be characterized as creating a legitimate expectation that Dr. Patel’s complaints require an investigation. Regardless of any expectation Dr. Patel might have had, the CJC’s Ethical Principles cannot dictate the outcome at the CJC’s screening stage (*Baker v. Canada (Minister of Citizenship and Immigration)*, 1999 CanLII 699 (SCC), [1999] 2 S.C.R. 817 at para. 26).

[10] Dr. Patel bears the onus of demonstrating that the CJC decisions are unreasonable (*Vavilov* at para. 100). I agree with the Federal Court that he has failed to do so. Focusing on the CJC decisions and assessing the matter in light of the arguments made by Dr. Patel and the record, I find that the Federal Court identified the correct standard of review and applied it properly in concluding that the CJC decisions are reasonable. I would therefore dismiss the appeals in both matters, with costs in favour of the Attorney General of Canada in the lump-sum amount of \$1,500 per appeal, which I find to be fair and reasonable under the circumstances.

"Peter G. Pamel"

J.A.

"I agree.

K. A. Siobhan Monaghan J.A."

"I agree.

Sylvie E. Roussel J.A."

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET: A-262-23 (LEAD) AND A-263-23

STYLE OF CAUSE: DR. SATYAM PATEL v.
ATTORNEY GENERAL OF
CANADA

PLACE OF HEARING: VANCOUVER, BRITISH
COLUMBIA

DATE OF HEARING: MARCH 2, 2026

REASONS FOR JUDGMENT BY: PAMEL J.A.

CONCURRED IN BY: MONAGHAN J.A.
ROUSSEL J.A.

DATED: MARCH 11, 2026

APPEARANCES:

Dr. Satyam Patel ON HIS OWN BEHALF

Sancho McCann FOR THE RESPONDENT

SOLICITORS OF RECORD:

Marie-Josée Hogue FOR THE RESPONDENT
Deputy Attorney General of Canada