

Federal Court



Cour fédérale

Ottawa, March 6, 2025 – Chief Justice Paul Crampton of the Federal Court issued a decision today in file T-60-25:

IN THE MATTER OF DAVID JOSEPH MACKINNON et al.
v.
ATTORNEY GENERAL OF CANADA

and

DEMOCRACY WATCH,
THE CANADIAN CONSTITUTIONAL LAW INITIATIVE OF THE
UNIVERSITY OF OTTAWA PUBLIC LAW CENTRE and
THE BRITISH COLUMBIA CIVIL LIBERTIES ASSOCIATION

Summary: The Court dismissed this application for judicial review. The Applicants, David Joseph MacKinnon and Aris Lavranos, sought to set aside the January 6, 2025 decision by Prime Minister Trudeau to advise the Governor General of Canada to prorogue Parliament (the “Decision”). They also sought a declaration that Parliament had not been prorogued. Their core allegation was that the Prime Minister exceeded his authority in making the Decision.

The Court rejected the Respondent’s position that the courts have no role to play when the Prime Minister advises the Governor General to prorogue Parliament. The Court has a constitutional role and it is important that it be exercised to maintain public confidence in our institutions of government.

However, the Applicants failed to demonstrate that the Prime Minister exceeded any limits established by the written Constitution or by the unwritten principles they identified. The Applicants also failed to establish that the Prime Minister exceeded any other legal limits.

The Supreme Court of the United Kingdom’s decision in *R (Miller) v The Prime Minister* appears to be the only case in the history of the Commonwealth where a court interfered with the exercise of the Crown prerogative to prorogue Parliament. There, the Supreme Court of the United Kingdom explained in the opening paragraph of its decision that the circumstances with which it had been presented “*have never arisen before and are unlikely to ever arise again.*”

In the present proceeding, neither the effect of the Decision nor the overall circumstances related to it are similarly exceptional.

The Applicants failed to demonstrate their allegation that the Decision was “*part of a stratagem designed specifically to interrupt the business of Parliament and stymie the publicly stated intent of a majority of the House of Commons to bring a motion for non-confidence in the government.*”

The Applicants did not establish when, if at all, a non-confidence vote likely would have occurred in the absence of the Decision. They conceded during the hearing that “*the government does enjoy the confidence of the House right now.*”

In addition, the Applicants did not demonstrate that the Decision was made “*in service of the interests of the [Liberal Party of Canada]*.” Even if the party-related matters mentioned in the Decision were beyond the scope of the authority of the Crown prerogative to prorogue Parliament, there were several other reasons given for the Decision and it is not possible to disentangle the partisan reasons from the other reasons given by the Prime Minister. On their face, those other reasons related either to the business of Parliament or to what appears to be the Prime Minister’s view of the public interest. It is not the Court’s role to question the merits or wisdom of those reasons.

In reaching its conclusions, the Court remained mindful of the emphasis that the Supreme Court of Canada has placed on the courts refraining from “*undue interference*” with the other branches of government.

The decision is posted on the [News Bulletins](#) page of the Federal Court website.