

ACPNS LEGAL CASE REPORTS SERIES

This series compiles short summaries of significant cases involving charitable, philanthropic, nonprofit and social enterprise organisations in Australia and overseas.



CHURCH OF ATHEISM OF CENTRAL CANADA V. CANADA (NATIONAL REVENUE), 2019 FCA 296 (CANLII)

Federal Court of Appeal, Canada, Nadon, Rennie, Rivoalen JJA, 29 November 2019

Whether the Church of Atheism of Central Canada was a charity under Canadian revenue law.

Key words: Charity, Canada, Charitable Purpose, Advancement of Religion, Definition of Religion, Other Purposes Beneficial To The Community, Atheism

1. The appellant, the Church of Atheism of Central Canada (CACC), is a corporation incorporated under the [Canada Not-for-profit Corporations Act, S.C. 2009, c. 23](#), for the following purpose:

The purpose of the Corporation is to preach Atheism through charitable activities, in the City of Ottawa, the provinces of Ontario and Quebec, and whichever province shall from time to time be designated as part of Central Canada by the By-Laws.

2. The appellant applied to be a charity under the [Income Tax Act, R.S.C. 1985, c. 1 \(5th Supp.\)](#) (the [Act](#)) but the Minister of National Revenue (the Minister) denied its application. The appellant appealed that decision.
3. On appeal, the court noted that the Act does not define charitable purposes, so the common law applied. Of the four recognized charitable purposes at common law, the two relevant to this appeal were ‘the advancement of religion’ and ‘certain other purposes beneficial to the community’. The court concentrated on the meaning of ‘religion’. Previous case law had held that a religion involved three characteristics: that the followers have a faith in a higher power such as God, entity, or Supreme Being; that followers worship this higher power; and that the religion consists of a particular and comprehensive system of faith and worship.
4. The Minister had decided that atheism did not meet any of the three elements established by the courts to be fundamental to religion. However, the court held that only the third element was lacking, since Buddhism did not embrace a belief in a supreme being but was an established religion. In relation to the third characteristic, CACC did not demonstrate that its belief system was based on a particular and comprehensive system of doctrine and observances. Its claim that science was the relevant ‘system’ did not meet the requirement because the claim was too vague.

5. Therefore, CACC could not be a charity for the charitable purpose of advancement of religion. The court held that it also did not serve any other charitable purpose beneficial to the community, but rather served its own members' purposes only.
6. The appeal was dismissed.

IMPLICATIONS



Australia has a similar definition of religion for tax purposes:

[T]he criteria of religion are twofold: first, belief in a supernatural Being, Thing or Principle; and second, the acceptance of canons of conduct in order to give effect to that belief.

Church of the New Faith v Commissioner for Pay-roll Tax (Vic) [1983] HCA 40, at [17] per Mason CJ and Brennan J, and expanded at [18] per Wilson and Deane JJ.

VIEW THE CASE



This case may be viewed at <https://www.canlii.org/en/ca/fca/doc/2019/2019fca296/2019fca296.html?resultIndex=1>

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