



**IN THE COURT OF APPEAL
OF NEWFOUNDLAND AND LABRADOR**

Citation: *Aylward v. Complaints Review Committee of the
Provincial Court of Newfoundland and Labrador*, 2026 NLCA 6

Date: March 10, 2026

Docket Number: 202401H0058

BETWEEN:

GORDON AYLWARD

APPELLANT

AND:

COMPLAINTS REVIEW COMMITTEE
OF THE PROVINCIAL COURT OF
NEWFOUNDLAND AND LABRADOR

RESPONDENT

Coram: F.P. O'Brien, W.H. Goodridge and F.J. Knickle JJ.A.

Court Appealed From: Supreme Court of Newfoundland and Labrador,
General Division 202301G3810
(2024 NLSC 97)

Appeal Heard: September 17, 2025

Judgment Rendered: March 10, 2026

Reasons for Judgment by: W.H. Goodridge J.A.

Concurred in by: F.P. O'Brien and F.J. Knickle JJ.A.

Counsel for the Appellant: Self-Represented

Counsel for the Respondent: Paul L. Coxworthy

Authorities Cited:

CASES CITED: *Aylward v. Complaints Review Committee of the Provincial Court of Newfoundland and Labrador*, 2024 NLSC 97; *Canada (Minister of Citizenship and Immigration) v. Vavilov*, 2019 SCC 65, [2019] 4 S.C.R. 653; *Law Society of Saskatchewan v. Abrametz*, 2022 SCC 29, [2022] 2 S.C.R. 220; *Housen v. Nikolaisen*, 2002 SCC 33, [2002] 2 S.C.R. 235; *Turner-Lienaux v. Canada (Attorney General)*, 2022 FCA 213, leave to appeal to SCC refused, 40575 (22 June 2023); *Singh v. Canada (Attorney General)*, 2015 FC 93; *Turner-Lienaux v. Canada (Attorney General)*, 2021 FC 1483, aff'd 2022 FCA 213, leave to appeal to SCC refused, 40575 (22 June 2023); *Moreau-Bérubé v. New Brunswick (Judicial Council)*, 2002 SCC 11, [2002] 1 S.C.R. 249; *Best v. Canada (Attorney General)*, 2017 FC 1145.

STATUTES CONSIDERED: *Provincial Court Act, 1991*, SNL 1991, c. 15, sections 22, 23(1)-(4), 23(5).

W.H. Goodridge J.A.:

INTRODUCTION

[1] The appellant, Gordon Aylward, made a complaint alleging judicial misconduct by a Provincial Court Judge. The complaint was dismissed by the Respondent, the Complaints Review Committee of the Provincial Court of Newfoundland and Labrador (the “Committee”). Mr. Aylward appealed against the Committee’s dismissal of his complaint to the Supreme Court, General Division, and a Supreme Court Judge dismissed Mr. Aylward’s appeal. Mr. Aylward has appealed the decision of the Supreme Court Judge to this Court.

[2] In the appeal to this Court, Mr. Aylward submits that the Committee erred in dismissing his complaint, and that the Supreme Court Judge erred in upholding that dismissal. As a remedy Mr. Aylward asks this Court to reverse the decisions below and refer his complaint to a hearing before the judicial complaints panel.

[3] The Committee, whose decision is under review on this appeal, was granted leave to participate in this appeal on a limited basis.

[4] For the reasons set out below, I would dismiss the appeal.

BACKGROUND

[5] Mr. Aylward was the unsuccessful plaintiff in a civil action in the Small Claims Division of the Provincial Court. He claimed damages against a car dealership for costs he incurred soon after the purchase of a used car from that same dealership. The action was dismissed in an oral decision of a Provincial Court Judge delivered on October 19, 2021.

[6] Eleven months after that oral decision, Mr. Aylward filed a written complaint against the Provincial Court Judge who presided over the Small Claims Division trial. In a letter dated September 15, 2022, and received by the Committee on September 19, 2022, Mr. Aylward alleged judicial misconduct against that Provincial Court Judge because of his “dishonest and deceptive actions ... in an effort to inflict emotional and financial harm, and damage [my] reputation” (Appeal Book, Tab 2, p. 10).

[7] In the letter in support of the complaint, Mr. Aylward alleged that the Provincial Court Judge:

1. Cancelled subpoenas without hearing from Mr. Aylward.
2. Failed to order document production by a witness.
3. Made comments suggestive of prejudging the matter.
4. Failed to address a claim of fraudulent misrepresentation.
5. Favoured the defendant’s witnesses in the credibility assessment.
6. Received opinion evidence without qualifying the witness as an expert.

[8] While Mr. Aylward was pursuing his complaint of judicial misconduct against the Provincial Court Judge, he was also pursuing a civil appeal process, challenging the merits of the Provincial Court Judge’s oral decision. In that separate civil appeal process (Notice of Appeal filed in the Supreme Court, General Division), Mr. Aylward raised as errors of law the same six allegations that he raised as examples of judicial misconduct in the complaint letter filed with the Committee.

[9] Under section 22 of the *Provincial Court Act, 1991*, SNL 1991, c. 15 (the “Act”), a complaint of judicial misconduct is initially screened by the Committee. It has various options, as outlined in the *Act*, including referral for investigation, referral for hearing before the judicial complaints panel, suspension of the judge, dismissal of the complaint, and attempted resolution of the complaint. The last option is permitted only with consent of the complainant. These options, as well as

the general scope of the Committee's authority, are set out in sections 23(1) to (4) of the *Act*:

23. (1) The Complaints Review Committee, on review of a complaint under section 22, may

(a) dismiss the complaint where in its opinion

(i) the matter that is the subject of the complaint is not within the jurisdiction of the judicial complaints panel, or

(ii) there is no evidence to support the complaint,

(b) with the consent of the complainant and the judge attempt to resolve the complaint; or

(c) where the committee is of the opinion that there are reasonable grounds to believe that the judge has engaged in the conduct that is the subject of the complaint, refer the complaint to the judicial complaints panel.

(2) Where the Complaints Review Committee is of the opinion that there are reasonable grounds to believe that a judge has engaged in the conduct that is the subject of the complaint, the committee may suspend the judge.

(3) A judge suspended under subsection (2) shall receive the judge's salary while suspended unless the Complaints Review Committee directs otherwise.

(4) Where a complaint is received by the Complaints Review Committee, the committee may refer the complaint to a person to conduct an investigation and to report to the committee.

[10] The Committee reviewed the complaint letter, the trial transcript, and materials relating to the parallel civil appeal process underway in the Supreme Court, General Division, to which Mr. Aylward had directed its attention. The Committee filed a written decision on July 19, 2023. In its decision, the Committee addressed each of the specific allegations in support of the complaint and considered whether any of the allegations could support judicial misconduct, as distinct from mere errors of law or errors of fact and law. The Committee found that there was no evidence to support the complaint as the alleged actions did not qualify as misconduct, and that the matter was not within the jurisdiction of the judicial complaints panel. The alleged actions related solely to the judicial decision-making function for which the proper recourse was an appeal of the decision, not engagement of the judicial

discipline process. Relying on its authority under section 23(1)(a) of the *Act*, the Committee dismissed the complaint, stating at page 9 of its decision:

[T]here is no evidence in the Complaint Record to support that there are reasonable grounds to believe that the Respondent Judge, in respect of any of the Complaint Allegations, acted outside the framework of the law or with a lack, or appearance of a lack, of impartiality and objectivity, amounting to judicial misconduct. The issues raised ... are not matters of judicial misconduct and are not therefore within the jurisdiction of the Judicial Complaints Panel.

(Appeal Book, Tab 1, p. 9)

FIRST-LEVEL APPEAL

[11] Where a complaint is dismissed by the Committee, as occurred here, there is a statutory appeal mechanism to the Supreme Court of Newfoundland and Labrador available under section 23(5) of the *Act*:

A complainant whose complaint is dismissed by the Complaints Review Committee under subsection (1) may, within 30 days after receiving notice of the dismissal, appeal the dismissal to the Trial Division by filing a notice of appeal with the Trial Division.

[12] As indicated above, Mr. Aylward exercised his right under that provision and appealed the dismissal to the Supreme Court, General Division (*Aylward v. Complaints Review Committee of the Provincial Court of Newfoundland and Labrador*, 2024 NLSC 97). In dismissing this first-level appeal, the presiding Supreme Court Judge found that the Committee had acted correctly:

[79] The Committee acted correctly to dismiss the Complaint; but furthermore, there is nothing in the evidence from trial to support Mr. Aylward's general complaint that [the Judge] misconducted himself.

[13] Mr. Aylward now pursues a second-level appeal before this Court.

STANDARD OF REVIEW

[14] Where there is a statutory appeal mechanism, as here, the normal appellate standards of review apply, as opposed to administrative law standards of review (*Canada (Minister of Citizenship and Immigration) v. Vavilov*, 2019 SCC 65, [2019] 4 S.C.R. 653, at para. 37, and *Law Society of Saskatchewan v. Abrametz*, 2022 SCC

29, [2022] 2 S.C.R. 220, at paras. 27-29). The normal appellate standards are set out in *Housen v. Nikolaisen*, 2002 SCC 33, [2002] 2 S.C.R. 235. Questions of law are reviewed on a standard of correctness, and questions of fact or of mixed fact and law, from which no legal question is extricable, are reviewed on a standard of palpable and overriding error. A palpable error is one that is obvious. An overriding error is one that goes to the very core of the outcome of the matter.

[15] The standard applicable for this Court's review of the Committee's decision will depend on whether the matter under review engages a question of law or a question of mixed fact and law. The normal appellate standards of review, as set out above, apply depending on the nature of the question.

ISSUES

[16] Did the Supreme Court Judge err in his selection of the standard of review? Did the Supreme Court Judge err in his application of the standard of review? The latter question raises two further questions. Did the Committee err in finding that the complaint was not within the jurisdiction of the judicial complaints panel? Did the Committee err in finding that there was no evidence to support the complaint (i.e., that the allegations did not engage misconduct)?

ANALYSIS

Did the Supreme Court Judge err in his selection of the standard of review?

[17] The Supreme Court Judge correctly indicated, at paragraph 21 of his reasons, that appellate standards of review apply. He then reasoned that the Committee's decision relied on its interpretation of the *Act* to determine jurisdiction, and that this was a question of law engaging the correctness standard of review:

[43] I find from that reasoning that the appropriate appellate standard of review of the Committee's decision is correctness; ...

[44] The Committee relied on its interpretation of the *Provincial Court Act, 1991* to decide that it did not have jurisdiction to entertain Mr. Aylward's [complaint].

[18] I agree that the standard of correctness applies to the jurisdictional question, and to the interpretation of the *Act*.

[19] The Committee's decision also determined that there was no evidence to support the complaint because the allegations submitted in support of the complaint did not qualify as misconduct. That is a factually suffused finding of mixed fact and law and is subject to the palpable and overriding error standard of review (*Turner-Lienaux v. Canada (Attorney General)*, 2022 FCA 213, at para. 8, leave to appeal to SCC refused, 40575 (22 June 2023)).

[20] The Committee's decision is assessed using the correctness standard for the jurisdictional question and interpretation of the *Act*, and the palpable and overriding standard for assessing whether the allegations submitted in support of the complaint qualify as misconduct.

[21] The Supreme Court Judge did not err in selecting the correctness standard of review for the Committee's interpretation of the *Act* and its decision on jurisdiction. The Supreme Court Judge did err in selecting that same standard of review for the Committee's decision that there was no evidence to support the complaint. However, that error is without consequence because the Judge applied the higher standard of review – correctness. His conclusion that the Committee was correct in the finding that there was no evidence to support the complaint would also mean that there was no palpable and overriding error by the Committee.

Did the Supreme Court Judge err in his application of the standard of review?

[22] The Supreme Court Judge found that the Committee was correct in its interpretation of the *Act*, and regarding the jurisdiction of the judicial complaints panel. I agree.

[23] The Committee correctly interpreted its role under the *Act*. The Committee must decide whether there are reasonable grounds to believe that the Judge engaged in the conduct that is the subject of the complaint (s. 23(1)(c) of the *Act*). In the context of the *Act*, only behaviour that could qualify as judicial misconduct is relevant. Allegations that are nothing more than asserted errors of law, or fact and law, are addressed through the civil appeal process and are not matters within the jurisdiction of the judicial complaints panel (*Singh v. Canada (Attorney General)*, 2015 FC 93, at para. 51; and *Turner-Lienaux v. Canada (Attorney General)*, 2021 FC 1483, at para. 18, aff'd 2022 FCA 213, leave to appeal to SCC refused, 40575 (22 June 2023)).

[24] The Supreme Court Judge also found that the Committee was correct in concluding that there was no evidence to support Mr. Aylward's complaint of judicial misconduct. I agree.

[25] This finding by the Supreme Court Judge – that the Committee was correct in concluding there was nothing in the evidence to support the complaint – was the focus of Mr. Aylward's written and oral submissions in this Court. He argued that the Supreme Court Judge erred in making this finding because he inappropriately relied on the decision from the civil appeal, which was not part of the record. I agree that the Supreme Court Judge made many references to the civil appeal decision, and that the decision was not part of the record. However, a review based solely on the record results in the same conclusion, namely that the Committee made no error in concluding that there was nothing in the evidence to support the complaint.

[26] Mr. Aylward submitted to this Court that the Supreme Court Judge and the Committee may have conflated the notions of judicial misconduct and legal or factual error. I disagree. The Committee was alive to the reality that the judicial complaints panel could have jurisdiction over a matter that also qualifies as legal or factual error within the jurisdiction of the appeal courts. This possibility of overlapping jurisdiction between a judicial complaints panel and appeal courts was referenced by the Supreme Court of Canada in *Moreau-Bérubé v. New Brunswick (Judicial Council)*, 2002 SCC 11, [2002] 1 S.C.R. 249:

[58] ... the appeal process suffices to deliver justice to those aggrieved by the error made by the judge of first instance. In some cases, however, the actions and expressions of an individual judge trigger concerns about the integrity of the judicial function itself. When a disciplinary process is launched to look at the conduct of an individual judge, it is alleged that an abuse of judicial independence by a judge has threatened the integrity of the judiciary as a whole. The harm alleged is not curable by the appeal process.

See also *Best v. Canada (Attorney General)*, 2017 FC 1145, at paragraph 39.

[27] In its reasons, the Committee acknowledged that judicial misconduct can co-exist with legal or factual errors. The Committee additionally noted that Mr. Aylward's allegations of judicial misconduct were essentially the same allegations set out in his Notice of Appeal as legal or factual errors:

... the same trial decision which related to the complaint was also the subject of an appeal by [Mr. Aylward] ... with respect to the same or substantially the same

issues that [Mr. Aylward] has raised in Complaint Allegations ... these were questions as to whether the [Judge] had erred in law.

(Appeal Book, Tab 1, p. 4)

[28] The Committee did not reject the allegations merely because the same allegations were engaged in the civil appeal. Instead, the Committee considered whether there was any evidence that could support the complaint of judicial misconduct, as distinct from mere allegations of errors of law or fact and law. The Committee explained:

... questions of errors in law (or fact and law), on a Small Claims trial decision under appeal, if nothing more than errors of law or asserted errors of law (or fact and law), were not within the Committee's jurisdiction, and were properly to be adjudicated in [Mr. Aylward's] appeal ... the [Committee] nonetheless considered whether there was any evidence that could support the Complaint Allegations as complaints of judicial misconduct, as distinct from mere alleged errors of law or of fact and law, by the [Judge].

(Appeal Book, Tab 1, p. 4)

[29] The last six pages of the Committee's decision examine in detail the specific allegations made by Mr. Aylward and explain why they did not constitute evidence of misconduct. The Committee concluded that:

- The Provincial Court Judge's cancellation of two subpoenas without a hearing was permitted under the procedural rules of the Small Claims Division of the Provincial Court, and "could at most be considered as a question of an error in procedure" (Appeal Book, Tab 1, p. 6).
- The Provincial Court Judge's failure to proactively order document production by a witness, even though Mr. Aylward had not made that request during the trial, "would properly be a matter for the appellate court to consider as distinct from a wilful and gross departure from the framework of the law" (Appeal Book, Tab 1, p. 6).
- The Provincial Court Judge's comments, that Mr. Aylward advanced as indicative of pre-judging, related to contractual interpretation; the Judge was informing the parties that interpretation of the warranty clause would need to be addressed during the trial. The Committee

found “even if the [Judge] was ... in error in his interpretation of the contract, that is a matter that is properly decided by the appellate court and does not raise a question of a gross denial to [Mr. Aylward] of his opportunity to make his case in court” (Appeal Book, Tab 1, p. 6).

- The alleged failure by the Provincial Court Judge to address the claim of fraudulent misrepresentation was not supported by the trial transcript, and even if it was not addressed, that would be “a matter within the jurisdiction of the appellate court and does not give rise to a question of judicial misconduct” (Appeal Book, Tab 1, p. 7).
- The credibility assessment was within the purview of the Provincial Court Judge and did not give rise to a question of judicial misconduct: “If there is a question of the [Judge] disregarding the weight of the evidence in making a credibility finding, this is a question within the jurisdiction of the appellate court ... and does not give rise to a question of judicial misconduct” (Appeal Book, Tab 1, p. 7).
- The reception of opinion evidence by the Provincial Court Judge without qualifying the witness as an expert, “is a question within the jurisdiction of the appellate court ... and does not give rise to a question of judicial misconduct” (Appeal Book, Tab 1, p. 8).

[30] Application of the appropriate standards of review to the Committee’s decision, in the context of the record, results in the same conclusion as made by the Supreme Court Judge. There was no error by the Committee in finding that the complaint was not within the jurisdiction of the judicial complaints panel, and no error by the Committee in finding that there was no evidence to support the complaint.

DISPOSITION

[31] I would dismiss the appeal. As correctly determined by the Supreme Court Judge, there are no grounds to interfere with the Committee’s decision.

[32] I would conclude, as did the Supreme Court Judge, that the Committee was correct in its interpretation of the *Act* regarding the scope of its authority, and regarding the jurisdiction of the judicial complaints panel. I would also agree that

the Committee made no error in finding that there was no evidence to support the complaint and made no error in dismissing the complaint.

COSTS

[33] The order of this Court setting out the scope of the Committee’s participation preserved its ability to seek costs in this appeal. However, it has elected to make no submissions seeking costs.

[34] I would make no order as to costs.

W.H. Goodridge J.A.

I concur : _____
F.P. O’Brien J.A.

I concur : _____
F.J. Knickle J.A.