

## Press-release

**Montréal, May 26, 2008:** The honorable Michèle Rivet of the Human Rights Tribunal, with the assistance of Mtre. Taya di Pietro and Ms. Renée Lescop, rendered a judgement condemning defendant X.Y. for infringing the rights of Roger Thibault and Theo Wouters to the safeguard of their dignity and the peaceful enjoyment of their property, based on their sexual orientation, as defined in the Québec *Charter of Human Rights and Freedoms*. Moreover, the Tribunal condemned X.Y. for discriminatory harassment based on the same motive. Because the defendant was a minor at the time of the incidents, the Tribunal ordered that his name and his father's name be withheld in order to protect his identity.

The victims are two gay men who have lived together as a couple since 1978. They are well-known activists in their community in the fight for gay rights and have frequently been the target of acts of vandalism, harassment and intimidation. The defendant and his family live in the same community as the victims. They are members of the *Brethren Church*, a conservative Christian order whose followers believe that homosexuality is a sin. Between the months of April and November of 2003, Mr. Thibault and Mr. Wouters were the target of several incidents involving the defendant. The defendant insulted the victims, threw toilet paper at their property, as well as a flare, and threatened to physically attack them during a car incident. The victims reported each episode to the police. Because X.Y. was a minor at the time of the incidents, police and the Crown attorney determined that extrajudicial measures would be sufficient to hold him accountable for his actions and he was not formally charged or prosecuted. Instead the defendant wrote a letter of apology to the victims as well as an essay on human rights and sought counselling for anger-management. The victims found the letter of apology insincere and insufficient. The victims also claimed to have lived in constant fear for their safety following the incidents.

X.Y. did not deny his responsibility for the incidents. Although he acknowledged his mistakes and apologized for them, the damage caused to the victims cannot be denied. As a result of the defendant's actions, the victims were repeatedly humiliated and gravely disturbed in the peaceful enjoyment of their property. As a result, the victims' rights were clearly violated. Moreover, the repetitive nature of the defendant's actions as well as the escalating violence of the attacks constitute discriminatory harassment as defined in the *Charter*. Since the defendant was a minor at the time of the incidents, his father was presumed liable to reparation unless he could establish that he did not commit any fault in the education of his son. The father testified in court that, despite the religious beliefs he imparted to his son, he also taught him that homosexuality is legal in Canada and that he should always respect the law. The Tribunal found his mere assertion to be insufficient to establish that he adequately educated his son. Therefore, the defendant's father was held liable for his son's actions.

The Tribunal granted 5 000 \$ in moral damages and 2 500 \$ in punitive damages to each victim. However, the total amount of the damages claimed by the victims was not granted, given the defendant's apprehension by the police, his prompt confession and apology, as well as the ongoing harassment the victims experienced over the years, which could not be wholly attributed to the defendant's actions.

Unlike moral damages which are intended to repair the injuries caused, punitive damages are granted to punish the individual and prevent future misconduct by the individual and members of society. These damages do not fall within the ambit of parental responsibility. Therefore, the defendant's father was held liable only for the amount granted as moral damages.

For the complete text of this decision, see <http://www.canlii.org/qc/jug/qctdp/>.

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