



SENATE

Apihtow-kosison nekanapowin
MÉTIS NATION BRITISH COLUMBIA
Apihtow-kosison peyakosihtwawin

MÉTIS NATION BRITISH COLUMBIA SECRETARIAT

Applicant

and

DC

Respondent

DECISION

OF THE MÉTIS NATION BRITISH COLUMBIA SENATE

Dated the 05th day of August, 2007

UPON hearing the submissions and reading the material provided by or on behalf of the Applicant and the Respondent in this matter, the METIS NATION BRITISH COLUMBIA SENATE HAS DETERMINED THE FOLLOWING:

- 1) The MNBC Senate rules in favour of the Métis Nation British Columbia's Secretariat.
- 2) The "Code of Ethics" request has been denied.

NOTE: Please refer to the full decision which is attached or can be downloaded from the MNBC website at <http://www.mnbc.ca/senate> and click on the decision tab in the upper center portion of the webpage.

Signed on behalf of the Senate,

A handwritten signature in black ink, appearing to read 'Dean Trumbley', is written over a white rectangular area.

Dean Trumbley
Interim Senate Clerk

HEARD IN FRONT OF THE MÉTIS NATION BRITISH COLUMBIA'S SENATE

Appeal Name: MNBC Secretariat vs. DC,
2-28-09-71-4-00004

Date: 20070805
Senate Clerk: Thibeault
Location: Kelowna

Between:

**Métis Nation British Columbia (MNBC)
Secretariat**

Applicant

And

DC

Respondent

Reasons for Decision

Residing Senators:

Senator Bill Thibeault
Senator Margaret Penner

Senator Philip Gladue
Senator Bob Adams



NOTE: Initials and blackouts have been used to protect personal information of the effected parties.

Introduction

[1] On June 25, 2007 the Métis Nation British Columbia (MNBC) Secretariat filed for a citizenship challenge under section 10 of the *MNBC Citizenship Act*. The basis of the challenge was that DC obtained a MNBC citizenship card under the pretense that she was the biological daughter of a MNBC citizen. The MNBC Secretariat had obtained information that DC was legally adopted and due to present MNBC legislation there is no accommodation for adopted individuals.

[2] A secondary request has been submitted by the MNBC Secretariat that if the Senate determines that RS did knowingly or consciously falsify an official MNBC document that a "Code of Ethics" review be conducted due to RS's status as a [REDACTED].

[3] DC and RS have adamantly denied any falsification of MNBC documents and submitted the form based on direction from a volunteer staff member whom they felt had the capacity and understanding of the citizenship process. DC has attested from the beginning that she is the legally adopted child of RS and is not a biological daughter.

Summary of the Case Law and MNBC Legislation

a) Citizenship Challenge Legislation

[4] Articles 10 of the *MNBC Citizenship Act* states that challenges concerning the Métis ancestry of Citizens currently on MNBC citizenship/membership list(s) may be made by Métis Citizens, Métis Communities, or on behalf of the MNBC by written notice to the Registrar. The challenge must include the full name of the Citizen or other individual or person making the challenge and of the Citizen being challenged, the Métis Community at which that Citizen is registered and the

grounds for the challenge including any documentation in evidence in support of the challenge. The Citizen subject to the challenge shall be notified by the Registrar in writing and shall have the right to refute the challenge by providing evidence of Métis ancestry to the satisfaction of the Registrar.

[5] Section 62 of the **MNBC Constitution** states that a Métis means a person who self-identifies as Métis, is of historic Métis Nation Ancestry, is distinct from other Aboriginal Peoples and is accepted by the Métis Nation. The MNBC Constitution further states the following;

a) 62.1. *"Historic Métis Nation" means the Aboriginal people then known as Métis or Half-Breeds who resided in Historic Métis Nation Homeland.*

b) 62.2. *"Historic Métis Nation Homeland" means the area of land in west central North America used and occupied as the traditional territory of the Métis or Half-Breeds as they were then known.*

c) 62.3. *"Métis Nation" means the Aboriginal people descended from the Historic Métis Nation, which is now comprised of all Métis Nation citizens and is one of the "aboriginal peoples of Canada" within Section 35 of the **Constitution Act of 1982.***

d) 62.4. *"Distinct from other Aboriginal Peoples" means distinct for cultural and nationhood purposes.*

b) **"Code of Ethics" Legislation and Policy**

[6] [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED].

[7] [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]

The Standard of Review

[8] The standard of review for this case involved three steps. Firstly, was to determine if the citizenship card of DC was obtained through her biological genealogy or did she rely on the Métis genealogy of her adopted father, whom is a Métis citizen of the MNBC. Secondly, pending on the findings of step one, if the document in question, the "declaration of parentage" form was incorrectly submitted was it done with intent to deceive or was it not deliberate. Thirdly, pending on the findings of step two, does RS require a [REDACTED] "Code of Ethics" review?

[9] The Senate's role is to ensure that all legislation, policies and procedures were adhered to and that the applicant has received a fair decision during the citizenship challenge process. The Senate further understands that the onus to prove citizenship is the responsibility of the respondent, DC not the applicant, the MNBC Secretariat.

[10] The Senate has based this decision on the verbal testimony supplied by all parties involved, no physical evidence was viewed with the exception of the Senate Clerk Communication log and related correspondence. The Senate ensured this step was taken to protect the privacy of the parties.

[11] Various verbal testimonies have been withheld from the decision to protect the personal information of all parties involved.

Analysis

a) MNBC Citizenship Challenge

[12] DC obtained her MNBC citizenship card based on RS's Métis genealogy as the result of the Declaration of Parentage form signed by RS. There was no other supporting documentation filed by DC that indicated a direct biological connection to a Métis ancestor. The MNBC Central Registry issued the citizenship cards for DC and her two children based solely on the perceived biological connection to RS.

b) Code of Ethics Review

[13] RS signed the declaration of parentage form under the direction of a volunteer staff member and the advice of the Regional Métis Office [REDACTED]. RS signed the form on the basis that he believed that the individuals supplying the information had the authority and understanding of the MNBC Central Registry process.

Decision

[14] The MNBC Senate rules in favour of the Métis Nation British Columbia's Secretariat.

[15] The "Code of Ethics" request has been denied.

Senate Recommendation

[16] The Senate strongly recommends to the legislative arm of the Métis Nation British Columbia that it needs to address the adoption issue within the **MNBC Citizenship Act**. The **Indian Act** and the **B.C. Adoptions Act** both recognize aboriginal custom adoptions and the **Supreme Court Powley decision**

indicated that objective proof of ancestral connection to the historic community by "birth, adoption or other means". Evidence of Métis adoption can be found in the historical records. An example is Gabriel Dumont and his wife Madeleine Wilkie adopted a child named Annie who was born of unknown parentage on the Red River in 1863. Another example is when after Louis Riel was hanged and his wife died in child birth their two young children were adopted and raised by Riel's brother Joseph.

[17] Based on the information provided in paragraph 24 of this decision, the Senate recommends that the *MNBC Citizenship Act* requires a section written that addresses the adoption of Métis and non-Métis children into Métis and non-Métis families. This resolution should be targeted for the 2007 Métis Nation Governing Assembly.