

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

Appeal Name: Mawle vs. MNBC Central Registrar
1-05-28-69-4-00051

Date: 20091024
Senate Clerk: Trumbley
Location: Kelowna

Between:

Stephen Mawle

Applicant

And

**Métis Nation British Columbia (MNBC)
Central Registrar**

Respondent

Reasons for Decision

Residing Senators:

Senator Bill Thibeault

Senator Ron Snider

Senator Alan Edkins

Senator Margaret Penner

Senator Gerald Pope

Senator Bob Adams



Introduction

[1] The APPLICANT originally submitted his file to the RESPONDENT in November 2008 for consideration to obtain his Métis Citizenship.

[2] A missing elements letter was sent on November 05, 2008 by the RESPONDENT to the APPLICANT highlighting an absence of various requirements.

[3] On April 01, 2009 the RESPONDENT implemented an administrative application fees increase from ten dollars to twenty dollars.

[4] On April 01, 2009 the RESPONDENT implemented an application policy change requiring all applicants to supply documentation that proves proof of residency within the Province of British Columbia.

[5] The RESPONDENT sent a letter to the APPLICANT on April 06, 2009 and again on June 12, 2009 requesting compliance to the increase in administrative costs (twenty dollars) and for the documentation to prove proof of residency in the Province of British Columbia.

[6] The RESPONDENT's letter dated June 12, 2009 further request a long form birth certificate for the APPLICANT's grandmother and confirmation of the APPLICANT's membership in a Métis Chartered Community.

[7] On April 16, 2009 the APPLICANT supplied an electronic mail to the Senate Clerk indicating that their application was submitted prior to the new policies being implemented on April 01, 2009 and previous applicants should be "grandfathered".

[8] On April 16, 2009 at 12:38:15 the APPLICANT requested an appeal on the RESPONDENT's decision dated April 06, 2009 and June 12, 2009.

[9] The appeal was requested to address three components, those being; having to supply the APPLICANT's grandmother's long-form birth certificate, having to provide an additional ten dollar fee for the APPLICANT and the APPLICANT's daughter and supplying proof of residency documentation.

Summary of the MNBC Legislation, MNBC Policies and Procedures

[10] The Senate in making its decision has relied upon the following legislation.

a) MNBC Constitution

[11] The following is a list of sections that the Senate relied on in making their decision:

62. *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.*

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

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.*

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.*

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

49. There shall be established a Métis Nation Senate, which shall be responsible for the conduct of Elections, Métis Citizenship and Dispute Resolution.

66. Where there is a dispute as to citizenship, a ruling shall be made by the Senate in accordance with the provisions of the Senate Act or the policies and procedures to be developed by the Senate, which ruling shall be final and binding.

b) MNBC Citizenship Act

[12] The following is a list of sections that the Senate relied on in making their decision:

i) ARTICLE TWO - INTERPRETATION

2.0 In this Act:

2.3 "Appeal" or "Appeals" means a written document submitted by an Applicant who has been rejected entry in the Métis Nation British Columbia Central Registry or submitted document by a Métis Nation British Columbia Citizen who is objecting to the registration of any Applicant to the Métis Nation British Columbia Central Registry.

2.6 "Central Registry" means the office of the Registrar and shall include the reception, research and storage facility of the Registrar.

2.11 "Genealogical Evidence" means evidence which indicates proof that an Applicant's parent is, or parents are, of Métis Ancestry and that the Applicant is Métis and which can be verified by an objective and valid process.

2.15 "Métis" or "Citizen" means a Métis Citizen as defined by the Constitution.

2.23 "Supporting Documentation" is defined as records used to support an application for Citizenship, including vital events records, historical records, church records, archival records, and census records.

ii) ARTICLE SIX - CENTRAL REGISTRY

6.1 The following information about a Métis Citizen will be maintained in the Central Registry:

b) Address or place of residence;

iii) ARTICLE EIGHT - THE REGISTRAR

8.2 *Be and is authorized to request and obtain Genealogical evidence and/or any other documentation and information which may be relevant to an application and the proper discharge of the Registrar's duties;*

8.4 *Maintain the Central Registry in a suitable and proper manner;*

8.8 *Applicants whose applications are not approved for Citizenship by the Central Registry may appeal such decision to the Senate;*

iv) ARTICLE NINE - CITIZENSHIP APPEAL

9.0 *An Applicant, Métis Community or the MNBC may appeal a decision of the Registrar concerning the application of an Applicant for Citizenship to the Senate pursuant to the provisions of this Act or the Senate Act.*

c) MNBC Senate Act

[13] The following is a list of sections that the Senate relied on in making their decision:

i) ARTICLE TWO - INTERPRETATION

2.0 *In this Act:*

2.8 *"Registrar" means the individual who fulfils the office of Registrar as defined in the Citizenship Act.*

ii) ARTICLE THREE - MANDATE AND POWERS OF THE SENATE

3.0 *The Senate shall:*

3.1 *Act as the judicial arm of the Métis Nation British Columbia in accordance with the provisions of the Constitution;*

iii) ARTICLE EIGHT - COMMITTEES OF THE SENATE

8.0 *Pursuant to this Act the Senate shall establish any such committees as are required by the Métis Nation British Columbia Constitution or Legislation and as required to carry out the following duties:*

b. Citizenship and Central Registry Appeals;

iv) ARTICLE NINE - APPEALS

9.0 Members of the Senate conducting appeals shall:

a) Hear and provide written decisions on all matters and appeals properly before the Senate;

The Standard of Review

[14] The Senate's role is to ensure that all MNBC legislation, policies and procedures was adhered to by the RESPONDENT when processing the APPLICANT's citizenship application and if not, rule accordingly.

[15] The Senate has based this decision on the information supplied by the APPLICANT and RESPONDENT.

[16] The Senate in rendering its decision not only applied and interpreted the relevant legislation but took into account all facts of the case.

[17] The Senate has applied their high standard of conduct and ethics, as mandated in the *MNBC Senate Act* and articulated in the *Senate Policies and Procedures*.

The Essential Facts as Determined by the Senate

[18] The Registrar has the authority and obligation to protect the integrity of the MNBC Central Registry.

[19] A citizenship application fee is an administrative tool and does not affect the integrity of the supporting documentation required to protect Métis citizenship's "objectively verifiable" process.

[20] The APPLICANT applied for his MNBC Citizenship prior to April 01, 2009.

[21] The citizenship application fee prior to April 01, 2009 was ten dollars (\$10.00).

[22] The APPLICANT paid the ten dollar (\$10.00) citizenship application fee prior to April 01, 2009.

[23] The APPLICANT did not provide supporting documentation for his grandmother.

The Senate, on the Basis of the Legislation and Facts of this Case, Rule as Follows:

[24] Supporting documentation, for the purpose of genealogical verification, is integral to the protection of the MNBC Central Registry and its Métis Citizens.

[25] The APPLICANT is required to supply supporting documentation for genealogical verification when requested by the Registrar.

[26] A citizenship application fee is not integral to the protection of the Central Registry and is deemed administrative.

[27] The citizenship application fee increase cannot be enforced prior to the implementation date of April 01, 2009.

[28] Proof of residency is integral to the protection of the MNBC Central Registry and the British Columbia Métis Assembly of Natural Resource's Harvester Registry.

[29] The proof of residency policy can be enforced prior to the implementation date of April 01, 2009.

[30] The APPLICANT is required to supply proof of residency

documentation when requested by the Registrar.

Decision

[31] The Senate finds in favour of the RESPONDENT requiring the APPLICANT to supply supporting documentation for his grandmother.

[32] The Senate finds in favour of the APPLICANT not being required to pay the ten dollar (\$10.00) increase on the citizenship application fee for his application dated in November 2008.

[33] The Senate finds in favour of the RESPONDENT requiring the APPLICANT to supply documentation for proof of residency.