IN THE MÉTIS NATION BRITISH COLUMBIA'S SENATE

Appeal Name: *Oliver v. MNBC Central Registry*
File:190

Date: January 22, 2024
Senate Clerk: Bill Bresser
Location: Richmond, BC

Between:

Daniel Vincent Oliver

Applicant

And:

Métis Nation British Columbia (MNBC)
Ministry of Citizenship

Respondent

Reasons for Decision

Presiding Senators:

Senator Alan Edkins
Senator Gerald Pope
Senator Fern Hinse
Senator Phillip Gladue
Senator John Sayers

MNBC Senate

Introduction

[1] On June 5, 2023 the Ministry of Citizenship, Metis Nation British Columbia (MNBC), advised Daniel Oliver by letter that “In efforts to strengthen the integrity of the MNBC Citizenship Registry, a Registry audit was conducted under Article 6.1 of the MNBC *Citizenship Act* (the “Act”) regarding the completeness of citizenship files. You have received this letter as your citizenship file does not meet the requirements for Metis citizenship as set out in Article 3.1 of the Act.”

[2] It was further stated in this letter that “Under Article 6.6 of the Act, a person who is placed under review by the Ministry of Citizenship will be ineligible to apply for further programs or services through MNBC. If a person’s citizenship is revoked, the person will continue to receive programs/services for sixty days following the review notice.”

[3] Furthermore, “With your file being designated as insufficient for citizenship, under Article 6.1.b of the Act, you will have sixty days from the stated date on this letter to provide supporting documentation that would satisfy the criteria under Article 3 of the Act for citizenship eligibility. If no additional supporting documentation is received, or, the supporting documentation provided is insufficient for objectively verifying the citizenship criteria under Article 3 of the Act, then your citizenship will be revoked. Notice of revocation will be provided in writing and will be final.”

[4] On August 8, 2023 the Ministry of Citizenship notified Daniel Oliver as follows. “This letter is to provide notice that the Citizenship Under Review period on your file has concluded and your citizenship with Métis Nation British Columbia has been revoked.” Further, that “The audit assessment completed on your file determined that there was no connection to the historic Métis Nation through a verifiable Métis ancestor. While your ancestry may have indigenous people(s) within it, those ancestors must be distinct from other Nations, such as First Nations, to be verifiable as Métis. The Ministry of Citizenship was unable to establish a Métis ancestral connection, which is the reason for your ineligibility. We hope that you continue to explore your ancestors’ stories and honour the cultures that make you who you are.” Furthermore, “If you would like further clarification

on this verdict, please reach out to the Ministry of Citizenship at citizenship@mnbc.ca or by phone at 604-557-5851 / 1-800-940-1150. If you do not agree with this verdict and wish to pursue an appeal, please visit the MNBC Senate webpage (mnbc.ca/senate) and fill out the Citizenship Appeal Form under the Resources Section. Once completed, submit your form via e-mail to both citizenship@mnbc.ca and to senateclerk@mnbc.ca, or by mail at the address stated above. Please note that you have sixty (60) days from the date of this notice to submit an appeal."

[5] On October 18, 2023 the Senate received a mailed request for a citizenship and/or central registry appeal hearing request dated August 17, 2023 from Daniel Vincent Oliver. The request was accepted by the Senate with follow-up demand to provide a list of documents and notice to produce documents served on the Ministry of Citizenship. The Senate received these documents between November 20, 2023, and January 19, 2024.

Summary of the Case Law and MNBC Legislation

[6] **Canadian Law**

> [2] Subsections 35(1) and (2) of the *Constitution Act*, 1982 being Schedule B to the *Canada Act*, 1982 (U.K.), 1982, c. 11 state:
>
> 35(1) the existing aboriginal and treaty rights of the "aboriginal peoples of Canada" are hereby recognized and affirmed.
>
> 35(2) in this act, "**aboriginal peoples of Canada**" includes the Indian, Inuit and Métis Peoples of Canada.

[7] The definitive Supreme Court of Canada case setting out the requirements for establishing a Métis constitutional right is **R v. Powley**, (2003) 2 S.C.R. 207, 230 D.L.R. (4th) 1, 177 C.C.C. (3d) 193, 2003 SCC 43. At paragraph 10, the Court defined the term "Métis" as it is used in s. 35, finding that while the term does not encompass all individuals with mixed Indian and European heritage; rather it refers to:

> "distinctive people who, in addition to their mixed ancestry, developed their own customs, way of life, and a recognizable group identity separate from their Indian or Inuit and European forebears. Métis communities evolved and flourished prior

to the entrenchment of European control, when the influence of European settlers and political institutions became pre-eminent."

[8] **MNBC Legislation, Policies and Administrative Standards and Practices**

Section 61 of the MNBC *Constitution Act* 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) 61.1 "Historic Métis Nation" means the Aboriginal people then known as Métis or Half-Breeds who resided in Historic Métis Nation Homeland.

b) 61.2 "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) 61.3 "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) 61.4 "Distinct from other Aboriginal Peoples" means distinct for cultural and nationhood purposes.

[9] Articles 2, 3, and 4 of the MNBC *Citizenship Act* further define the MNBC *Constitution* definition of Métis as stated above and, more specifically, the process in identifying citizens.

[10] Articles 6, 7, and 8 of the MNBC *Citizenship Act* highlight the roles and responsibilities of the Central Registry, Registry Office and the Registrar. It further states in 8.0 that the registrar must adhere to all policies and procedures developed by the MNBC. This includes the MNBC Guidebook, Central Registry Policy and Procedures and the Senate Policy Manual and Administrative Standards and Practices.

[11] Section 982 of the Senate Policy Manual highlights the process utilized when conducting a citizenship and/or central registry appeal.

Second Genealogical Opinion

Société historique de Saint-Boniface

[12] Halley Ducharme, genealogist, Société historique de Saint-Boniface supplied a second professional opinion by letter dated November 15, 2023. Halley Ducharme indicated the following:

"The information submitted by your client, Mr. Daniel Oliver, has been carefully reviewed. Based on the information given to us; as well as previous, we are able to confirm that Mr. Oliver does indeed have distant indigenous ancestry. However, the original union, having occurred far removed to the East of the country, seems to have resulted in the complete assimilation of the couple's offspring into the dominant settler's culture. That being said, we have not been able to discover a document to prove beyond a doubt that this family recognized themselves, or were recognized by others, as being Métis. Records pertaining to the couple's descendants suggest that at no point in time did this family see themselves as culturally distinct or ethnically different than their European forebears. Therefore, unfortunately these ancestors, though of mixed lineage, do not appear to connect into the Historic Métis Nation as they were then known or their homeland…nor do they meet the criteria used to identify the Métis set forth by the Métis National Council."

The Standard of Review

[13] The Senate's role is to ensure that all legislation, policies, and administrative standards and practices were adhered to, and that the applicant has received a fair decision during the application review period. Since this appeal involves a question around the genealogical interpretation of the respondent, a second professional opinion was ordered to assist in their review. Furthermore, the Senate will adhere to the citizenship and/or central registry appeal process highlighted in Section 982 of the Senate Policy Manual. The Senate further understands that the onus to prove

citizenship is the responsibility of the applicant, Daniel Vincent Oliver, not the respondent, the MNBC Ministry of Citizenship.

[14] The Senate has based this decision on the evidence supplied by the applicant and respondent and weighs this to the summary of case law at the time of the hearing.

Analysis

MNBC Policy and Procedure Adherence

[15] The applicant did request that a review of the policies and procedures be conducted. However, the Senate, upon review, found the MNBC Ministry of Citizenship did not violate or over-look any policies or procedures.

Genealogical Interpretation

[16] Both the MNBC Ministry of Citizenship and the Société Historique de Saint-Boniface indicated that they could not determine a link and/or ancestor that identifies as Métis and connect into the Historic Métis Nation.

[17] Further, there was no evidence supplied by Daniel Vincent Oliver to verify a distinct ethnic connection to the Métis.

[18] Based on the information supplied, testimony and the genealogical opinions (MNBC Ministry of Citizenship and the Société Historique de Saint-Boniface) the Senate could not identify a genealogical connection to the Métis Homeland or the presence of a Métis ancestor in Daniel Vincent Oliver's genealogy.

MNBC Legislative Adherence

[19] Daniel Vincent Oliver failed to comply with three parts of the National Definition as specified in the MNBC *Citizenship Act.* Those being to supply:

i) appropriate documentation that proves his historic Métis Ancestry;

ii) appropriate documentation that proves any Métis ancestry that connects to the Historic Métis Nation Homeland; and

iii) evidence which would identify a historic Métis "distinctiveness."

Decision

[20] The MNBC Senate finds in favour of the Métis Nation British Columbia Ministry of Citizenship.

[17] It ought to be noted that should the parameters for MNBC citizenship change, or if Daniel Vincent Oliver discovers new information or documentation, that this decision does not limit or negate the applicant from reapplying for MNBC citizenship.

BEFORE…

Senator Alan Edkins Senator Phillip Gladue Senator Fern Hinse

Senator Gerald Pope Senator John Sayers