



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

DELORES JOHNSON

Applicant

and

MÉTIS NATION BRITISH COLUMBIA CENTRAL REGISTRY

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 finds in favour of the Métis Nation British Columbia's Central Registry.
 - a. It ought to be noted that should the parameters for MNBC citizenship change, or if the applicant discovers new information or documentation, that this decision does not limit or negate the applicant from reapplying for MNBC citizenship.
 - b. 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 horizontal line.

Dean Trumbley
Interim Senate Clerk

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

Appeal Name: Johnson vs. MNBC Central Registry,
1-11-06-41-3-00002

Date: 20070805
Senate Clerk: Trumbley
Location: Kelowna

Between:

Delores Johnson

Applicant

And

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

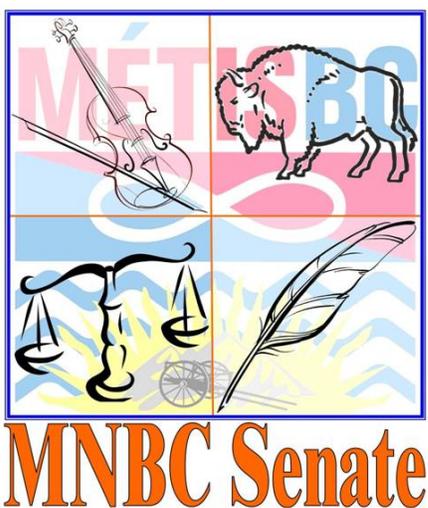
Respondent

Reasons for Decision

Residing Senators:

Senator Philip Gladue
Senator Margaret Penner
Senator Bill Thibeault

Senator Bob Adams
Senator Ron Snider



Introduction

[1] On March 07, 2007 the applicant, Mrs. Delores Johnson received a letter from the respondent, the MNBC Central Registry, indicating that her citizenship could not be validated or verified based on the qualifiers for MNBC Citizenship. Specifically, the respondent's letter highlighted:

"the national definition for the Métis (ratified in the MNBC Constitution) does not include individuals whose ancestry originates from Quebec, at this time, based on the historical research to date".

However, the applicant disputes this decision based on the claim that her aboriginal ancestry does not originate from Quebec but instead Simcoe County/Penatanguishine what is now a part of the Historic Métis Nation Homeland in Ontario. Those aboriginal ancestors then moved to Quebec and eventually out west.

Summary of the Case Law and MNBC Legislation

a) 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.

[3] 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 include all individuals with mixed

Indian and European heritage, it does refer 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.

b) MNBC Legislation, Policies and Procedures

[4] 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.*

[5] 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.

[6] 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 and Procedures.

[7] Section 9.0 of the **Senate Policies and Procedures**

highlights the process utilized when conducting a citizenship and/or central registry appeal. Section 9.4.1 and 9.4.2 further enforces the required adherence to the national definition.

Parties Submissions

a) MNBC Central Registry

[8] Mrs. Johnson was notified on her unsuccessful application by the MNBC Central Registry, via a mailed letter, dated March 07, 2007.

[9] A letter dated July 16, 2007 submitted in the Citizenship Appeal file indicated:

"The research conducted on this file was for the purpose of MNBC citizenship, specifically the genealogical component that requires applicants to validate and verify genealogical ties to the traditional Métis homeland, and the founders of the first Métis Nation. The genealogy and supporting documentation provided does not meet the above noted criteria and therefore the Office of the Provincial Registrar was not able to validate and verify the genealogy for MNBC citizenship."

[10] Mrs. Katernick verbally testified in person on behalf of the MNBC Central Registry on August 05, 2007. Mrs. Katernick is the Provincial Registrar and also a genealogist. Mrs. Katernick indicated that there was a tremendous amount of information submitted by the applicant. Mrs. Katernick specified that Mrs. Johnson supplied eight Métis family names that she was directly connected to. Mrs. Katernick indicated that in her research for each of the eight cases Mrs. Johnson does not directly descend from those Métis family lines. In all cases Mrs. Johnson's ancestors originate from the Quebec area previous to the establishment of the Métis Homeland. Thus, when moving forward through time Mrs. Johnson's direct ancestors had siblings that married into the Métis communities (or took aboriginal partners), however Mrs. Johnson's direct

(meaning biological grandparents 3-5 generations back) ancestral line remained outside of the Métis community. Mrs. Katernick stated that Mrs. Johnson does derive from Huron ancestry, from the Quebec area, some time prior to 1640. This is the only direct First Nations ancestry that Mrs. Katernick could locate within the supplied documentation.

[11] Mrs. Katernick mentioned that Mrs. Johnson's paternal line included the "Thompson" families. Mrs. Katernick indicated that she spoke with Mrs. Johnson about the "Thompson" line as it maybe a prospect for determining a Métis connection; however Mrs. Johnson indicated that the "Thompson" line was not Métis. Mrs. Katernick received no documentation for the "Thompson" line from Mrs. Johnson.

[12] Mrs. Katernick indicated that the genealogy completed by Mr. Stanley Hulme, which was submitted does not guarantee MNBC citizenship. Although Mr. Hulme is a reputable and accomplished genealogist he does not collect primary source documentation that backs the family tree. Mrs. Katernick indicated that the genealogical report submitted by Mr. Hulme would not be a court ready document if challenged under Section 35.

b) Mrs. Johnson

[13] Mrs. Johnson sent a letter, via e-mail, on March 26, 2007 to Mr. Keith Henry, Chief Executive Officer of the Métis Nation British Columbia and also forwarded the same letter, via e-mail to Senator Alan Edkins on May 08, 2007. Mrs. Johnson stated that her aboriginal ancestry originated from Simcoe County not Quebec, as stated in Mrs. Katernick's letter which denies her application for Métis citizenship. Mrs. Johnson felt that the Simcoe County/Penatanguishine area of what is now Ontario is part of the Historic Metis Nation

Homeland. Mrs. Johnson indicated that her ancestors moved into Quebec and then left from Quebec and went west. Mrs. Johnson then provided the following;

"Nicolas Arendanki/Anenonta/Arendakohi, his wife Jeanne Trihouandet/Otrihouandit and their daughter Catherine were Huron from the Simcoe County/Penatanguishine area of what is now Ontario. The fact that Catherine was taken to Québec and settled there does not change the origination of the aboriginal ancestry. If Simcoe County is considered outside the area identified as the Métis Homeland then most of Ontario below Lake Superior is outside the Homeland. The Huron in the 1600/1700s ranged through a good portion of central and northern Ontario particularly through the lake system."

[14] Mrs. Johnson indicated that her genealogy was also proofed by the Métis genealogist Stanley Hulme who advised the Mid Island Métis Nation that;

"In his opinion Mrs. Johnson's ancestry would meet the definition."

[15] Mrs. Johnson specified that she has been active in the Métis culture for a few years now. Mrs. Johnson had a previous Métis Provincial Council of British Columbia card and was a member of Mid Island Métis Nation. Mrs. Johnson was the elder that signed the second Aboriginal Education Enhancement Agreement in Nanaimo.

[16] Mrs. Johnson said that her genealogy clearly shows that we have been Métis for many generations with strong ties to the Red River at an early date, especially having a great grandfather who was with LaVerendrye during the exploration of Manitoba and Winnipeg in the 1700's.

[17] Mrs. Johnson was born in the historic Métis community of Fort Frances, as was her mother. Mrs. Johnson's grandmother was born in the historic Metis community of Fond du Lac in Minnesota. Mrs. Johnson indicated that you will note many Métis names in her genealogy. Mrs. Johnson's Métis ancestry

also goes back to the Acadian Métis which she knows the MNBC no longer recognizes but did so a few years back when she was a member of the Mid Island Métis Nation.

[18] On August 05, 2007 Mrs. Johnson was provided the opportunity to verbally testify by phone to the Senate under oath, however declined.

c) Société historique de Saint-Boniface

[19] Mr. Gilles Lesage, Directeur général of the Société historique de Saint-Boniface supplied a second professional genealogical opinion by e-mail on August 01, 2007. Mr. Lesage indicated the following;

"In the case of Delores Johnson, we have not been able to locate any direct ancestor which would have been officially recognized as a Métis. The André Pilon for whom there is a scrip record included in the documentation you provided to us is a related uncle to an ancestor of hers however his descendants would be Métis (his children onwards) but not André's siblings or their descendants. Jeanne Marie Joan Bédard's father is from a couple living in Québec which does not link to any Métis family and her mother Roseanne Leblanc is also a daughter from a Québec family which has no link to a Métis family."

The Standard of Review

[20] 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 application review period. Since this appeal involves a question around the genealogical interpretation of the respondent, the Senate has ordered a second professional opinion to assist in their review. Furthermore, the Senate will adhere to the citizenship and/or central registry appeal process highlighted in Section 9.0 of the **Senate Policies and Procedures**. The Senate further understands that the onus to prove citizenship is the responsibility of the applicant, Mrs. Johnson not the

respondent, the MNBC Central Registry.

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

Analysis

a) MNBC Policy and Procedure Adherence

[22] Although this case does not deal with a breach in policy or procedure, the Senate upon review, found that the MNBC Central Registry did not violate or over-look any policies or procedures.

b) Genealogical Interpretation

[23] Both the MNBC Central Registry and the historique de Saint-Boniface indicated that they could not determine a link and/or ancestor that identified as Métis and resided within the Métis Nation Homeland.

[24] Furthermore, the aboriginal ancestry was identified by the genealogical research as Huron from the Quebec areas. Although the ancestry does identify an aboriginal and a French-Canadian background none of these ancestors were found to have identified as Métis or Half-Breed or had network (via family or community) connections within the Métis Homeland.

R. v. Powley, [2003] the Court defined the term Métis as "*...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*".

[25] Based on the information supplied, testimony and the genealogical opinions (MNBC Central Registry and the historique de Saint-Boniface) the Senate could not identify a direct bloodline connection to the Métis Homeland or the presence of a Métis ancestor in Mrs. Johnson's genealogy. All

eight Métis family names supplied by the applicant were ruled out by the genealogical opinions as not being direct descendants but instead being 3-5 generation removed from the primary ancestor that originated in Quebec. No information was supplied by the applicant on the paternal "Thompson" line therefore, it could not be ruled on.

c) MNBC Legislative Adherence

[26] Mrs. Johnson fails to comply with two parts of the National Definition as specified in the *MNBC Citizenship Act*.

Those being;

- i) Mrs. Johnson failed to supply the appropriate documentation that proves her historic Métis Nation Ancestry.
- ii) Mrs. Johnson failed to supply the appropriate documentation that proves her ancestry is distinctly unique from First Nations.

Decision

[27] The MNBC Senate finds in favour of the Métis Nation British Columbia's Central Registry.

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