

IN THE MÉTIS NATION BRITISH COLUMBIA'S SENATE

Appeal Name: *Hubert v. MNBC Central Registry*

File: 3-30-04-88-2-00170

Date: June 2, 2021

Senate Clerk: Bill Bresser

Location: Conference Call

Between:

Jerimiah Thomas Hubert

Applicant

And:

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

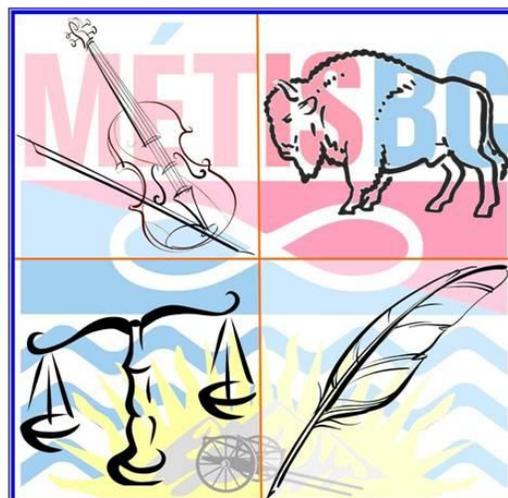
Respondent

Reasons for Decision

Presiding Senators:

Senator Alan Edkins
Senator Gerald Pope
Senator John Sayers

Senator Betty Hoogendoorn
Senator Sandra Conlon
Senator Phillip Gladue



MNBC Senate

Introduction

[1] On February 25, 2021 the Applicant, Jerimiah Thomas Hubert, received a letter from the Respondent, the MNBC Central Registry, indicating that his citizenship could not be validated or verified based on the requirement to genealogically support ancestral connection to the historic Métis Nation Homeland, a mandatory component of the registration process. Specifically, the Respondent's letter highlighted that:

- The review verified the ancestry to be from Sault Ste. Marie, Ontario, which is not part of the historic Métis Nation Homeland.
- In 2002, the Métis National Council adopted the National Definition of Métis, and that this National Definition is used by all Métis Governing bodies when registering Métis.
- The National Definition is as follows: "Métis" means a person who self-identifies as Métis, is distinct from other Aboriginal peoples, is of historic Métis Nation Ancestry and who is accepted by the Métis Nation."
- Meeting the National Definition is a mandatory component of the registration criteria.
- Individuals applying to register provincially with the MNBC Citizenship Registry must be able to genealogically link the applicant to their ancestral connection to the historic Métis Nation Homeland.

The applicant has requested the Senate to review the applicant's citizenship application package and all related materials and decide if the process and interpretations of the Registrar was consistent with the intent of the "National Definition" and the MNBC *Citizenship Act*.

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 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.”

b) MNBC Legislation, Policies and Administrative Standards and Practices

[4] 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.

[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 Manual and Administrative Standards and Practices.

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

Second Genealogical Opinion

a) Société historique de Saint-Boniface

[8] Halley Ducharme from the genealogical department of the Société historique de Saint-Boniface supplied a second professional opinion by letter on April 30, 2021. Halley Ducharme indicated the following:

*“The information submitted by your client, Jerimiah Thomas Hubert, has been reviewed. The ancestor in question, Marguerite Boissonneau, undoubtedly has indigenous ancestry. What is interesting is that while Marguerite Boissonneau claims Chippewa French-Breed on the 1901 Canadian Census, in Algoma, Ontario; she does not, nor do any of her indigenous ancestors appear to fall within the parameters of what is believed to be the Historic Métis Nation Homeland. It is possible that Marguerite Boissonneau saw herself as culturally distinct from both her father and mother. However, it is my professional opinion that Mr. Hubert’s ancestors do **not** connect into the Historic Métis Nation as they were then known or their homeland.”*

The Standard of Review

[9] 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, the Senate 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 982 of the Senate Policy Manual. The Senate further understands that the onus to prove citizenship is the responsibility of the applicant, Jerimiah Thomas Hubert, not the respondent, the MNBC Central Registry.

[10] 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

a) MNBC Policy and Procedure Adherence

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

b) Genealogical Interpretation

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

[13] Further, there was no evidence supplied by Jerimiah Thomas Hubert to verify a distinct ethnic connection to the Métis.

[14] Based on the information supplied, testimony and the genealogical opinions (MNBC Central Registry 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 Jerimiah Thomas Hubert's genealogy.

c) MNBC Legislative Adherence

[15] Jerimiah Thomas Hubert 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

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

[17] 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.