

Federal Court



Cour fédérale

Date: 20101207

Docket: T-2017-09

Citation: 2010 FC 1226

Ottawa, Ontario, December 7, 2010

PRESENT: The Honourable Mr. Justice Zinn

BETWEEN:

**THERESE VILLENEUVE and BERNADETTE UNKA
ON THEIR OWN BEHALF AND ON BEHALF OF
OTHER MEMBERS OF THE
DENINU K'UE FIRST NATION**

Applicants

and

**VIOLET BEAULIEU, ALICE DEBOER, DENNIS KING,
HANK MULDER, ROBERT SAYINE, RAYMOND SIMON,
LOUIS BALSILLIE, GREG BALSILLIE, CAROL COLLINS,
DAVE PIERROT, PATRICK SIMON, DENINU KU'E FIRST NATION and
THE MINISTER OF INDIAN AND NORTHERN AFFAIRS CANADA**

Respondents

REASONS FOR ORDER AND ORDER

[1] The applicants seek an extension of time, pursuant to Rules 8 and 397(1) of the *Federal Courts Rules* to serve and file a notice of motion to reconsider my Reasons for Judgment and Judgment that issued on June 16, 2010.

[2] If an extension of time is granted, the relief sought is set out in the Notice of Motion as follows:

2. Relief in the nature of clarification and further direction, pursuant to Rule 397(1) of the *Federal Courts Rules*, 1998, in respect to the Judgment, in particular with respect to:
 - i. a mandatory date for an election (hereinafter the “New Election”) for Chief and Council of the Deninu K’ue First Nation (Hereinafter “DKFN”);
 - ii. the timeline and procedure to govern the New Election;
 - iii. the term of the position of Chief to be filled in the New Election;
 - iv. the councilor positions to be filled in the New Election and for what term;
 - v. the procedures by which DKFN members who do not reside in Fort Resolution (hereinafter the “non-resident members”) are to be notified of and may vote in the New Elections, and specifically:
 1. that advance polling stations be established with consideration for location given to the communities where large numbers of non-resident members reside, including Yellowknife, Hay River, Fort Smith, and Edmonton; and
 2. that procedures be established whereby non-resident members can vote by proxy;
 - vi. the status of Dave Pierrot as a councilor of DKFN; and
 - vii. any other particulars in relation to the New Election as this Honourable Court deems necessary;
3. In the alternative, an Order to set:
 - i. a mandatory date for the New Election;

- ii. the timeline and procedure to govern the New Election;
- iii. the term of the position of Chief to be filled in the New Election;
- iv. the councilor positions to be filled in the New Election and for what term;
- v. the procedures by which non-resident members are to be notified of and may vote in the New Election, and specifically:
 - 1. that advance polling stations be established with consideration for location given to the communities where large numbers of non-resident members reside, including Yellowknife, Hay River, Fort Smith, and Edmonton; and
 - 2. that procedures be established whereby non-resident members can vote by proxy;
- vi. the status of Dave Pierrot as a councilor of DKFN; and
- vii. any other particulars in relation to the New Election as this Honourable Court deems necessary;

4. Costs of this motion on a solicitor and his own client basis.

[3] The ten-day period provided in Rule 397 within which to bring a motion to reconsider is short and it is so, in part, because this Rule is meant to permit the Court to correct irregularities or omissions in judgments, not to request that further orders be made when one party is alleged to have failed to comply with a judgment.

[4] It is evident from their Written Representations that the applicants' principal main complaint is that the Deninu K'ue First Nation (DKFN) has not set an election date. In my Reasons for

Judgment, I stated: “In light of my finding that the election held in November 2009 was invalid, Council ought to call an election for the position of Chief and those councilors who have already served a term of four years.” An election date of February 8, 2011, has now been set. There was no request in the Notice of Application filed by the applicants to set a mandatory date for an election and it would be improper for the Court to consider doing so now.

[5] The applicants have received the essence of what they are seeking in their motion to reconsider: a fixed election date. The *Election Regulations* and my observation in my Reasons for Judgment that the current Council members, as defined in the Judgment, retain their positions until the next election, provide a complete answer to the other relief requested.

[6] The concerns raised by the applicants relating to the fairness of the election are completely speculative.

[7] I find that the motion to reconsider has no merit, and accordingly, I do not exercise my discretion to extend the time limit in Rule 397: *Canada (Attorney General) v Hennelly*, [1999] F.C.J. No. 846 (C.A.). Even if the Court were inclined to extend the time limit, the motion would be dismissed.

[8] The respondents, other than the Minister of Indian and Northern Affairs, are awarded their costs of this motion which I fix at \$1,000.00, inclusive of fees, disbursements and taxes.

ORDER

THIS COURT ORDERS that this motion is dismissed with costs payable to the respondents, other than the Minister of Indian and Northern Affairs, fixed at \$1,000.00, inclusive of fees, disbursements and taxes.

“Russel W. Zinn”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: T-2017-09

STYLE OF CAUSE: THERESE VILLENEUVE ET AL v. VIOLET
BEAULIEU ET AL

PLACE OF HEARING: Yellowknife, Northwest Territories

DATE OF HEARING: June 10, 2010

**REASONS FOR ORDER
AND ORDER:** ZINN J.

DATED: December 7, 2010

APPEARANCES:

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FOR THE APPLICANTS

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FOR THE RESPONDENTS
VIOLET BEAULIEU AND OTHERS

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