

Decision of the Enrolment Review Board

Hearing Dates:

September 29, September 30, October 1 and November 22, 2010

Date of Decision:

November 23, 2010 at Pembroke, Ontario

Enrollment Review Board Members:

Terry Charbonneau (Chair) - Snimakobi

Alex Butler (Alternate) - Antoine

Gary Eady - Snimakobi

Robert Majaury - Ottawa

Donald Paquette – Mattawa-North Bay

Gordon Whiteduck – Mattawa-North Bay

Support:

R. Benjamin Mills (Counsel to the Board)

Joan Holmes (Enrollment Officer)

Decision:

Appeals Dismissed (Charbonneau, Eady, Majaury, Whiteduck) with a dissent (Paquett)

Decision and Reasons of the Majority (Charbonneau, Eady, Majaury, Whiteduck):

Appeals Dismissed

1. We acknowledge that on the balance of probabilities on the basis of information presented before this Board, the Thomas – Foy Line (with its root ancestor being Margaret Thomas) and the Hannah Mannell Line (with its root ancestor being Hannah Mannell) are of aboriginal descent. However, on the basis of the information before this Board, we are of the view that they are of Cree as opposed to Algonquin origin.

2. Nonetheless, the Thomas-Foy Line and Hannah Mannell Line were accepted by a properly constituted Appeal Board under the 1994 Enrollment Law by way of the applications of Nicholas and Larochelle. The decision of that Appeal Board to accept for enrollment Nicholas and Larochelle withstood the 90 day appeal period according to the 1994 Algonquin Enrollment Law. We do not now have the authority to revisit or sit in appeal of that Appeal Board.
3. The submissions by the affected parties were honest, heartfelt and compelling. However, the anecdotal evidence presented regarding their acceptance and/or association with Algonquins through various generations is not contemplated as being a basis for enrollment pursuant to Algonquin Enrollment Laws. As such, we decline to declare that these individuals are Algonquin other than for the very limited purpose of being listed as electors with the ability to vote for ANRs.
4. We came to this view because we must give effect to all of the 1994 and 2004 Enrollment Laws. As descendants of aboriginals, the members of the Thomas/Foy and Hannah Mannell Lines are entitled to benefit of the application of procedural protections granted under Algonquin Law (such as the 90 day appeal period). Further, this line is comprised of some individuals who cannot be described as interlopers but include individuals of aboriginal descent that, at least on the anecdotal evidence presented to this Board, associated with the Algonquin Community both prior to and after enrollment.
5. The issue of the ability of descendants of the Thomas Foy and/or Hannah Mannell Lines to participate in other processes, such as voting on, or being entitled to benefits under, any interim or final agreement or treaty will have to be revisited in a coordinated process that addresses all potential errors rather than in a piecemeal manner.
6. However, we cannot let a known error be compounded. As of this date (being November 23, 2010), there is a moratorium further enrollment of applicants that descend from the Thomas-Foy and/or Hannah Mannell lines. This moratorium does not effect previous enrollments, including Adele J. Gant, Audrey Arlene Liedke, Luanne Morden and Lee Ann Freymond.
7. Further, it is our recommendation, that all individuals enrolled by way of an appeal board be reviewed to confirm Algonquin ancestry. This will avoid the problem of a single line being centred out for scrutiny but will allow for a broader review where all potential errors may be identified and addressed. The goal is to get to the most accurate list of Algonquins on common criteria.
8. The ANRs will have to turn their minds to the administrative mechanism by which this can be done in an expeditious manner.
9. We are of the view that the process of identifying Algonquins for the purpose of voting on or participating in any interim or final agreement or treaty, should be

done by a board of Algonquins who have benefited from some training and guidance on basic genealogy and standards of proof as well as accepted practices in ethno-history. For example, we have seen confusion on the issue of Algonquins as a nation with territory (which are the people that need to be identified so as to participate in and benefit from a treaty) and Algonkian as a language group without a common territory, which would include various aboriginal nations, such as Cree, Ojibwa, Micmac etc.

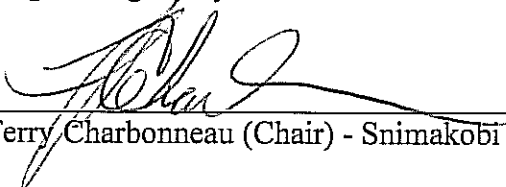
10. Posting of enrollments should be in all Algonquin communities as identified from time to time. The posting should also identify the root ancestor for each person enrolled.

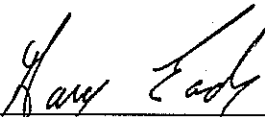
Dissenting Decision and Reasons (Paquette):

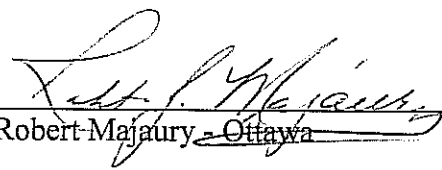
Appeals Granted

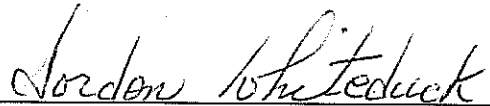
11. I am of the view that the Thomas-Foy and/or Hannah Mannell lines are of Cree descent, which is of course aboriginal. However, on the information that has been presented at the hearings, I am not convinced that descendants of these lines are of Algonquin descent.
12. Further I am of the view that the appeal board that enrolled Nicholas and Laroche was in error.
13. These individuals were enrolled without proof of Algonquin descent. Rather, it appears that the appeal board accepted aboriginal descent, combined with living at Golden Lake, as being sufficient for enrollment. I am of the view that the 1994 Enrollment Law does not allow for enrollment on that basis.
14. As such, those enrolled on the Thomas-Foy and/or Hannah Mannell line should be dis-enrolled.
15. Despite my disagreement with the majority on how these appeals should be determined, I agree with the recommendations made by the majority for a further review of those enrolled by way of an appeal board. As evidenced by the inclusion of the Thomas-Foy and Hannah Mannell Lines, there are errors in the enrollment list which need to be addressed.

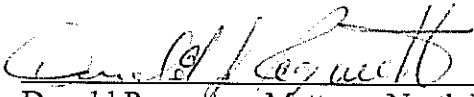
Original Signed by:


Terry Charbonneau (Chair) - Snimakobi


Gary Eady - Snimakobi


Robert Majaury - Ottawa


Gordon Whiteduck - Mattawa-North
Bay


Donald Paquette - Mattawa-North Bay