

Ta'an Kwäch'än Judicial Council Record of Decision

Case Number: TKJC 04-02

Applicant: Kevin Adamson



Respondent: Ta'an Kwäch'än Council
117 Industrial Road
Whitehorse, YT.
Y1A 2T8

Hearing Date: May 14, 2004

Location of Hearing: Boardroom 1, CYFN Building
11 Nisutlin Drive
Whitehorse, Yukon

Appearing on behalf of applicant: Kevin Adamson, Pamela Adamson, Barbara Hare, Ann Marie Miller, Hazel Bunbury

Appearing on behalf of respondent: Daryn Leas, Legal Counsel

Ta'an Kwäch'än Judicial Council Judges: Chuck Hume, Michael Dougherty (via speaker-phone), John Bailey

In these proceedings, the applicant asserts the following:

1. That the Ta'an Kwäch'än Enrollment Committee illegally rejected Kevin Adamson's application to become a Ta'an Kwäch'än Citizen and the Enrollment Coordinator did not fulfill obligations to ensure that the application was complete and had all required supporting documents prior to being submitted to the Enrollment Committee.
2. That the Ta'an Kwäch'än Council Elections Committee and Board of Directors illegally disqualified Kevin Adamson as a candidate for election as Chief contrary to 9.1.1.1 of the Constitution of the Ta'an Kwäch'än Council (2004).
3. That the Ta'an Kwäch'än Resolution Committee failed to accurately reflect discussions at the November 28-30 General Assembly respecting Constitution provisions relating to traditional candidacy.

Mr. Kevin Adamson is a land claim beneficiary and status Indian of the Champagne and Aishihik First Nations. He applied to become a Ta'an Kwäch'än Citizen on April 6, 2003. His application, however, did not include all documents necessary to complete his transfer to Ta'an Kwäch'än from Champagne and Aishihik First Nations. It appears from the record that, contrary to 4.2 of the Citizenship Code, that the Ta'an Kwäch'än Enrollment Coordinator did not ensure that Mr. Adamson's application was complete before forwarding his application to the Citizenship Committee. Following consideration of Mr. Adamson's application on August 4, 2003, that Committee determined his application was incomplete and instructed the Coordinator to inform Mr. Adamson of the requirements to complete his application. The Enrollment Coordinator also provided Mr. Adamson with the appropriate forms to complete his application. Mr. Adamson, however, advised the Judicial Council that he elected not to take any subsequent action to complete his application.

Mr. Adamson contends that, as a direct descendant of a Traditional Family, he is qualified to run for Chief under provision 9.1.1.1 of the Constitution of the Ta'an Kwäch'än Council (2004). It is clear from

2.1 and 9.1 of the Constitution that a person must be a Citizen to run for Chief and consequently, Mr. Adamson did not qualify.

Mr. Adamson contends that the Constitution of the Ta'an Kwäch'än Council (2004) does not accurately reflect discussions at the November 28-30, 2003 General Assembly at which amendments were addressed. Evidence was submitted by the Ta'an Kwäch'än Council to show that the Constitution of the Ta'an Kwäch'än Council was amended by a valid resolution dated November 30, 2003 and consequently, in the view of the Judicial Council, the 2004 Constitution is valid.

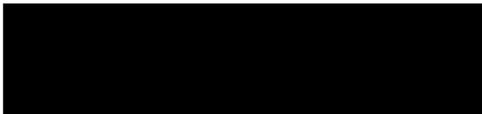
The Citizenship Committee did not indicate that it rejected Mr. Adamson's application and he was provided with the information and forms required in order to complete his application. As he advised the Judicial Council, he elected not to complete the documents required to complete his application for citizenship. The Enrollment Coordinator did not carry out obligations under 4.2 of the Ta'an Kwäch'än Citizenship Code to ensure that Mr. Adamson's original application was complete before being forwarded for consideration by the Citizenship Committee. However, this matter was addressed when the Citizenship Committee directed the Enrollment Coordinator to provide Mr. Adamson with the information and forms required to complete his application. It is the view of the Judicial Council that Mr. Adamson's application for citizenship was not rejected, but rather that he elected not to complete the application. As a result this complaint is dismissed.

With respect to the second complaint noted above, 2.1 and 9.1 of the Ta'an Kwäch'än Constitution (2004) clearly state that a person must be a Citizen to run for Chief and, as such, Mr. Adamson did not qualify. The Ta'an Kwäch'än Judicial Council dismisses this complaint.

With respect to the complaint that the Constitution is not valid, it is noted that the evidence brought forward in support of this complaint were summary minutes of the 28-30, 2003 General Assembly. The authoritative document amending the 1998 Constitution is the Resolution doing so dated November 30, 2003. In the view of the

Judicial Council, this Resolution makes it clear that the 2004 Constitution is valid.

Finally, the Judicial Council notes that many of the views expressed by the applicant during the hearing relate to strongly held concerns with the Constitution of the Ta'an Kwäch'än Council (2004). The Judicial Council has no authority to make changes to the Constitution as amendments may only be made using the Amending Procedures in the Constitution, which require consideration by a General Assembly.



Chuck Hume
Judge



John Bailey
Judge



per: Michael Dougherty
Judge