

Federal Court



Cour fédérale

Ottawa, May 24, 2019 – A decision was issued today by Justice Sébastien Grammond of the Federal Court in file T-146-19:

IN THE MATTER OF SAMANTHA WHALEN versus FORT MCMURRAY NO. 448 FIRST NATION

Translation of Summary into Cree and Dené

The Federal Court is committed to being more accessible to Indigenous people when they wish to bring legal disputes for resolution by the Court. For example, many Court hearings are held directly in the Indigenous community or via webcast from a Courthouse; and where appropriate, Court procedure is adapted to make space for Indigenous protocols and legal traditions. With the release of today’s decision, the Court is also taking another step in making Court decisions more accessible – with a summary prepared and recorded in the Indigenous language of the parties. The Court thanks the language keepers who assisted with preparation of this summary in Cree and Dené.

Summary of Judgment

In January 2019, the Council of the Fort McMurray First Nation suspended one of its members, Councillor Samantha Whalen. The Council concluded that Councillor Whalen engaged in wrongful conduct, including the disclosure of financial information and her participation in a blockade of the First Nation’s premises.

Councillor Whalen challenged the Council’s decision before the Federal Court on the grounds that the Council did not have the power to suspend her.

The Court agreed with Councillor Whalen. The Court noted that the Fort McMurray First Nation has an election code, and that the Council defended its decision relying on a provision in the election code that says that councillors can be removed or suspended if they do certain specific things. However, the Court found that Councillor Whalen did not do any of those things. The Council cannot suspend a councillor for reasons other than those mentioned in the election code.

The Council also defended its decision by stating that it was based on the First Nation’s custom. The First Nation said that in the last 25 years, it had suspended three councillors. The Court disagreed with the First Nation. The Court concluded that two of the suspensions were for reasons that were mentioned in the election code. The other suspension was voluntary. Therefore, the First Nation does not have a custom of suspending councillors for reasons other than those mentioned in the election code.

The Court struck down the Council’s decision and reinstated Councillor Whalen.

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A copy of the decision can be obtained via the Web site of the Federal Court: <https://decisia.lexum.com/fc-cf/decisions/en/item/406216/index.do?q=T-146-19>

An audio recording of this summary in Cree and Dené is available on the Court website at: <https://www.fct-cf.gc.ca/en/pages/media/webcast>

**May 24, 2019 hulta k'e – Denesiyaniḡḡi nedhé ha K'olderé Sébastien Grammond Federal Court
Denesiyaniḡḡi kuᑭ nedhé hots'ḡ t'a yatı theḡtsḡ Ɂerihḡ'is hulta T-146-19: Samantha Whalen Ɂediri Fort
McMurray No. 448 nih hudzai Denedédḡne k'oldé haralᑭá ghḡ nayaḡḡi**

Ɂena Cree chu Dené yatıé Ɂa t'anodher sı beghḡ yası det'is Ɂeḡḡ

Ku Denesiyaniḡḡi Kuᑭ nedhé Federal Court k'ı hotie t'ḡ losı denedédḡne Ɂedek'edı horeḡḡh dé ba nuḡ'a hoḡḡ t'oho losı Denesiyaniḡḡi kuᑭ nedhé Ɂası ghḡ nayaḡḡi horeḡḡh dé. Ku Ɂediri laḡ'e Ɂası hats'edı sı, t'oho Ɂası behayati dé Ɂeḡḡ Denesiyaniḡḡi Kuᑭ nedhé yısı dene nalé hile huto t'ok'e nodhı hots'ḡ boreḡ'ḡ dene xa; ku t'oho hoḡḡ dé, Denesiyaniḡḡi kuᑭ yısı dene ch'alanie huto dene ts'ḡ Ɂası hel halddhᑭn fı. Ɂa duḡḡ t'a yatı beredı sı Ɂeḡḡ, t'a Denesiyaniḡḡi Kuᑭ nedhé yunadhe honátthé nadaret'eth godhé hasḡ Ɂediri denedédḡne hel Ɂası daḡtı ha Ɂá, k'ḡḡḡ hıḡdu t'atthé sı dene yatıe Ɂa beghḡ yası yatı det'is sı t'ḡ dene beḡ Ɂası nodher sı bá. Ɂeyı Ɂa Denesiyaniḡḡi Kuᑭ nedhé Ɂediri denedédḡne yatıe Ɂa nuhets'edarḡḡḡ marsı danıdhᑭn sı, Dene chu Ɂena yatıe t'á Ɂediri Ɂerihḡ'is selyá sı bası.

T'a yatı nedhé holḡ hots'ḡ Ɂeḡḡ yası yatı hılchú sı

January 2019 neḡḡ k'é, Fort McMurray First Nation Denedédḡne ha k'oldé, Ɂḡḡaghé dene Samantha Whalen k'oldé hel thedá ḡḡ beredı ḡḡ. Ku t'ḡ k'oldé hadánḡḡḡ hu Councillor Whalen Ɂeltth'ılé Ɂası k'anádher ḡḡ Ɂá, ku Ɂḡḡaghé due noḡḡher hadé, nahıyé Ɂerihḡ'is tsamba ghet'el bası ḡḡnı dene Ɂeyer Ɂerihḡ'is kuᑭ darḡdél hu Ɂeyı dene ts'enḡ ha yerıḡḡ ḡḡ.

Ku Ɂeyı dene hel k'olderé ghḡḡḡ ḡḡ Whalen dene t'ḡ k'oldé Ɂeltth'ıle beredı henḡ Ɂa Denesiyaniḡḡi Kuᑭ nedhé ts'ᑭn dene ghḡ nayaḡḡi ḡḡ, t'ḡ k'oldé bebá hoḡḡ hıle ḡḡ Ɂa dene herenḡ ha dué Ɂá henḡ ḡḡ.

Ku Ɂediri Denesiyaniḡḡi kuᑭ nedhé Councillor Whalen ts'edarḡḡḡ, ku Ɂediri Denesiyaniḡḡi kuᑭ nedhé t'anḡdéd yatı theḡtsḡ hadé, Fort McMurray First Nation denedédḡne haralᑭá t'ḡt'u dene xa Ɂeḡıgıdh Ɂerihḡ's nedhé bets'ḡ sı election code hulyé Ɂa Ɂedek'edı ḡḡ. Ɂeyı t'ḡ k'oldé haradı hu nuhebá hoḡḡası dene heredı ha t'oho losı Ɂḡḡaghe hutó Ɂası due noḡḡher dé ha bek'e det'is gharé. Kuli, Denesiyaniḡḡi kuᑭ nedhé t'a hıḡḡḡ hadé Councillor Whalen t'ahoḡtsḡ hets'edı theḡtsḡlé ḡḡ. Ɂeyı Ɂa t'ḡ k'oldé yerénḡ ha dué ḡḡ t'a det'is gharé hıle ḡḡ Ɂá

Ku t'ḡ k'oldé Ɂediri yatı Ɂa Ɂedék'edı kḡt'ı Ɂası hoḡé ha nuheba hoḡḡ Ɂá dadı Ɂası sughua ghet'el hadé nuhenᑭḡ k'eyaghé. Ɂeyı Ɂa yunḡ 25 neḡḡ t'a hudher sı, taḡḡ Councillors hedarḡḡḡ ḡḡ. Ɂeyı t'anodher sı Denesiyaniḡḡi Kuᑭ Nedhé yets'erenḡlé Ɂediri Denedédḡne haralᑭa k'ı. Ɂeyı hots'ḡ nadene Ɂediri Ɂerihḡ'is

nedhé bet'a ɔɛɪɪɪdɪh k'enats'edé yatí ɔa nɪ. Ku ɔɪɪɪɪghé ɔedɪnɪ t'anɪdhɛn ɔa ɔenat'é nɪ. ɔeyɪ ɔa ɔejɔ Dene haralɔá hotthé ba hoɔɔ hilé nɪ k'at'u dene herénɪ ha t'a det'is dathédhé ɔerɪht'is election code yé.

Denesɪyanɪɪtɪ kuɛ nedhé t'a yatí theɪtsɪ Council t'a dene herénɪ yatí theɪtsɪ narɪɪdédé sɪ chu Councillor Whalen bela t'anahɪɔɔ sɪ.

opiniyāwēhowi-pīsim 24, 2019 – oyasiwēwin kī-pakitinikātēw anohc ohci Justice Sébastien Grammond okimāwīhk wiyasiwēwin ohci pihci file T-146-19: Samantha Whalen mawinēham Fort McMurray No. 448 nistam-iyiniwak

itwēstamākēwin ohci kiskinwahikēwin isi nēhiyawēwin mīna ō-cīpwēyānimōwin

okimāwīhk wiyasiwēwin āhkamēyih tamwak ayiwāk ta-kwayāci nēhpēmīna isi Nēhiyaw-iyiniw kīspin akāwātamwak ta-pē-itohtatāt wiyasiwēwin mawinēhikēwinahk kiki maskawēy ihtamowin ohci wiyasiwēwinohk. tāpiskōc, mihcēt wiyasiwēwinohk kīhkihtowinahk miciminikātēw tipiskoc pihcī-nēhiyawī-māmawāyāwinohk ahpō isi webcast ohci wiyasiwēwikamikohk; mīna ita katawāhk, wiyasiwēwinohk paminikēwin isi nakayāskamowin ta-tawinikihk kiki nēhiyawī-nahēyih towin mīna wiyasiwēwin nakayāskamowina. asici pakitinikēwin anohc ōma itēyih tamowin, wiyasiwēwinohk mīna otinam kīhtwām yahkohtēwin ta-osihtat isi wiyasiwēwinohk itēyih tamowina ayiwāk ta-kwayāci nēhpēmīna – asici kiskinwahikēwin osīh cikātēw mīna masinahikātēw pihcī nēhiyawī-pīkiskwēwin ohci parties. wiyasiwēwinohk nanāskomēw ōhi pīkiskwēwin kanawēyih cikēw ēkwāna ka-wīcihiwēt asici kwayācihtā win ōma kiskinwahikēwin isi nēhiyawēwin mīna ō-cīpwēyānimōwin.

kiskinwahikēwin ohci itasiwācikēwin

ispīhk kisē-pīsim 2019, ōki nīsōhkamākēwak ohci Fort McMurray nistam-iyiniwak pakitinēwak pēyak pimohtēstamakēwa, pimohtēstamakēw Samantha Whalen. ōki Nīsōhkamākēwak miskwēyih tamwak ēkwāna pimohtēstamakēw Whalen kī-nōcihtāw māyahkamikisiwin, asici mīna mōskipicikēwin sōniyāwī-ācimostākēwin ohci ēkwa mīna ō-wīcihiwēwin isi kipiskākēwin ohci nistam-iyiniwak ō-taskīwin.

pimohtēstamakēw Whalen mawinēhēw ōki nīsōhkamākēwak ō-tēyih tamowina nīkān okimāwīhk wiyasiwēwin ēwako ōma ohci nīsōhkamākēwak namōya ayāwak maskawisiwin ta-pakitinacik.

wiyasiwēwinohk tēpakēyimow asici pimohtēstamakēw Whalen. wiyasiwēwinohk mina kanawāpahtam ēkwānima Fort McMurray nistam-iyiniwak ayāwak pimipahtāwin code, ekwa mina nīsōhkamākēwak kispēwatam ō-tēyih tamowin mamisītotam isi itēyih tamowina pihcī pimipahtāwin code ēkwānima itwēmakan pimohtēstamakēwak ta-kī kētiwītsahwāw ahpō ta-kī pakitināw kīspin itōtamwak āsōnē atiht kīkway. maka, wiyasiwēwinohk miskawēwak pimohtēstamakēw Whalen namōya ēsa ēkosi kīkway kī-itotam. nīsōhkamākēwak namōya ta-kī pakitinēwak pimohtēstamakēwa piko kīkway ohci maka anihī piko ta-masinahikatekih ita pimipahtāwin code.

ōki nīsōhkamākēwak mīna kispēwatam ō-tēyih tamowina isi itwēwak ēkwānima kī-nīkānēyih tākwan nistam-iyiniwak iyinihkēwin. ōki nistam-iyiniwak itwēwak ēkwānima ispīhk aspin nīstanaw niyānanosāp

askiy, kī-pakitinēwak nisto pimohtēstamakēwak. wiyasiwēwinohk pītosēyihtam asici Nistam-iyiniwak. wiyasiwēwinohk miskwēyihtamwak ēkwanima nīso ōhi pakitinekēwina kiki ēwako ohci wihcikatēw pihcī pimipahtāwin code. Kotak pakitinekēwin kī-sēhkē tēpakēyimow. tāspwāw, nistam-iyiniwak namōya ayawak iyinihkēwin ta-pakitinacik pimohtēstamakēwa piko kīkway ohci maka anihī piko ta-masinahikatēkihik ita pimipahtāwin code.

Wiyasiwēwinohk kiponam Nīsōhkamākēwahk ō-tasiwēwin mīna kāwi ātoskahāw pimohtēstamakēw Whalen.

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