

FEDERAL COURT

BETWEEN:

GLENN HUDSON,

Applicant,

-and-

**CHIEF STAN BIRD, KELVIN C. WILSON, DONNA LEE SUTHERLAND, TERRANCE
SINCLAIR, LINDA SINCLAIR, DENNIS CAMERON, MARY TYLER BEAR, and
PEGUIS FIRST NATION**

Respondents.

APPLICATION UNDER SECTION 31 OF THE *FIRST NATIONS ELECTIONS ACT* S.C.
2014, c. 5

AMENDED NOTICE OF APPLICATION

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File No. 039683-0001

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TO THE RESPONDENTS:

A PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the applicant. The relief claimed by the applicant appears below.

THIS APPLICATION will be heard by the Court at a time and place to be fixed by the Judicial Administrator. Unless the Court orders otherwise, the place of hearing will be as requested by the applicant. The applicant requests that this application be heard at the City of Winnipeg in the Province of Manitoba.

IF YOU WISH TO OPPOSE THIS APPLICATION, to receive notice of any step in the application or to be served with any documents in the application, you or a solicitor acting for you must file a notice of appearance in Form 305 prescribed by the *Federal Courts Rules* and serve it on the applicant's solicitor or, if the applicant is self-represented, on the applicant, WITHIN 10 DAYS after being served with this notice of application.

Copies of the *Federal Courts Rules*, information concerning the local offices of the Court and other necessary information may be obtained on request to the Administrator of this Court at Ottawa (telephone 613-992-4238) or at any local office.

IF YOU FAIL TO OPPOSE THIS APPLICATION, JUDGMENT MAY BE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU.

Date: _____

Issued by: _____

Federal Court of Canada
4th Floor – 363 Broadway Avenue
Winnipeg, Manitoba R3C 3N9
204-983-2232

TO: **FEDERAL COURT REGISTRY**
Trial Division, Federal Court of Canada
383 Broadway Avenue
Winnipeg, MB R3C 3N9

AND TO: **CHIEF STAN BIRD**
P.O Box 10
Peguis, MB
R0C 3J0

AND TO: **COUNCILLOR KELVIN C. WILSON**
P.O Box 10
Peguis, MB
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AND TO: **COUNCILLOR DONNA LEE SUTHERLAND**
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AND TO: **COUNCILLOR TERRANCE SINCLAIR**
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AND TO: **COUNCILLOR LINDA SINCLAIR**
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AND TO: **COUNCILLOR DENNIS CAMERON**
P.O Box 10
Peguis, MB
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AND TO: **COUNCILLOR MARY TYLER BEAR**
P.O Box 10
Peguis, MB
R0C 3J0

AND TO: **PEGUIS FIRST NATION**
P.O Box 10
Peguis, MB
R0C 3J0

APPLICATION

THIS IS AN APPLICATION to set aside the results of the general election on Peguis First Nation on April 6, 2023 due to contraventions of the *First Nations Elections Act*.

1. **THE APPLICANT MAKES AN APPLICATION FOR:**

- a. An Order pursuant to section 35(1) of the *First Nations Elections Act* S.C. 2014, c. 5 (the “**Act**”) declaring that the results of the April 6, 2023 general election for Chief and Council for Peguis First Nation be set aside;
- b. An Order pursuant to section 35(1) of the Act setting out the terms and process for which a new general election for Peguis First Nation will occur;

- c. An Order pursuant to section 31 of the Act that a contravention or contraventions of the Act and/or Regulations under the Act took place, that affected the result of the April 6, 2023 general election;
- d. An Order declaring that identified individuals, including but not limited to Chief Stan Bird, Councillor Kelvin C. Wilson, ~~Councillor candidate Iris Stevenson, Councillor candidate Jonathon Flett, and Councillor candidate William Bird~~, et al contravened section 16 of the Act;
- e. An Order declaring that identified individuals, including but not limited to Chief Stan Bird, Councillor Kelvin C. Wilson, ~~Councillor candidate Iris Stevenson, Councillor candidate Jonathon Flett, and Councillor candidate William Bird~~, et al contravened section 20 of the Act;
- f. An Order declaring that identified individuals, including but not limited to Chief Stan Bird, Councillor Kelvin C. Wilson, ~~Councillor candidate Iris Stevenson, Councillor candidate Jonathon Flett, and Councillor candidate William Bird~~, et al contravened sections 21 and 22 of the Act;
- g. An Order declaring that identified individuals, including but not limited to Chief Stan Bird, Councillor Kelvin C. Wilson, ~~Councillor candidate Iris Stevenson, Councillor candidate Jonathon Flett, and Councillor candidate William Bird~~, et al contravened sections 26 and 27 of the Act;
- h. An Order pursuant to section 37 of the Act declaring that identified individuals, including but not limited to Chief Stan Bird, Councillor Kelvin C. Wilson, ~~Councillor candidate Iris Stevenson, Councillor candidate Jonathon Flett, and Councillor candidate William Bird~~ contravened the Act and have committed an offence under the Act;

- i. An Order pursuant to section 38 of the Act declaring that identified individuals, including but not limited to Chief Stan Bird, Councillor Kelvin C. Wilson, ~~Councillor candidate Iris Stevenson, Councillor candidate Jonathon Flett, and Councillor candidate William Bird~~ contravened the Act and have committed an offence under the Act;
- j. An Order pursuant to section 40 of the Act declaring that identified individuals, including but not limited to Chief Stan Bird, Councillor Kelvin C. Wilson, ~~Councillor candidate Iris Stevenson, Councillor candidate Jonathon Flett, and Councillor candidate William Bird~~ are ineligible to hold and/or run for elected office on the Peguis First Nation;
- k. Costs of this application; and
- l. Such further and other relief as may be required and this Honourable Court may deem just.

2. THE GROUNDS FOR THE APPLICATION ARE:

- a. On January 17, 2023 a decision of Chief and Council was made and passed by unanimous Band Council Resolution that a general election for the Peguis First Nation would be held on April 6, 2023; and that One Feather was appointed as the Electoral Officer for the general election;
- b. On January 19, 2023 a decision of Chief and Council was made and passed by unanimous Band Council Resolution that the Peguis First Nation was opting into the Act for the conduct and protocol of its general election;
- c. The same Band Council Resolution of January 19, 2023 set out the election dates and process which the Peguis First Nation would follow, namely: the mail-out and receipt of ballot packages for the purpose of

mail-in voting; availability of Advance Polls, and setting out Advance Poll dates and locations of March 28 (Peguis), March 30 (Winnipeg), March 31 (Selkirk);

- d. On January 23, 2023 One Feather published and reiterated the general election dates, including the advance polls of March 28, 30, 31, and the general election date of April 6, 2023;
- e. On March 21, 2023 One Feather caused to be published to the community via the Peguis First Nation Facebook page setting out a notice of ballot box procedures, which stipulated that One Feather would transport all advance poll ballot boxes to a secure storage facility in Winnipeg, and transport them back to the community on April 6, 2023 for the final vote;
- f. On March 28, 2023 Chief Stan Bird, Councillor Kelvin C. Wilson, ~~Councillor candidate Iris Stevenson, Councillor candidate Jonathon Flett, and Councillor candidate William Bird~~, in conjunction with dozens of their supporters, interfered with the advance polls located at the Peguis Community Hall, preventing the two (2) assigned One Feather electoral officers from leaving the Hall with the ballot box after close of polls; securing possession of the ballot box from the electoral officers; and securing and locking the ballot box in a cage, thereby causing a break in the chain of custody and nullifying 178 votes;
- g. Due to the events of March 28, 2023, One Feather informed Chief and Council that the two (2) electoral officers had quit their employment and resources were not available to service the general election. Moreover, the threat of escalated violence and intimidation if the election were to be postponed, or if advance polls were to continue be held was tangible and real, and so a decision was made to allow the general election to continue

with the cancellation of the advance polls of March 30 (Winnipeg), and March 31 (Selkirk), and reduce the scope of the general election to a one-day vote on April 6, 2023;

- h. Between March 31 and April 6, 2023 it was discovered that One Feather had failed to mail out sufficient ballots as directed and contemplated by the election process, causing a significant reduction in the number of available mail ballots, and counted mail ballots, compared to previous elections;
- i. On April 6, 2023 a one day general election for Peguis First Nation was held, which resulted in the lowest voter turnout for a Peguis First Nation general election in recent election history;
- j. The actions and interference of Chief Stan Bird, Councillor Kelvin C. Wilson, and others ~~Councillor candidate Iris Stevenson, Councillor candidate Jonathon Flett, and Councillor candidate William Bird~~ at the March 28 advance polls compromised and materially affected the election process set out and communicated by One Feather, the Electoral Officer, thereby materially affecting the general election results and outcome;
- k. The *First Nations Elections Act*, S.C. 2014, c. 5;
- l. The *Federal Courts Act*, R.S.C., 1985, c. F-7;
- m. Such further and other grounds as counsel may advise and this Honourable Court may permit.

3. **THE FOLLOWING DOCUMENTARY EVIDENCE WILL BE USED AT THE HEARING OF THE APPLICATION:**

- a. Affidavit of Glenn Hudson, sworn on May 4, 2023;
- b. Affidavit of Tamara Denise Hudson, ~~to be sworn and filed~~, sworn on June 13, 2023;
- c. ~~Affidavit of Denise Ann Daniels, to be sworn and filed;~~
- d. Affidavit of Anita Sutherland, sworn on August 10, 2023;
- e. Affidavit of Justine Scramstead, sworn on October 16, 2023;
- f. Affidavit of Shari Bear, sworn on October 16, 2023; and
- g. Such further and other material as counsel may advise and this Honourable Court may permit.

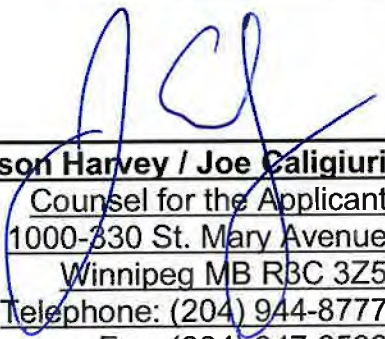
Dated at Winnipeg, Manitoba this ~~5th~~ 15th day of ~~May, 2023~~ February 2024.

CHORNOPYSKI LAW

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ZARA KADHIM**

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