



Nishnawbe Aski Nation
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NEWS RELEASE

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FOR IMMEDIATE RELEASE

PROVINCE'S HIGHEST COURT FINDS STEPS TO INCLUDE FIRST NATIONS ON JURIES WOEFULLY LACKING

THUNDER BAY: Nishnawbe Aski Nation (NAN) Deputy Grand Chief Alvin Fiddler welcomed a landmark judgment today as the Ontario Court of Appeal has allowed the appeal in the jury roll case of *R. v. Kokopenace* in respect of a conviction for manslaughter, rejecting Crown arguments as to the legality of the Kenora jury roll.

Pointing to “inattention” and inappropriate reliance on a “junior bureaucrat” as the State's primary and inadequate response to exclusion of First Nations people from the jury roll, the Court of Appeal has held that the Ministry of the Attorney General “completely ignored” its obligation to negotiate the jury roll issue with NAN.

“NAN has been pursuing the issue of the exclusion of our people from the Ontario jury system for many years,” said NAN Deputy Grand Chief Alvin Fiddler, who holds the justice portfolio at NAN. “We were stonewalled by the government and had to take this to the courts. The Ontario Court of Appeal has now delivered two judgments declaring that the exclusion of First Nations People is a wrong that must be righted. The Report of Justice Iacobucci on the underrepresentation of First Nations People from Ontario juries provides a roadmap for how to resolve this issue. It will require respectful Nation-to-Nation negotiations. We are hopeful that the Ontario government will now see that this is the way forward.”

NAN was an intervener on the appeal which was heard May 2-4, 2012.

“Today, the Ontario Court of Appeal delivered a clear message to the Ontario government,” said Julian Falconer, counsel for NAN on the appeal. “It called the government’s efforts to meet its constitutional obligation to include First Nations People on Ontario juries ‘sorely lacking.’ The Court found that the government’s efforts to create representative juries relied almost exclusively on a ‘junior bureaucrat’ who was given neither training nor supervision, and that the government ignored a ‘known and worsening problem, year after year.’ The Ontario government has run out of excuses. It needs to take immediate and

urgent steps to repair its relationships with First Nations' governments to address head-on the problem of Aboriginal estrangement from the justice system.”

Background

NAN's efforts to secure a review of the jury roll followed revelations during the Coroner's Inquest into the Deaths of Jamie Goodwin and Ricardo Wesley (the Kashechewan Inquest) in 2008 that the Kenora Judicial District jury roll contained names of First Nations people from only 14 of NAN's 49 First Nations.

In 2009, NAN again raised this issue in the Inquest into the Death of Reggie Bushie. In March 2011, NAN and two First Nation families won a landmark Court of Appeal judgment recognizing that Coroner's juries were required to be representative of First Nations People. The Court ordered that the Coroner conduct an inquiry into the validity of the jury roll for the Thunder Bay Judicial District.

Pre-inquest hearings in the Bushie Inquest were held in July 2011 in Thunder Bay. In September 2011, the Coroner ruled that the 2011 jury roll for the Judicial District of Thunder Bay was not representative of First Nation reserve community residents, and that the inquest could not proceed.

The Hon. Frank Iacobucci was appointed to report on First Nation representation on Ontario jury rolls in August, 2011 following court decisions questioning the validity of Ontario jury rolls with respect to representation by First Nations. His report, *First Nations Representation on Ontario Juries*, was released on February 26, 2013. It included 17 recommendations to ensure enhanced representation on the jury roll.

The decision is available on the Court of Appeal for Ontario's website: www.ontariocourts.ca/decisions_index/en/

Nishnawbe Aski Nation is a political territorial organization representing 49 First Nation communities in James Bay Treaty No. 9 and Ontario portions of Treaty No. 5 – an area covering two thirds of the province of Ontario in Canada.

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