

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

CANDICE SERVATIUS

Petitioner

AND:

SCHOOL DISTRICT 70 (ALBERNI)

Respondent



AFFIDAVIT OF E.S.

I, E.S., of the Town of Port Alberni, student, SWEAR THAT:

1. I have personal knowledge of the matters and facts hereinafter deposed to by me, except where same are stated to be based upon information and belief, in which cases I believe them to be true.

The Affiant

2. I am ■ years old and I live with my biological family in Port Alberni, B.C. I was a student in grade ■ at John Howitt Elementary School ("JHES") during the 2015-2016 school year, and ■ years old as of September 16, 2015. I am the daughter of the Applicant.

Relevant Background

3. While a student at JHES, I have learned a lot about the First Nations' history and culture, especially about the First Nation people in the Port Alberni area called the Nuu-chah-nulth. I

like learning about the culture of people that are different from me and about the history of the First Nations.

4. After school on September 15, 2015, my brother gave my mother a letter from the school (the "Letter"). From listening to my parents talk about the letter, I understood that some kind of ceremony was going to take place in my brother's class. I told my parents that my teacher had told me that a ceremony was going to happen in my class as well. My mother was worried about the Letter and told us that she was going to talk with the school the next day.

The Cleansing Ritual

5. The next day, on September 16, 2015, while in my grade ■ classroom at JHES, my teacher, Mrs. Dyer told me and my classmates that a guest was coming to our classroom and that we needed to be respectful. There were about 30 students in my classroom that day.
6. Immediately after Mrs. Dyer told the class this, two women came into our classroom. The younger of the two women I recognized to be Gina Sutherland, who works at JHES. I recognized the other woman to be a First Nations Elder (the "Elder"). I had seen First Nations Elders before because they had come into my classes to talk about First Nations beliefs. At first, I thought the Elder was only going to talk about her beliefs because that is what they had done all the other times.
7. The Elder said she was there to perform a ceremony that would bring the students good luck and help us to stay safe. The Elder talked about how eagles bring good luck and about spirits and energy. The Elder told the students that she was going to cleanse the classroom using smoke (the "Ritual"). We were told that there were things in our classroom that were dirty and that the smoke would clean them.

8. Immediately after I heard this, I got out of my seat and went up to see Mrs. Dyer. I told Mrs. Dyer that I did not want to be in the classroom while the Elder performed the Ritual. I do not mind being taught about the things other people believe as part of a class, but I did not want to be a participant in other people's ceremonies in any way. Mrs. Dyer told me that it would be disrespectful to leave, that all students must participate, and that I must go sit back down in my seat. I wanted to leave before the Ritual started, but I felt forced to obey my teacher.
9. I was upset because I knew my parents did not know the Ritual was going to happen in my class that day. I wanted to talk to my parents but I was not able to before the Ritual happened. I was confused and worried about what was going to happen during the Ritual.
10. I was very uncomfortable to be told that me or my backpack were dirty or had bad energy and needed to be cleansed, and that the classroom had spirits or energy in it that the smoke would get rid of. It felt strange and wrong for me to be in the classroom while the Elder was waving the smoke and talking about spirits and energy and speaking around us in a way I did not understand. I was told all of these things as a fact, by someone who my teacher told me I must respect, and it made me very uncomfortable.
11. The Elder held a large shell with grass that she had brought with her. She lit the grass in the bowl and it began to smoke a lot. The Elder began to move about the classroom. She used her hand to wave smoke from the bowl onto our backpacks, the doorframes, and every part of the class. The Elder sometimes bent down and waved the smoke onto things that were on the ground. Then the Elder walked up and down the isles between the students' desks, waving smoke onto the desks of my classmates and I while we sat in them.
12. While the Elder was waving the smoke, she spoke in English to tell the students that the smoke would give us good luck and that everything would be fine with us. The Elder also spoke

many things in a different language that was strange to me. I did not like that I did not know what she was saying. I understood the language she used was the Nuu-chah-nulth language.

13. The smell of the smoke was really strong and smelled bad. I could see the smoke all around me and it filled the classroom quickly. There was so much smoke I had difficulty seeing. The smoke made my eyes and head hurt. As the smoke filled the classroom, it became hard for me to breathe. I have asthma and the smoke made my asthma worse during the Ritual. I coughed a lot during the Ritual and some after because the smoke took a long time to go away. I observed many of my classmates coughing and waving at the smoke, as well.
14. Once the smoke filled the classroom, Mrs. Dyer opened the door in the classroom that lead to the outdoors to let some of the smoke out.
15. After Ms. Dire opened the door, I asked if I could go outside. Ms. Dire let me go out. Immediately after Ms. Dire let me go outside, some of my classmates also asked to go outside and Ms. Dire let them. But after about one minute, Ms. Dire told us we had to come back into the classroom. I asked Ms. Dire if I could stay outside. She told me 'no' and that it would be rude and that I must be respectful and go back inside and listen to the Elder. This made me feel trapped. I did not want to go back into the classroom.
16. Again, I felt forced to obey my teacher and went back into the classroom and waited for the Ritual to be over. The Ritual lasted about 20 minutes.
17. When my mother picked me up from school, I told her about the Ritual and how I was forced to participate even though I told the teacher I did not want to.
18. I felt confused and upset during the Ritual and I wished I did not have to be there. I could not understand why the Ritual was happening in my classroom and why I had to be there for the Ritual even though I told my teacher I was uncomfortable. Afterwards, I felt guilty about the

Ritual. It really bothered me that I had participated in something that neither I nor my parents believed in. It was very hard for me to sleep the night after the Ritual.

The Prayer at the Hoop Dance

19. On January 7, 2016, there was an assembly in the JHES gym. During the assembly, there were some First Nations dancers that did a dance. The dancers were very good and it was fun to watch.
20. After the dance, A First Nation man used the microphone to say a prayer to a 'god'. I was surprised because I thought it was strange to have prayer at school assemblies. I was also confused and upset because I did not know who or what the man was praying to. It felt strange and wrong to be there while the man prayed to his god.
21. I told my mother about the prayer when I arrived home from school that day.
22. I swear this Affidavit *bona fide* and for no improper purpose.

SWORN BEFORE ME at Nanaimo,
British Columbia, on this 5 day of
~~October~~ 2017.

November

DRedlick

A commissioner for taking affidavits
for British Columbia

)
)
) ES
) _____
) E.S.
)

My Commission Expires:

Deborah Redlick
Commissioner for Taking Affidavits
Within the Province of British Columbia