



Justice Centre

for Constitutional Freedoms

April 28, 2021

VIA EMAIL AND FACSIMILE

WHITEFISH LAKE FIRST NATION #128
Administration Building
PO Box 271
Goodfish Lake, Alberta T0A 1R0
Fax: 780-636-3534

Dear Administrator, Appeals Committee and Electoral Officer:

RE: Unconstitutional discrimination based on marital status in the Saddle Lake Tribal Customs Election Regulation and Decision to deem Lorna Jackson-Littlewolfe ineligible to run in the 2021 Elections

We are counsel for Lorna Jackson-Littlewolfe. Ms. Jackson-Littlewolfe was deemed ineligible by the Appeals Committee to run as a candidate in the Whitefish Lake First Nation #128 Elections 2021 due to her marital status (the “Decision”).

This Decision was expressly based on a provision in the former Saddle Lake Tribal Customs Election Regulations (the “Election Regulations”) which stated that “[n]o person living in a Common Law marriage shall be eligible for nomination.” As you know, in 2017, the Federal Court of Canada ruled that the Election Regulations failed to meet minimum legal requirements and required that Saddle Lake draft a “transparent, procedurally fair, and unbiased nomination and election process”.¹ The Court specifically observed that a “provision preventing nomination for election based on marital status alone would seem to be a discriminatory practice and unconstitutional.”²

As you know Saddle Lake has revoked the former Election Regulations and adopted a new Tribal Customs Election Code, which does not discriminate against candidates on the basis of their marital status.

The prohibition on those in common law marriages from running as candidates in the former Election Regulations and the Decision to deem Ms. Jackson-Littlewolfe not an eligible candidate for this election on that basis violates Whitefish Lake members’ right to equality protected by section 15(1) of the *Canadian Charter of Rights and Freedoms* (the “Charter”).

¹ *Shirt v Saddle Lake Cree Nation*, 2017 FC 364 [*Shirt*] at paras 70-71.

² *Shirt* at para 67.

Section 15(1) of the *Charter* states that “[e]very individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination” including discrimination on the basis of marital status.³ There is no justification for the violation of the constitutional rights of members of Whitefish Lake First Nation.

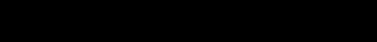
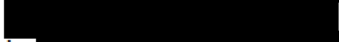

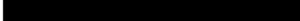
On behalf of Ms. Jackson-Littlewolfe, we request that Whitefish Lake First Nation cease discriminating against election candidates on the basis of their marital status, and that Ms. Jackson-Littlewolfe be permitted to stand as a candidate in the upcoming election, currently scheduled for April 29, 2021.

Please be advised that failure to grant this request will result in legal action being taken, including a court application challenging the unconstitutional discrimination of the former Election Regulations and the Decision, and requesting that a fair election be held.

Yours Sincerely,



Jocelyn Gerke
Marty Moore
Justice Centre for Constitutional Freedoms
Counsel for the Applicant

cc: Evan Steinhauer, Nation Administrator, 
Brenda Vangaurd, Electoral Officer, 
Ed Cardinal, Appeal Committee Chair, 
Lorna Jackson-Littlewolfe, 

³ See para 32 of *Nova Scotia (Attorney General) v Walsh*, 2002 SCC 83.