

Court File No.: A- 115 -22
(T-1224-21)

FEDERAL COURT OF APPEAL

BETWEEN

ERWIN BASTIEN and PIIKANI NATION CHIEF AND COUNCIL
on behalf of PIIKANI NATION

FEDERAL COURT OF APPEAL		D E P O S E
COUR D'APPEL FÉDÉRALE		
F I L E D	24-MAY-2022	
	Kathleen Harrill	
	CALGARY, AB	1

Appellants
(Applicants)

– and –

BRIAN JACKSON

Respondent
(Respondent)

NOTICE OF APPEAL

(Section 27(1) of the *Federal Courts Act*)

TO THE RESPONDENT:

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

THIS APPEAL will be heard by the Court at a time and place to be fixed by the Judicial Administrator. Unless the Court directs otherwise, the place of hearing will be as requested by the appellants. The appellants request that this appeal be heard at Calgary, either in person or remotely.

IF YOU WISH TO OPPOSE THIS APPEAL, to receive notice of any step in the appeal or to be served with any documents in the appeal, you or a solicitor acting for you must prepare a notice of appearance in Form 341A prescribed by the *Federal Courts Rules* and serve it on the appellants' solicitor or, if the appellants are self-represented, on the appellants, **WITHIN 10 DAYS** after being served with this notice of appeal.

IF YOU INTEND TO SEEK A DIFFERENT DISPOSITION of the order appealed from, you must serve and file a notice of cross-appeal in Form 341B prescribed by the *Federal Courts Rules* instead of serving and filing a notice of appearance.

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 APPEAL, JUDGMENT MAY BE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU.

May 24, 2022

I HEREBY CERTIFY that the above document is a true copy of the original filed in the Court on / and dated

KATHLEEN HARRILL / REGISTRY OFFICER

Issued by

**ORIGINAL SIGNED BY
KATHLEEN HARRILL
A SIGNÉ L'ORIGINAL**

(Registry Officer)

Address of local office:

Canadian Occidental Tower
635 Eighth Avenue SW
3rd Floor
P.O. Box 14
Calgary, Alberta
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TO: **BRIAN JACKSON**
P.O. Box 70
Brocket, AB T0K 0H0

APPEAL

THE APPELLANT APPEALS to the Federal Court of Appeal from the Judgment of the Honourable Sébastien Grammond (“**Application Judge**”) dated April 22, 2022, Court File No. T-1224-21 (“**Judgment**”), dismissing the Appellants’ application for judicial review of a decision made by the Piikani Nation Removal Appeals Board (the “**Board**”). The Board dismissed a petition (the “**Petition**”) for the removal of the Respondent Brian Jackson (the “**Respondent**”) as Councillor for Piikani Nation (the “**Decision**”).

THE APPELLANT ASKS this Honourable Court to:

- (a) Allow the appeal;
- (b) Set aside the Judgment;
- (c) Set aside the Decision;
- (d) Order that the Respondent be removed as a Councillor for Piikani Nation;
- (e) In the alternative, order that a new Piikani Nation Removal Appeals Board be constituted to hear the Petition in accordance with such directions as this Honourable Court considers to be appropriate;
- (f) In the further alternative, order that the Board rehear the Petition in accordance with such directions as this Honourable Court considers to be appropriate; and
- (g) Make such further and other orders as this Honourable Court may deem just.

THE GROUNDS OF APPEAL are as follows:

1. The Appellants respectfully submit that the Application Judge made the following errors in dismissing the application for judicial review:
 - (a) The Application Judge erred in concluding that it was reasonable for the Board to adopt the Respondent’s definition of *piikanissini* and apply that definition to find that all grounds for removal set out in the Petition were unfounded based on the Respondent’s opinion that he had acted in accordance with *piikanissini* as he alone defined it.

- (b) The Application Judge erred in finding that the Board did not fail to consider the evidence of the Appellant Erwin Bastien (the “**Petitioner**”) in making the Decision.
 - (c) The Application Judge erred in finding that the Board should be granted significant deference with respect to *piikanissini*.
 - (d) The Application Judge erred in concluding that there was sufficient evidence to permit the Board to make the Decision in the Respondent’s favour.
 - (e) The Application Judge erred in finding that the Board’s failure to address contradictions in the Respondent’s testimony was reasonable and only an “issue of relatively minor importance”, given the serious nature of the grounds for removal, including bribery and engaging in corrupt practice.
 - (f) The Application Judge erred in finding that the Board reasonably discharged its role.
 - (g) The Application Judge erred in concluding that the Board was not required to make a determination of whether the Respondent had failed to meet the standard of conduct required of a Councillor of Piikani Nation, notwithstanding the specific requirements of the *Piikani Nation Election Bylaw, 2002*.
 - (h) The Application Judge erred in finding that the Petitioner had failed to raise issues of procedural fairness before the Board, and therefore could not raise those issues on judicial review.
 - (i) The Application Judge erred in finding that there had been no breaches of procedural fairness.
2. Such further and other grounds that the Appellants may advance and this Honourable Court may permit.
 3. The Appellants request that this appeal be heard at Calgary, either in person or remotely.
 4. The Appellant relies on:
 - (a) *Federal Courts Act*, RSC c F-7, ss. 3, 18, 18.1, 27 and 52;

- (b) *Federal Courts Rules*, SOR/98-106, as amended, Rules 3, 53, 400 and 403, and Part 6;
- (c) *Piikani Nation Election Bylaw, 2002* and *Piikani Nation Election Regulations, 2002*; and
- (d) Such further and other materials that the Appellants may advise and this Honourable Court may permit.

May 24, 2022



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