

Federal Court of Appeal



Cour d'appel fédérale

Date: 20171004

Docket: A-192-16

Citation: 2017 FCA 203

**CORAM: WEBB J.A.
BOIVIN J.A.
RENNIE J.A.**

BETWEEN:

BRENDA JOLY

**Appellant
(Respondent by cross-appeal)**

and

GORDON GADWA

**Respondent
(Appellant by cross-appeal)**

Heard at Edmonton, Alberta, on October 4, 2017.

Judgment delivered at Edmonton, Alberta, on October 4, 2017.

REASONS FOR JUDGMENT BY:

RENNIE J.A.

CONCURRED IN BY:

**WEBB J.A.
BOIVIN J.A.**

Federal Court of Appeal



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REASONS FOR JUDGMENT

RENNIE J.A.

[1] This is an appeal and cross appeal from the decision of the Federal Court (*per* Justice Strickland), cited as 2016 FC 597. In that decision the Court upheld the decision of an Elections Officer appointed under the Kehewin Cree Nation's custom *Elections Act* that the respondent, Gordon Gadwa engaged in a corrupt election practice which vitiated his election as Chief. However, the Federal Court set aside the Elections Officer's decision to declare the second place

candidate, Brenda Joly as Chief. The Court also set aside the decision of the Elections Officer to remove Mr. Gadwa as councillor.

[2] The appellant appeals the judge's decision to order a new election for Chief of the Kehewin Cree Nation and to reinstate Mr. Gadwa as a Councillor. The respondent, Mr. Gadwa cross-appealed the judge's decision that the Elections Officer's finding that he engaged in a corrupt election practice was reasonable. The cross-appeal was abandoned at the outset of the hearing of the appeal. The cross-appeal should be dismissed.

[3] I would dismiss the appeal for the reasons given by the Federal Court judge. No error has been identified either in the judge's assessment of the standard of review of the Elections Officer's decision, nor in the application of that standard to the evidence before her.

[4] In the circumstances, I would not award costs.

"Donald J. Rennie"

J.A.

"I agree
Wyman W. Webb J.A."

"I agree
Richard Boivin J.A."

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

**APPEAL FROM A JUDGMENT OF THE FEDERAL COURT DATED MAY 31, 2016,
DOCKET NO. T-1875-15 (2016 FC 597)**

DOCKET: A-192-16

STYLE OF CAUSE: BRENDA JOLY v. GORDON
GADWA

PLACE OF HEARING: EDMONTON, ALBERTA

DATE OF HEARING: OCTOBER 4, 2017

REASONS FOR JUDGMENT BY: RENNIE J.A.

CONCURRED IN BY: WEBB J.A.
BOIVIN J.A.

DATED: OCTOBER 4, 2017

APPEARANCES:

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