

PETERS FIRST NATION

SECTION 10 MEMBERSHIP COURT CASES

2018

Peters v Peters First Nation

Background: Applicants Guy Peters, Brandon Lee Engstrom, and Amber Rachel Ragan brought forth an application for judicial review based on the decisions made by the Peters First Nation (PFN) Band Council to deny them band membership in 2016. Ragan and Engstrom appealed this decision, but their appeals were refused in a PFN membership vote. Similarly, Mr. Peters appealed the Band Council's decision, however the PFN membership voting board failed to convene for a decision in respect to his appeal, and now the time to make a decision has lapsed.

Decision: The Federal Court found that the decisions made by the PFN Band Council were unreasonable and procedurally unfair. With respect to the first matter, the Court declared that Mr. Peters had obtained his right to be a member of PFN before the membership code came into effect, therefore allowing him to be protected under section 10(4) of the *Indian Act*. In terms of Engstrom and Ragan's appeal, the Court set aside PFN's decision to deny their membership application and the matter was sent back to the PFN Band Council for reassessment.

2019

Peters First Nation Band Council v Peters

Background: On August 21st, 1987, Guy Peters received confirmation that he was a member of Peters First Nation (PFN) under section 6(1)(a) and 11(1)(a) of the Indian Act and his name was subsequently placed on a manually maintained membership list. Shortly after, Chief Frank Peters asked the Indian Registrar to remove Guy Peters' name from the Band list on the basis that his mother belonged to another band. The appellant PFN is appealing the judgement from *Peters v. Peters First Nation Band* (2018), which declared Guy Peters (the respondent) a member of PFN.

Decision: Justice Woods found that the Federal Court's 2016 judgement relied too heavily on the decision made by the Indian Registrar to grant Peters band membership in 1987. In addition, Woods found that it is not the Court's role to determine whether Guy Peters is entitled to membership. The Court allowed the appeal and set aside both the decisions of the PFN Band Council to deny Mr. Peters application for membership in 2016, as well as the Federal Court's judgement declaring Mr. Peters as a member of PFN in 2018. Guy Peters membership application was remitted to the PFN Band Council for reassessment.

2020

Engstrom v Peters First Nation

Background: Applicants Amber Rachel Ragan and Brandon Lee Engstrom are siblings who have brought forth a second request for judicial review against the Peters First Nation (PFN) Band Council for denying their band membership applications. After being rejected the first time, the PFN Band Council again determined that the siblings are to be denied membership into the band. The PFN Band Council denied their applications on the grounds that they were adults when they submitted their applications and that according to the band's interpretations of the PFN Membership Code, Ragan and Engstrom needed to have applied when they were under the age of 18 to be considered. Engstrom and Ragan maintain that they are eligible for membership under PFN's Membership Code because they are the natural born children of a PFN member.

Decision: Justice Barnes found that PFN's reliance on age and dual parental consent restrictions was not supported by the express language of the band's Membership Code. Additionally, Justice Barnes declared that the Band Council had acted unlawfully, unfairly and in bad faith by rejecting Ragan and Engstrom's band membership application. As a result, Justice Barnes held that the PFN Band Council is to grant Engstrom and Ragan full band membership.

This fact sheet is meant for educational purposes only, and is not an exhaustive list of band membership cases. It is available online for free download at <https://exploringsection10.com>.

This fact sheet draws on research supported by the Social Sciences and Humanities Research Council.

Research by Caitlin Feeley and John Ewing. Design by Caitlin Feeley, 2021.