

Date: 20081031

Docket: A-503-08

Citation: 2008 FCA 339

Present: NADON J.A.

BETWEEN:

**JARET CARDINAL, RONALD WILLIER, RUSSELL WILLIER
and SUCKER CREEK FIRST NATION #150A**

Appellants

and

GEORGE PRINCE AND PAULETTE CAMPIOU

Respondents

Dealt with in writing without appearance of parties.

Order delivered at Ottawa, Ontario, on October 31, 2008.

REASONS FOR ORDER BY:

NADON J.A.

Date: 20081031

Docket: A-503-08

Citation: 2008 FCA 339

Present: NADON J.A.

BETWEEN:

**JARET CARDINAL, RONALD WILLIER, RUSSELL WILLIER
and SUCKER CREEK FIRST NATION #150A**

Appellants

and

GEORGE PRINCE AND PAULETTE CAMPIOU

Respondents

REASONS FOR ORDER

NADON J.A.

[1] By resolutions dated August 20, 2008, the Sucker Creek First Nation (the “First Nation”) Band Council removed the respondents, councillors of the First Nation, from office.

[2] As a result of their removal, the respondents commenced a judicial review application before the Federal Court and sought an interlocutory injunction enjoining the First Nation from holding a by-election to replace them as councillors and from interfering with the exercise of their duties as councillors, pending the determination of their judicial review application.

[3] On September 30, 2008, Hansen J. granted the respondents' motion and ordered that they be reinstated as councillors with pay, including back-pay, and with access to their offices. The Judge also enjoined the First Nation from interfering with the respondents' exercise of their duties as councillors, pending the determination of their judicial review application.

[4] On October 1, 2008, the appellants filed a Notice of Appeal seeking an Order setting aside the Federal Court's decision and removing the respondents from office.

[5] On October 8, 2008, the appellants filed the motion now before me, pursuant to which they seek an Order staying Hansen J.'s decision until the determination of their appeal.

[6] The appellants concede that in determining whether or not to grant a stay, this Court must apply the test set out in *RJR MacDonald Inc. v. Canada (A.G.)*, [1994] 1 S.C.R. 311. Thus, in order to succeed, the appellants must convince me that their appeal raises a serious issue, that irreparable harm will occur if the Order sought is not granted and, finally, that the balance of convenience is in their favour.

[7] Although the appellants have satisfied me that their appeal raises a serious issue, they have failed to persuade me that a refusal to grant a stay of the Order made by the learned Judge would cause them irreparable harm.

[8] For these reasons, the motion will be dismissed with costs.

“M. Nadon”

J.A.

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET: A-503-08

STYLE OF CAUSE: JARET CARDINAL et al v.
GEORGE PRINCE et al

MOTION DEALT WITH IN WRITING WITHOUT APPEARANCE OF PARTIES

REASONS FOR ORDER BY: NADON J.A.

DATED: 20081031

WRITTEN REPRESENTATIONS BY:

Priscilla Kennedy

FOR THE APPELLANTS

Thomas R. Owen

FOR THE RESPONDENTS

SOLICITORS OF RECORD:

Davis LLP
Edmonton, AB

FOR THE APPELLANTS

Owen Law
Edmonton, AB

FOR THE RESPONDENTS