

## **Court Finds Firearm Licensing Fee Unconstitutional**

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Leon Nayanokeesic and Mark NayanoKeesic of Whitesand First Nation, Robinson Superior Treaty of 1850, were charged under s. 91[1] of the Criminal Code, for Unauthorized Possession of a Firearm, as neither of them had a license to possess a firearm as required by the ***Firearms Act & Regulations***. Justice Pettit Baig acquitted both Leon and Mark Nayanokeesic, stating; “I am satisfied that the ***Firearms Act & Regulations*** which compel the beneficiaries of the Robinson Superior Treaty to pay a licensing fee to possess firearms, an incidental right to their full and free privilege to hunt, is an infringement of their treaty right, and is, therefore an infringement of s. 35 of the ***Constitution Act, 1982***.” Justice Baig stated “the fee is not nominal; it is \$60.00 which is substantial and presents a financial hardship to the accused specifically and to many members of the Band.”

In acquitting both the accused, Justice Baig found that “the Crown has not brought forward any evidence to establish on a balance of probabilities that it attempted to honour the treaty obligations as set out in the Robinson Superior Treaty or why it did not exempt beneficiaries of the treaty right to hunt from paying any fees for a license to possess a firearm, nor does the Crown explain in any meaningful way why the Whitesand Band were not consulted with respect to the proposed legislation. Consequently there is no justification for the infringement.”

“Therefore the regulations under the ***Firearms Act & Regulations*** which require the beneficiaries of the Robinson Superior treaty to pay a licensing fee to possess a firearm is inconsistent with the provisions of the Constitution Act and is, to the extent of that inconsistency, of no force of effect.”

The Crown has appealed this decision and we will keep you informed as this important treaty rights issue moves through the courts.