

Registry No: T-1831-06
Formerly IMM-9285-04

**FEDERAL COURT OF CANADA
TRIAL DIVISION**

BETWEEN:

ROBERT ALLEN WATT

Plaintiff

AND:

HER MAJESTY THE QUEEN

Defendant

AFFIDAVIT OF VANCE ROBERT CAMPBELL

I, VANCE ROBERT CAMPBELL, of the Sinixt Nation (Lakes), in the Sinixt Territory located in the Province of British Columbia and the State of Washington, MAKE OATH AND SAY AS FOLLOWS:

1. I am *Ilmixwm* ("head man" or "chief") of the Sinixt Nation and a Director of the Sinixt Nation Society. I have personal knowledge of the facts and matters deposed to in this Affidavit except where stated to be on the basis of information and belief, in which case I believe the same to be true.
2. I am an aboriginal person.
3. I am descend from and having living relatives among, an indigenous group of people who have historically identified and continue to identify themselves as sngaytskstx, or Sinixt ("the Sinixt" or " the Sinixt Nation" or "my people").
4. In Canada and in the United States of America, my people are also known as the Lakes Tribe, Arrow Lakes Indians and/or Arrow Lake(s) Band.
5. The "Lakes" name was ascribed to us because our territory was centered on the waterways of the Arrow Lakes region.

6. I am a *Mxgxia* (Blood) Member and Director of the Sinixt Nation Society, a society incorporated under the laws of British Columbia through which the Sinixt carry out their activities, financial and otherwise, in British Columbia.
7. The traditional / ancestral territory of the Sinixt, as surveyed and mapped repeatedly, is from the peak of the Monashee Mountains in the west to the peak of the Purcell and Selkirk Mountains in the east; and from a northern point in the vicinity of Revelstoke, B.C., to Kettle Falls in the high desert plateau south of the 49th parallel (“our Territory”).
8. I was born in our Territory, south of the 49th parallel, on May 17, 1939.
9. Eighty percent (80%) of our Territory lies north of the 49th parallel, in what is now modern day Canada (“our Northern Territory”).
10. I have traveled in and amongst our Northern Territory throughout my life, for the purpose of hunting, fishing, gathering food and medicines, conducting ceremonies, conducting burials, attending childbirth, living with relatives and attending sites of cultural, historical and religious significance to my people.
11. Our Territory coincides the Sngaytskstx River (a.k.a. Columbia River) drainage waterway, including the Slocan River System, which has traditionally been our main transportation route for decades.
12. Throughout the existence of my people, movement within our Territory has been an integral way of fulfilling valued cultural, spiritual, social and economic objectives. My people have been traversing the 49th parallel for thousands of years in the course of traveling within our Territory. We have been doing so prior to the establishment of the Border, prior to the establishment of an Indian Act registration scheme and prior to the arrival of European settlers.
13. There have never been treaties signed as between the Canadian government and the Sinixt with respect to our Territory. This has been the home of my people since time immemorial. We claim we are a sovereign nation that has never relinquished our title to this land.
14. My mother was the Sinixt elder, Eva Adolph Orr. She passed away on February 20, 2006.
15. My mother was born north of the 49th parallel, near what is now Grand Forks, British Columbia, in about 1911 while her mother was in Sinixt Territory berry picking. Her father, Joe Adolf, was born in 1868 at *nk'mapeleks*, now know as Galena Bay, British Columbia.

16. My mother was among the last of the Sinixt people to be born "free" instead of in "captivity" on the Colville Reservation. She spoke the Sinixt language and told me many *chop tikwils*.
17. *Chop tikwils* are stories handed down by way of oral tradition in accordance with a strict code that the story remain unaltered upon being retold. The chop tikwils cover a broad range of subjects: history, cosmology, ecology and morality – all of which inform the cultural memory and identity of my people. The chop tikwils contain subtle messages of how we are supposed live as human beings. They speak to the emotional position of mankind in relation to the human experience.
18. Many of the *chop tikwils* relate to our Northern Territory, including the creation story of Frog Mountain, which overlooks Vallican, British Columbia, and embodies the oral history of how the legendary Frog saved the Sinixt people during a time of terrible suffering. This story was told to me by my mother time and time again.
19. Vallican, British Columbia., is an ancient Sinixt village and burial ground. The Sinixt name for this village is *nkegio-xten*.
20. In 1985, my mother dispatched me to Edgewood in our Northern Territory so that I could investigate rumors that foreigners were running medicine wheel ceremonies on within our Territory.
21. In the course of my attendance at Edgewood, I learned about the desecration of our grave yards in our Territory by persons interested in collecting and selling native artifacts. This practice was known as pot hunting. At the time, our graves were not being protected by any person or authority.
22. In the late 1980's, my mother and I learned that road building was being planned adjacent to a site where the remains of Sinixt ancestors had been uncovered in Vallican.
23. I, my mother and other Sinixt individuals responded with determined advocacy and peaceful occupancy of the Vallican burial site in a campaign to protect the site and effect the reburial of the discovered remains.
24. In 1989, my mother and I personally oversaw the first of a number of Sinixt reburials at Vallican. This burial site has been purchased by and is under the protection of the British Columbia Heritage Trust.
25. Some of our remains, unearthed at Vallican, were shipped abroad by local authorities for analysis, but they were later determined to be remains of Sinixt and were thereafter returned by authorities to myself and fellow Sinixt for repatriation and reburial.

26. We, the Sinixt, have a cultural law that says you must, when you are done with this body, go back to the earth. When people go and dig up our ancestors and put them on shelves, in boxes, in macramé wall hangings, or use them for other types of decoration, it makes my ancestors break their cultural law. It is our responsibility, because we are the descendants of those people, to bring our ancestors home and rebury them and protect their resting places.
27. We, the Sinixt, continue to repatriate remains within our Northern Territory north of the 49th parallel. To date, remains of 61 Sinixt ancestors have been repatriated.
28. We, the Sinixt, have determined for ourselves that Robert Allen Watt is a member of our grouping.
29. The Sinixt have appointed Mr. Watt to the traditional role of guardian and caretaker in relation to the sacred Sinixt burial site in Vallican.
30. Our Territory was divided by the establishment of the Canada-USA border along the 49th parallel in 1846 ("the Border").
31. No representative of my people was ever consulted regarding the establishment of the Border, which has divided our Territory, fractured our people and alienated us from 80% of our land base - the primary source of our cultural identity.
32. In 1954 the British Columbia government marked the anniversary of the establishment of the Border by erecting an *Indian Legend Plaque* which states:
33. When the International Boundary line was being surveyed in 1857-1861, the major portion of the large Indian band then living in this area moved to the reservation at Colville, Washington. One of the Indians entwined two sapling pines, saying 'Though Divided We Are United Still - We Are One.' This tree symbolizes the spirit of friendship existing between Canada and the United States.
34. Attached as Exhibit "A" to this My Affidavit is a true image of the Indian Legend Plaque as erected on the said tree by the British Columbia government in 1954.
35. Most of the Sinixt who were involved in the Sinixt reburials at Vallican are no longer allowed to come up into our Northern Territory because the Canadian government will not let them cross the border.

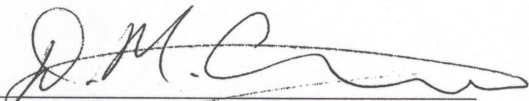
36. I am included in the category of persons who have been banished from our Territory.
37. I am neither a Canadian citizen nor a "registered" Indian under the Canada's *Indian Act*.
38. I applied for registration under the Indian Act but my application was denied by way of the correspondence dated November 22, 2007, attached at Exhibit "B" to this My Affidavit.
39. The reason why my registration application was denied was because not of my ancestors were ever registered on the "Indian Register" maintained by Indian and Northern Affairs Canada.
40. It is not clear to me how my ancestors could have gotten on the "Indian Register" maintained by Indian and Northern Affairs Canada. I suspect that they would have to have resided *and remained* on a reserve established for my people by the Canadian government. My understanding is that the Canadian government failed to establish adequate reserve land for my people and residing and remaining of the single reserve that had been established was not compatible with the economic and cultural survival of my people.
41. On several occasions, Canadian immigration officials have prevented me from crossing the border from the southern portion of our territory to our Northern Territory.
42. Attached as Exhibit "C" to this My Affidavit is a true copy of the Citizenship and Immigration Canada document which I was asked to sign upon being denied entry into our Northern Territory on August 20, 2005.
43. There are at least 3200 Sinixt descendants south of the Border who are neither Canadian citizens nor registered Indian under the Canada's Indian Act. Many of them have been turned back from their various attempts to cross the Border into our Northern Territory and others are deterred from even trying.
44. The recognition of an aboriginal right to enter and remain in Canada would be of tremendous significance to my people, as it would provide them with access our Territory which is integral to the identity of our people and the fulfillment of our cultural, economic, social and spiritual objectives in the manner which has been historically effected by our ancestors.
45. As a consequence of the establishment of the Border, my people have experienced significant interference with key elements of their traditional way of life over the last 162 years.

46. For the reason that Canadian immigration officials have prevented me from crossing the border from the southern portion of our territory to our Northern Territory, I have been and continue to be restricted from:
- a. visiting places of historical, cultural and spiritual significance to my people;
 - b. hunting and fishing in the historical hunting and fishing grounds of my people;
 - c. gathering medicines and foods, including roots and berries, in accordance with the traditional practice of my people;
 - d. disseminating the language, oral history and teachings of my people to our younger generations;
 - e. visiting the historical burial sites of my people; and
 - f. conducting Winter Dance ceremonies.
47. Part of my role as *Ilmixwm* ("head man" or "chief") of the Sinixt Nation, is to conduct Winter Dance ceremonies in the Northern Territory, as described at page B-34 of the document at Exhibit "D" to this My Affidavit.
48. Winter Dance ceremonies, each lasting several days, have historically been conducted and continue to be hosted by a Sinixt spiritual leader at a different time in each village so as to permit considerable visiting. In addition to their significant ritual and spiritual importance, the winter ceremonials have served and continue to serve to bring people together and create solidarity across village lines within the Territory.
49. As a result of their potential inadmissibility to Canada, the ability of my tribal kin to attend my Winter Dance ceremonies has been hampered and we, as a people, have been prevented from gathering in our Northern Territory in fulfillment of valued cultural, spiritual, social and economic objectives, including the Winter Dance.
50. In or near the winter of 2001 / 2002, my son, Vance Robert Campbell Jr. attempted to cross the Border from the south into our Northern Territory for the purpose of hunting for traditional food used in our traditional Winter Dance. When stopped at the Border, my son declared his hunting rifle and stated his purpose, as described. The Canadian immigration officials prevented him from crossing the border into our Northern Territory. I believe his name (and with that, my name) became flagged by Canadian immigration officials as a result of this incident.

51. I subsequently attempted to cross the Border from the south into our Northern Territory for the purpose of conducting the said traditional Winter Dance that season and I too was denied entry and deemed inadmissible by Canadian immigration officials. I have had trouble crossing the Border ever since.
52. I believe that the ancestors of my people, the Sinixt, were victim to deliberate smallpox infestations. I believe that such epidemics were common throughout the Americas in the first few centuries of European migration, a time my people described as the Great Dying.
53. I believe there is still a chance to save our culture and the recognition of an aboriginal right to enter and remain in Canada would be of tremendous significance in assisting my people towards that goal.
54. My granddaughter, Agnice Sophia Campbell, was born on October 9, 2005, in Vallican, where she continues to live. I want to be free to travel to be with her in our ancestral Territory where her great grandmother, my mother, was born; where my maternal grandfather was born; where our people have lived since time immemorial.
55. Attached as Exhibit "D" to this My Affidavit is a report prepared by historians Randy Bouchard and Dorothy Kennedy entitled "*First Nations' Aboriginal Interests and Traditional Use in the Waneta Hydroelectric Expansion Project Area: A Summary and Analysis of Known and Available Information.*"
56. I believe the information in the document at Exhibit "D" as it pertains to the Sinixt to be accurate and consistent with my understanding of the history of my people.
57. Comprehensive ethnographic, ethnohistoric and linguistic research on the Sinixt people has also been compiled by Randy Bouchard and Dorothy Kennedy have also authored in *First Nations' Ethnography and Ethnohistory in British Columbia's Lower Kootenay Columbia Hydropower Region* (2000, 2005).
58. Other contemporary references to the Sinixt include Eileen Delehanty Pearkes, *The Geography of Memory* (2002); and Paula Pryce, *'Keeping the Lakes' Way.' Reburial and the Re-creation of a Moral World among an Invisible People* (1999).
59. As part of my role as *Ilmixwm* ("head man" or "chief") of the Sinixt Nation, I hold in my custody various documents pertaining to the legal struggle of my people over the years. Attached at Exhibit "E" to this My Affidavit is one such document that I consider to be important: the August 9, 1995, letter from Ronald A. Irwin, P.C., M.P. of the Canadian Ministry of Indian Affairs and Northern Development.

60. I make this Affidavit in support of the Plaintiff's application for an order that the Defendant pay advanced costs and for no other or improper purpose.

SWORN BEFORE ME AT THE CITY OF)
WINLAW, IN THE PROVINCE OF)
BRITISH COLUMBIA THIS 3rd DAY)
OF MARCH 2008.)



A COMMISSIONER FOR TAKING)
AFFIDAVITS IN THE PROVINCE OF)
BRITISH COLUMBIA.)


VANCE ROBERT CAMPBELL

DAVID M. AARON
Barrister & Solicitor
Box 479, Nelson, B.C.
Canada V1L 6R3



This is Exhibit "A" referred to in the
affidavit of Vance Robert Campbell
sworn before me at Winlaw BC
this 3 day of March, 2008

[Signature]
A Commissioner for taking Affidavits
for British Columbia



NOV 22 2007

David M. Aaron
Barrister & Solicitor
Box 479
NELSON BC V1L 5R3

PROTECTED A

Your file - Votre référence

Our file - Notre référence

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This is Exhibit "B" referred to in the
affidavit of Vance Robert Campbell
sworn before me at Winlaw B.C.
this 3rd day of March, 2008

Dear Mr Aaron:

Re: Vance Robert Campbell
Lola Jon Campbell
Agnice Sophia Campbell


A Commissioner for taking Affidavits
for British Columbia

I refer the fax received November 6, 2007 from the Honourable Chuck Strahl, Minister of Indian and Northern Affairs and your letter received May 1, 2007 with the Application for Registration under the *Indian Act* dated February 11, 2006 and received May 1, 2007 for the above-mentioned individuals.

I have now conducted a search of the historical records of Indian and Northern Affairs Canada for the British Columbia Region. From the information you provided having identified the name of the band as the Arrow Lake Band, it has not been possible to identify Vance Robert Campbell's mother, Eva Alice Adolph, or either of her parents as having been registered in the Indian Register maintained by Indian and Northern Affairs Canada. Therefore, based on the information supplied, I cannot establish that Vance Robert Campbell, Lola Jon Campbell or Agnice Sophia Campbell, are entitled to registration as Indians under the provisions of the *Indian Act*.

Prior to the extinction of the Arrow Lake Band in 1953 and the reserve reverting back to the British Columbia Government in 1956, I was unable to connect the ancestors of the "Campbell" family to the few individuals who were previously registered with this band. According to the Census of the Lake Indians, Colville Agency, in the United States you provided, your ancestors are included on this list are therefore not recognized as Indian in Canada.

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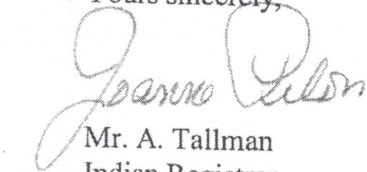
For your information having descent from Indian ancestry does not, in itself, qualify a person to be entitled to registration under the provisions of the *Indian Act*. Also, having ancestors who were born or were buried in an Indian cemetery or lived on or near an Indian reserve also does not, in itself, qualify an individual to be eligible for registration under the provisions of the *Indian Act*.

The concept of Indian registration in Canada only began with the 1951 *Indian Act*. Prior to that, Indian band membership lists held in the local Indian Affairs offices were the principle listings of all Indians recognized by the Canadian Government of the time. These membership lists were eventually consolidated into a master record known as the Indian Register and being a descendant of these individuals is the primary requirement for the current registration of individuals under the *Indian Act*.

With that, before an entitlement can be established for the Vance Robert Campbell, Lola Jon Campbell and Agnice Sophia Campbell, I would be pleased to review their Applications further if you could provide detailed and specific information outlining how their relatives may be entitled to registration under the *Indian Act*. Such information should include the names of your relatives who are, or at one time were recognized as Indians and any band numbers they may have had. Other information, such as dates of birth, death and marriage, would also be of assistance.

I regret that my reply could not be more favourable.

Yours sincerely,



Mr. A. Tallman
Indian Registrar

OTTAWA, ON K1A 0H4

PROTECTED WHEN COMPLETED / PROTÉGÉ UNE FOIS REMPLI - A

ALLOWED TO LEAVE CANADA / AUTORISATION DE QUITTER LE CANADA

Surname - Nom de famille CAMPBELL		Given name(s) - Prénom(s) VANCE ROBERT SR.	
Date of birth / Date de naissance D-J M Y-A 17 05 1938		Country of birth - Pays de naissance U.S.A.	
Date D-J M Y-A 20 08 20 05		FOSS ID no. - N° d'ID SSOBL 4340-3631	
Inadmissibility section / Article sur l'interdiction de territoire Δ21 36(2)(b)		File no. - N° de référence 5316-508-119	
Country of citizenship - Pays de citoyenneté U.S.A.			

Pursuant to paragraph 42(1) of the Immigration and Refugee Protection Regulations, I am allowing you to withdraw your application to enter Canada and to leave Canada without delay.

Conformément à l'alinéa 42 (1) du Règlement sur l'immigration et la protection des réfugiés, je vous autorise à retirer votre demande d'entrée au Canada et à quitter le Canada sans délai.

The information provided on this form is collected under the authority of the Immigration and Refugee Protection Regulations for the purpose of allowing you to leave Canada. This information will be stored in Personal Information Bank number CIC PPU 001, Enforcement Data System, and you have the right of access to it and to its protection under the provisions of the Privacy Act.

Les renseignements fournis dans le présent formulaire sont recueillis en vertu du Règlement sur l'immigration et la protection des réfugiés aux fins de vous autoriser de quitter le Canada. Les renseignements seront versés dans le fichier de renseignements personnels CIC PPU 001, Système de données sur l'exécution de la Loi. Ils sont protégés et accessibles en vertu des dispositions de la Loi sur la protection des renseignements personnels.

L. J. J. #1968.
Signature of officer / Signature de l'agent

I hereby voluntarily withdraw my application to enter Canada; and agree to leave Canada without delay.

J'atteste par la présente que je retire volontairement ma demande d'entrée au Canada et j'accepte de quitter le Canada sans délai.

Vance R Campbell Sr
Signature of person concerned / Signature de la personne concernée

This is Exhibit "C" referred to in the affidavit of Vance Robert Campbell sworn before me at Winnipeg BC this 3 day of March, 2005

[Signature]
A Commissioner for taking Affidavits for British Columbia