



*Tsi Nahò:ten Karihwanákere Nó:nen'k*

# PRESS RELEASE

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## MCK welcomes Supreme Court of Canada ruling

For immediate release

**(Kahnawake – 27, Onerahtókha/April 2021)** The Mohawk Council of Kahnawà:ke (MCK) wishes to advise the community that it welcomes the Supreme Court of Canada's recent decision in *R. v. Desautel*, 2021 SCC 17. The case – which was about whether a member of the Lakes Tribe located in the United States, whose traditional Sinixt Nation hunting territory included British Columbia – could exercise an Aboriginal right in British Columbia within the meaning of Canada's constitution. The Court held that the test for Aboriginal rights is the same regardless of citizenship and whether the claimant is a resident on the Canadian or U.S. side of the present-day border.

In particular, the MCK welcome's the decision's flexible approach to the requirement of continuity in proving an Aboriginal right. As well, the MCK is pleased with Justice Rowe's statement that it is, "for Aboriginal peoples...to define themselves and to choose by what means to make their decisions, according to their own laws, customs and practices."

The MCK intervened in this case to ensure that Haudenosaunee domiciled in the U.S. can exercise Aboriginal and Treaty rights within Canada. The MCK's contribution to the case is reflected in the Court's finding that the strong connection to ancestral territory demonstrated by the Indigenous interveners was crucial in determining the scope of rights that the Canadian constitution was meant to protect.

While the MCK is pleased the Court has recognized that residence on this side of the present-day Canada/U.S. border is not a precondition for exercising Aboriginal rights, the Court's uncritical reliance on legal tests founded on the Doctrine of Discovery and the balancing of Indigenous rights with the interests of 'other Canadians' remains troubling. The MCK is obligated to continue its vigilance on this important matter.

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