

Copyright 2022. Toronto Star Newspapers Limited. Reproduced with permission of the copyright owner. Further reproduction or distribution is prohibited without permission. All Rights Reserved. The present document and its usage are protected under international copyright laws and conventions.

PubliC Certificate issued on April 25, 2024 to English Account NG C3 for personal and temporary display.
news:20220820-TTA-20220820-65313117

Source name

Toronto Star (ON)

Source type

Press • Newspapers

Periodicity

Daily

Geographical coverage

Provincial

Origin

Toronto, Ontario, Canada

Saturday, August 20, 2022

Toronto Star (ON)

• p. A6

• 958 words



Supreme Court to get Indigenous judge

O'Bonsawin hopes nomination helps her become 'a strong, representative voice' for her people

Stephanie Levitz Toronto Star

OTTAWA - In the Indigenous Abenaki language, Michelle O'Bonsawin's last name means "pathfinder."

Now the path she set out for herself as a child finds her poised to make history as the first Indigenous person appointed to the Supreme Court of Canada.

Prime Minister Justin Trudeau announced her nomination Friday, the fifth appointment he'll have made to the top court since the Liberals came to power in 2015.

She'll take the spot being vacated this September by Justice Michael Moldaver, who has reached the legal retirement age for Supreme Court justices.

"Justice Michelle O'Bonsawin is a widely respected member of Canada's legal community with a distinguished career," Trudeau said in announcing the appointment.

"I'm confident that she'll bring invaluable knowledge to our country's highest court, which is why I'm announcing her nomination today."

O'Bonsawin was born in Hanmer, Ont., just outside of Sudbury, and identifies as a bilingual Franco-Ontarian and an Abenaki member of the Odanak First Nation, according to a news release issued by Trudeau's office.

In her application, she recounted conversations with her father about the racism they both experienced, and how growing up in a working-class family she was taught there was no job that wasn't worthwhile.

Although she'd go on to work in retail, and at a chip stand to earn money as a young adult, she knew from the age of nine she wanted to become a lawyer.

"As a First Nations woman growing up in Northern Ontario, I became aware of the need for dedicated individuals to provide a strong, representative voice on behalf of those who could not speak for themselves," she wrote as part of her application for the Supreme Court appointment.

When in high school, she shared her dream of becoming a lawyer with a guidance counsellor, who dismissed the idea as impossible for someone from a

Born in Hanmer, Ont., Michelle O'Bonsawin identifies as a bilingual Franco-Ontarian and an Abenaki member of the Odanak First Nation. THE CANADIAN PRESS

small French town in Northern Ontario.

"And I had decided no, this is what I'm going to do. Watch me," she recalled in a 2020 video for the University of Ottawa's Jurisvision program.

She applied to join the Ontario court in 2017 after a 17-year legal career that saw her work with the RCMP, Canada Post and the Royal health group.

Over those years, she honed a focus and expertise in the intersection between mental health and the law, as well as the application of the Gladue principles, which stem from a 1999 Supreme Court decision declaring an Indigenous individual's background must be taken into account for sentencing decisions.

She wrote her PhD thesis on the subject while serving as a judge on the Ontario Superior Court.

O'Bonsawin's name had been circulating in legal circles as a candidate for the job since the process to select Moldaver's

replacement began.

Among those in her corner was the Indigenous Bar Association, whose president said in an interview Friday that for years, he did not believe an Indigenous jurist would get the nod.

The barriers to entry are hard to tear down, Drew Lafond said. One is a bilingualism requirement, which sidelines numerous potential candidates.

He cited, however, others he hopes will now begin to change with O'Bonsawin's appointment. "I don't want (her appointment) to be an example of tokenism," he said, but a "landmark step" in influencing the inclusion of Indigenous people at the highest ranks of the legal system.

The process that ended with O'Bonsawin's appointment was the first time the Indigenous Bar Association had a representative on the selection committee, Lafond said.

The amount of time and energy devoted came at the expense of their own families and legal practices, a sign of how seriously the Indigenous legal community took being part of the process, he said.

"When you are looking at these legal bodies and you don't see an Indigenous person, it makes you call into the question the legitimacy of them, and their understanding of Indigenous laws, customs and traditions," he said.

Another challenge is there's no legal or even customary requirement to have an Indigenous justice on the top court, in the same way there must be three justices from Quebec.

Lafond said his group will continue to advocate to change the law to ensure

Indigenous representation on the court, but that for now, the perspective O'Bonsawin brings to the bench - on top of her "sterling" reputation as a lawyer and judge - will prove the value.

For the first time, there will be a justice who hasn't just decided over issues involving Indigenous people or their laws in the lower courts, but lived them herself.

"I am optimistic it will erase a blind spot at the Supreme Court of Canada," he said.

Before O'Bonsawin begins the new role, the House of Commons justice committee will hear from the justice minister and the chair of the Independent Advisory Board for Supreme Court of Canada Judicial Appointments about her selection.

She'll also meet with members of Parliament and senators for a question-and-answer session.

That process is normally far less partisan than the hearings which greet nominees to the U.S. Supreme Court. In a statement Friday, the federal Conservatives congratulated O'Bonsawin on her appointment, noting its historic nature and how important the job is.

In her application, O'Bonsawin said she believes justices must stay far away from the political battlefield, and also not allow themselves to be swayed by popular political discourse, including the force that is social media and its ability to allow everyone to voice their views "regardless of whether certain views are inappropriate or insensitive."