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**IN THE
HO-CHUNK NATION TRIAL COURT**

3 **Ronald Kent Kirkwood,**
4 Plaintiff,

5 v.

Case No.: **CV 03-62**

6 **Ho-Chunk Nation Housing Department and**
7 **Ho-Chunk Nation Legislature,**
8 Defendants.

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**ORDER
(Granting Defendants' Motion to Dismiss)**

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INTRODUCTION

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16 The Court must determine whether the plaintiff may bring the instant action. The
17 plaintiff has not identified an express waiver of the Ho-Chunk Nation's sovereign immunity from
18 suit. Therefore, the Court grants a dismissal in favor of the defendants on this issue.
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PROCEDURAL HISTORY

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23 The plaintiff, Ronald Kent Kirkwood, initiated the current action by filing a *Complaint*
24 with the Court on August 14, 2003. Consequently, the Court issued a *Summons* accompanied by
25 the above-mentioned *Complaint* on August 15, 2003, and delivered the documents by personal
26 service to the defendants' representative, Ho-Chunk Nation Department of Justice (hereinafter
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1 DOJ).¹ The *Summons* informed the defendants of the right to file an *Answer* within twenty (20)
2 days of the issuance of the *Summons* pursuant to *HCN R. Civ. P. 5(A)(2)*. The *Summons* also
3 cautioned the defendants that a *default judgment* could result from failure to file within the
4 prescribed time period.

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6 The defendants, by and through DOJ Attorney Michael P. Murphy, timely filed its
7 *Answer* on September 4, 2003. The Court reacted by mailing *Notice(s) of Hearing* to the parties,
8 informing them of the date, time and location of the *Scheduling Conference*. The Court
9 convened the *Scheduling Conference* on September 23, 2003 at 1:30 p.m. CDT. The following
10 parties appeared at the *Conference*: Ronald Kent Kirkwood, plaintiff; Attorney James C.
11 Ritland, plaintiff's counsel; and DOJ Attorney Michael P. Murphy, defendants' counsel. The
12 Court entered the *Scheduling Order* on September 24, 2003, setting forth the timelines and
13 procedures to which the parties should adhere prior to trial.
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16 On October 30, 2003, the plaintiff filed his *Amended Complaint*. The defendants timely
17 filed the *Amended Answer* on November 10, 2003. The defendants next filed the December 5,
18 2003 *Motion to Dismiss* accompanied by the required memorandum of law. *See HCN R. Civ. P.*
19 *18*. In response, the Court entered the December 8, 2003 *Order (Motion Hearing)*. The order
20 informed the parties of the Court's decision to convene a motion hearing for the purpose of
21 entertaining the *Motion to Dismiss*. The order set forth the date, time and location of the *Motion*
22 *Hearing*, which the Court scheduled in conjunction with the *Pre-Trial Conference*, and alerted
23 the plaintiff to his legal rights and obligations in relation to the proceeding.
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28 ¹The *Ho-Chunk Nation Rules of Civil Procedure* (hereinafter *HCN R. Civ. P.*) permit the Court to serve the *Complaint* upon the DOJ when the plaintiff/petitioner names as a party either a unit of government or enterprise or an official or employee being sued in their official or individual capacity. *HCN R. Civ. P. 27(B)*.

1 On December 17, 2003, the plaintiff filed a timely response to the defendants' motion.
2 *Id.*, Rule 19(B). The Court convened the *Motion Hearing/Pre-Trial Conference* on December
3 18, 2003 at 3:00 p.m. CST. The following parties appeared at the *Hearing*: Ronald Kent
4 Kirkwood, plaintiff; Attorney James C. Ritland, plaintiff's counsel; and DOJ Attorney Michael P.
5 Murphy, defendants' counsel.
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8 APPLICABLE LAW

10 CONSTITUTION OF THE HO-CHUNK NATION

12 Art. VII - Judiciary

13 Sec. 5. Jurisdiction of the Judiciary.

14 (a) The Trial Court shall have original jurisdiction over all cases and controversies, both
15 criminal and civil, in law or in equity, arising under the Constitution, laws, customs and
16 traditions of the Ho-Chunk Nation, including cases in which the Ho-Chunk Nation, or its
17 officials and employees, shall be a party. Any such case or controversy arising within the
18 jurisdiction of the Ho-Chunk Nation shall be filed in Trial Court before it is filed in any other
19 court. This grant of jurisdiction by the General Council shall not be construed to be a waiver of
20 the Nation's sovereign immunity.

19 Art. X - Bill of Rights

20 Sec. 1. Bill of Rights.

21 (a) The Ho-Chunk Nation, in exercising its powers of self-government, shall not:

22 (8) deny to any person within its jurisdiction the equal protection of its laws or
23 deprive any person of liberty or property without due process of law;

24 Art. XII - Sovereign Immunity

25 Sec. 1. Immunity of Nation from Suit. The Ho-Chunk Nation shall be immune from suit
26 except to the extent that the Legislature expressly waives its sovereign immunity, and officials or
27 employees of the Ho-Chunk Nation acting within the scope of their duties or authority shall be
28 immune from suit.

1 Sec. 2. Suit Against Officials and Employees. Officials or employees of the Ho-Chunk
2 Nation who act beyond the scope of their duties or authority shall be subject to suit in equity only
3 for declaratory and non-monetary injunctive relief in Tribal Court by persons subject to its
4 jurisdiction for purposes of enforcing rights and duties established by this constitution or other
5 applicable laws.

6 APPROPRIATIONS AND BUDGET PROCESS ACT

7 Sec. 3. Declaration of Policy.

8 c. Funds appropriated under this Act may only be used for the specific purpose for
9 which they have been appropriated.

10 d. It shall be unlawful for any person to violate any provision of this Act.

11 Sec. 7. Fiscal Accounting.

12 c. Home Ownership Program. Monies budgeted for Home Ownership Program
13 expense commitments shall be carried over into the next fiscal year. The expense commitments
14 are approved contracts for Elder grants, down payments, new construction, existing home
15 purchases, refinancing, land, site development/improvements, utility extensions, and architect
16 and engineering fees. This budgeting process will carryover committed budget monies to the
17 next fiscal year to enable completion/purchase of homes for tribal members.

18 Sec. 8. Penalties.

19 a. Any person found guilty of violating any provision of this Act shall be fined an
20 amount of \$50.00 per day for each violation.

21 b. Notwithstanding any other provision of this Act, the Trial Court is hereby granted
22 authority to order injunctive or declaratory relief against any person who violates any provision
23 of this Act.

24 Sec. 9. Enforcement.

25 a. As legal counsel for the Nation, the Department of Justice shall prosecute all
26 violations of this Act promptly whenever:

27 (1) On the basis of any information available to him or her, including receipt
28 of information from any person, the Attorney General has reason to believe that any person is in
violation of any provision of this Act; or

b. The Attorney General or his/her designee shall not exercise prosecutorial
discretion.

1 c. The Attorney General shall make an initial determination as to whether a conflict
2 of interests exists in his or her prosecution of violations of this Act, in writing to the Legislature,
3 within ten (10) days after receiving information on an alleged violation as provided in paragraph
2.4.8.a, above.

4 d. Should the Legislature agree with the Attorney General that a conflict of interests
5 exists, it may appoint special counsel for the purpose of prosecuting any violation of this Act.
6 Any funds appropriated for special counsel shall be paid out of the Department of Justice annual
budget.

7 Sec. 10. Sovereign Immunity.

8 a. In accordance with Article XII of the Constitution of the Ho-Chunk Nation, the
9 Legislature hereby expressly waives the sovereign immunity of the Nation for the purposes of
10 securing any right or punishing any offense under this Act.

11 b. In accordance with paragraph a, above, the Legislature hereby declares that any
12 person violating any provision of this Act is acting beyond the scope of their duties or authority
and is therefore to be held personally liable for violations of this Act.

13 HO-CHUNK NATION RULES OF CIVIL PROCEDURE

14 Rule 5. Notice of Service of Process.

15 (A) Definitions.

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17 (2) Summons - The official notice to the party informing him/her that he/she is identified
18 as a party to an action or is being sued, that an *Answer* is due in twenty (20) calendar days (See
19 HCN R. Civ. P. 6) and that a *Default Judgment* may be entered against them if they do not file an
20 *Answer* in the prescribed time. It shall also include the name and location of the Court, the case
number, and the names of the parties. The *Summons* shall be issued by the Clerk of Court and
shall be served with a copy of the filed *Complaint* attached.

21 Rule 18. Types of Motions.

22 *Motions* are requests directed to the Court and must be in writing except for those made at trial.
23 *Motions* based on factual matters shall be supported by affidavits, references to other documents,
24 testimony, exhibits or other material already in the Court record. *Motions* based on legal matters
25 shall contain or be supported by a legal memorandum, which states the issues and legal basis
relied on by the moving party. The *Motions* referenced within these rules shall not be considered
26 exhaustive of the *Motions* available to litigants.

27 Rule 19. Filing and Responding to Motions.

28 (B) Responses. A *Response* to a written *Motion* must be filed at least one (1) day before the
hearing. If no hearing is scheduled, the *Response* must be filed with the Court and served on the

1 other parties within ten (10) calendar days of the date the *Motion* was filed. The party filing the
2 *Motion* must file any *Reply* within three (3) calendar days.

3 Rule 27. The Nation as a Party.

4 (B) Civil Actions. When the Nation is filing a civil suit, a writ of mandamus, or the Nation is
5 named as a party, the *Complaint* should identify the unit of government, enterprise or name of
6 the official or employee involved. The *Complaint*, in the case of an official or employee being
7 sued, should indicate whether the official or employee is being sued in his or her individual or
8 official capacity. Service can be made on the Ho-Chunk Nation Department of Justice and will
be considered proper unless otherwise indicated by these rules, successive rules of the Ho-Chunk
Nation Court, or Ho-Chunk Nation Law.

9 Rule 56. Dismissal of Actions.

10 (A) Voluntary Dismissal. A plaintiff may file a *Notice of Dismissal* any time prior to the filing
11 of an *Answer*. The *Complaint* will be dismissed without prejudice.

12 (B) Involuntary Dismissal. After an *Answer* has been filed, a party must file a *Motion to*
13 *Dismiss*. A *Motion to Dismiss* will be granted at the discretion of the Court. A *Motion to*
14 *Dismiss* may be granted for a lack of jurisdiction; if there has been no *Order* or other action in a
15 case for six (6) months; if a party substantially fails to comply with these rules; if a party
16 substantially fails to comply with an order of the Court; if a party fails to establish the right to
relief following presentation of all evidence up to and including trial; or, if the plaintiff so
requests.

17 Rule 58. Amendment to or Relief from Judgment or Order.

18 (A) Relief from Judgment. A *Motion to Amend* or for relief from judgment, including a request
19 for a new trial shall be made within ten (10) calendar days of the filing of judgment. The *Motion*
20 must be based on an error or irregularity which prevented a party from receiving a fair trial or a
substantial legal error which affected the outcome of the action.

21 (B) Motion for Reconsideration. Upon motion of the Court or by motion of a party made not
22 later than ten (10) calendar days after entry of judgment, the Court may amend its findings or
23 conclusions or make additional findings or conclusions, amending the judgment accordingly.
24 The motion may be made with a motion for a new trial. If the Court amends the judgment, the
25 time for initiating an appeal commences upon entry of the amended judgment. If the Court
26 denies a motion filed under this rule, the time for initiating an appeal from the judgment
27 commences when the Court denies the motion on the record or when an order denying the
28 motion is entered, whichever occurs first. If within thirty (30) days after the filing of such
motion, and the Court does not decide a motion under this Rule or the judge does not sign an
order denying the motion, the motion is considered denied. The time for initiating an appeal from
judgment commences in accordance with the Rules of Appellate Procedure.

1 (C) Motion to Modify. After the time period in which to file a *Motion to Amend* or a *Motion for*
2 *Reconsideration* has elapsed, a party may file a *Motion to Modify* with the Court. The *Motion*
3 must be based upon new information that has come to the party's attention that, if true, could
4 have the effect of altering or modifying the judgment. Upon such motion, the Court may modify
5 the judgment accordingly. If the Court modifies the judgment, the time for initiating an appeal
6 commences when the Court denies the motion on the record or when an order denying the
7 motion is entered, whichever occurs first. If within thirty (30) calendar days after the filing of
8 such motion, and the Court does not decide the motion or the judge does not sign an order
9 denying the motion, the motion is considered denied. The time for initiating an appeal from
10 judgment commences in accordance with the Rules of Appellate Procedure.

11 (D) Erratum Order or Reissuance of Judgment. Clerical errors in a court record, including the
12 *Judgment* or *Order*, may be corrected by the Court at any time.

13 (E) Grounds for Relief. The Court may grant relief from judgments or orders on motion of a
14 party made within a reasonable time for the following reasons: (1) newly discovered evidence
15 which could not reasonably have been discovered in time to request a new trial; or (2) fraud,
16 misrepresentation or serious misconduct of another party to the action; or (3) good cause if the
17 requesting party was not personally served in accordance with Rule 5(c)(1)(a)(i) or (ii); did not
18 have proper service and did not appear in the action; or (4) the judgment has been satisfied,
19 released, discharged or is without effect due to a judgment earlier in time.

20 Rule 61. Appeals.

21 Any final *Judgment* or *Order* of the Trial Court may be appealed to the Ho-Chunk Nation
22 Supreme Court. The *Appeal* must comply with the Ho-Chunk Nation *Rules of Appellate*
23 *Procedure*, specifically *Rules of Appellate Procedure*, Rule 7, Right of Appeal. All subsequent
24 actions of a final *Judgment* or Trial Court *Order* must follow the HCN *Rules of Appellate*
25 *Procedure*.

26 **FINDINGS OF FACT**

27 1. The parties received proper notice of the December 18, 2003 *Motion Hearing/Pre-Trial*
28 *Conference*.

29 2. The plaintiff, Ronald Kent Kirkwood, is an enrolled member of the Ho-Chunk Nation,
30 Tribal ID# 439A003216, and resides at 317 South Edward Street, Mount Prospect, IL 60056.
31 The plaintiff was born on October 12, 1934, and became an enrolled member on July 22, 1996.

1 3. The defendants, Ho-Chunk Nation Department of Housing and Ho-Chunk Nation
2 Legislature (hereinafter Legislature), are sub-entities of the Ho-Chunk Nation, a federally
3 recognized Indian tribe with principal offices located on trust lands at the Ho-Chunk Nation
4 Headquarters, W9814 Airport Road, P.O. Box 667, Black River Falls, WI.
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6 4. The defendants possess sovereign immunity from suit absent an express legislative
7 waiver. See CONSTITUTION OF THE HO-CHUNK NATION (hereinafter CONSTITUTION), ART. XII, §
8 1; see also *Chloris A. Lowe, Jr. v. HCN Legislature et al.*, CV 97-12 (HCN Tr. Ct., Mar. 21,
9 1997) at 14, *aff'd*, SU 97-01 (HCN S. Ct., June 12, 1997).
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11 5. On November 7, 1995, the Legislature adopted a resolution entitled, "*Š'okra*," which
12 recognized that elders' "years are limited and their housing needs are critical, therefore, the
13 housing for all of the elders shall have priority over all other segments of the Ho-Chunk
14 population." HCN LEG. RES. 11-07-95D at 2.
15

16 6. On August 18, 1998, the Ho-Chunk Nation Executive Branch presented a document
17 entitled, "*Ho-Chunk Nation Elder Housing Strategic Plan* (hereinafter *Elder Housing Plan*)," to
18 the Legislature. The stated purpose of the *Elder Housing Plan* was "to present a strategy for
19 providing housing to those 127 elders with applications pending or approved within the Home
20 Ownership Program ["HOP"]." *Elder Hous. Plan*, Ch. 1 at 1. The Executive Branch believed
21 that it could accomplish this goal within a two-year timeframe. *Id.*
22

23 7. The *Elder Housing Plan* revealed that HOP maintained thirty-seven (37) "approved and
24 active Elder files," and ninety (90) additional files pending final approval. *Id.*, Ch. III at 3. The
25 *Elder Housing Plan* made the following projections:

26	<i>by July 1, 1999</i>	<i>Provide 53 homes</i>
27	<i>by July 1, 2000</i>	<i>Provide an additional 74 homes</i>

1 *Id.*, Ch. IV at 4 (emphasis in original). The *Elder Housing Plan* advocated HOP construction
2 approval on the basis of age, and divided the elder population into eight (8) tiers. *Id.* at 5. The
3 plaintiff occupied a position in the final tier (60 to 64 years of age) as of August 18, 1998, and,
4 therefore, would have received the lowest priority under the proposed scheme.
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6 8. The Executive Branch requested "budget modifications totaling \$9,850,978.00 for new
7 home construction and administrative costs," and an amendment to the APPROPRIATIONS AND
8 BUDGET PROCESS ACT (hereinafter APPROPRIATIONS ACT) to enable fiscal year carryover for
9 HOP. *Id.*, Chs. IV-V at 4, 6.
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11 9. On August 18, 1998, the Legislature took formal action on the *Elder Housing Plan*,
12 approving an HOP budget modification by motion and passing two (2) related resolutions. *HCN*
13 *Leg. Mins.* (Aug. 18, 1998) at 4.
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15 10. First, the Legislature passed a motion "allocat[ing] \$9,850,978.00 for Elder Housing
16 Budget." *HCN LEG. MOT.* 08-18-98 at 4. The Legislature noted that the funding allocation
17 "includes all Elders with applications currently on file with the Home Ownership Program." *Id.*
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19 11. Second, the Legislature adopted a resolution for the purpose of amending the
20 Appropriations Act, adding subsection 7(c),"Home Ownership Program." *HCN LEG. RES.* 08-
21 18-98A.
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23 12. Third, the Legislature adopted a resolution for the purpose of amending the Home
24 Ownership Manuals

25 to require that, as a condition for eligibility to receive home ownership
26 assistance under the Program, any applicant whose Home Ownership
27 application was not approved prior to July 1, 1998, must have been
28 enrolled for five years prior to the commencement of the fiscal year in
which the approval of such applicant's file is considered

HCN LEG. RES. 08-18-98B.

1 13. On August 6, 2003, the Legislature adopted a resolution for the purpose of further
2 amending the Elder HOP Policy. The Legislature crafted an Elder Point Criteria based upon
3 length of enrollment and military service and associated disability. HCN LEG. RES. 08-06-03A.
4 The new criteria does not impact previously approved elder files. *Id.*

6 14. The plaintiff stated that his application never received HOP approval due to the
7 intervening rule changes identified above. *Mot. Hr'g/Pre-Trial Conference* (LPER at 3, Dec. 18,
8 2003, 03:16:21 CST).

9 15. The plaintiff suggested that a grievant could pierce sovereign immunity by merely
10 alleging a constitutional deprivation and/or violation. The plaintiff did not elaborate upon this
11 broad assertion. Consequently, the Court provided the plaintiff the opportunity to provide
12 analogous foreign case law capable of supporting his claim. *Id.* at 5, 03:40:17 CST. To date, the
13 plaintiff has made no further filings with the Court.
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17 DECISION

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19 The Court may exercise subject matter jurisdiction "over all cases and controversies . . .
20 arising under the Constitution, laws, customs and traditions of the Ho-Chunk Nation." CONST.,
21 ART. VII, § 5(a); *see also Ho-Chunk Nation v. Harry Steindorf et al.*, CV 99-82 (HCN Tr. Ct.,
22 Feb. 11, 2000), *aff'd*, SU 00-04 (HCN S. Ct., Sept. 29, 2000). However, "[t]his grant of
23 jurisdiction by the General Council shall not be construed to be a waiver of the Nation's
24 sovereign immunity." *Id.* Rather, the CONSTITUTION instructs that the Legislature must provide
25 a waiver in express terms before the Court may entertain the merits of a cause of action against
26 the Nation or one of its sub-entitites. CONST., ART. XII, § 1.
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1 The plaintiff alleges a violation of his right to equal protection of the Nation's laws,
2 thereby presenting a proper case or controversy, *i.e.*, a constitutional deprivation. *See id.*, ART.
3 X, § 1(a)(8). Yet, the plaintiff must properly identify a waiver of the Nation's sovereign
4 immunity from suit. The two (2) issues remain distinct, and while the plaintiff argued their
5 interconnectedness, the plaintiff failed to persuade the Court, especially in the absence of any
6 supporting authority.

8 The presence of sovereign immunity does not necessarily enable constitutional violations
9 to go unchecked. The Nation may insulate itself from an award of monetary damages, but the
10 Court may grant non-monetary declaratory and injunctive relief against the Nation's officials and
11 employees. *Id.*, ART. XII, § 2; *see also Lowe, Jr.*, CV 97-12 (HCN Tr. Ct., Mar. 21, 1997) at 14,
12 *aff'd*, SU 97-01 (HCN S. Ct., June 12, 1997). Consequently, the naming of parties to a suit
13 becomes an important exercise. *See HCN R. Civ. P. 27(B)*; *see also APPROPRIATIONS ACT*, §
14 10(b). In the instant case, the defendants alerted the plaintiff to the presence of sovereign
15 immunity within its responsive pleading, but the plaintiff failed to amend his pleading prior to
16 the scheduled deadline. *See Scheduling Order* at 1; *Defs.' Answer* at 2.

19 Therefore, the Court must examine the plaintiff's contention that the APPROPRIATIONS
20 ACT includes an express waiver in relation to his cause of action. The act contains the following
21 provision: "[i]n accordance with Article XII of the Constitution of the Ho-Chunk Nation, the
22 Legislature hereby expressly waives the sovereign immunity of the Nation for the purposes of
23 securing any right or punishing any offense under this Act." APPROPRIATIONS ACT, § 10(a). In
24 this regard, the plaintiff has alleged that the defendants violated the HOP carryover amendment.
25 *See id.*, § 7(c). The plaintiff specifically claims a misappropriation of funds, which he contends
26 is actionable under the act. *Id.*, § 3(c-d).

1 The HOP amendment provides, in part, that "[m]onies budgeted for Home Ownership
2 Program expense commitments shall be carried over into the next fiscal year. The expense
3 commitments are *approved contracts* for Elder . . . new construction" *Id.*, § 7(c) (emphasis
4 added). Consequently, the plaintiff must demonstrate the presence of an HOP expense
5 commitment, or, in other words, an approval of his HOP file. The plaintiff, however, admitted at
6 the *Motion Hearing/Pre-Trial Conference* that HOP had not approved his file.
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8 In addition, the plaintiff seemingly argued that the Legislature had approved his new
9 home construction when it performed the HOP budget modification. The legislative motion
10 appears to indicate that the Legislature intended the \$9,850,978.00 funding allocation to service
11 "all Elders with applications currently on file." HCN LEG. MOT. 08-18-98 at 4. The Legislature
12 undoubtedly took this figure from the *Elder Housing Plan*, which encompassed the 127 elder
13 applications on file at the time, including the plaintiff's.
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15 However, the Legislature passed a resolution on the same day, which directly undermines
16 the plaintiff's claim. *See* HCN LEG. RES. 08-18-98B. The resolution, in effect, trumps the rather
17 inarticulate motion. The Legislature could not have intended that the plaintiff receive a portion
18 of the budget increase since it explicitly restricted his access to HOP funds for a period of five
19 (5) years. *Id.* In any event, the plaintiff cannot demonstrate the presence of an applicable
20 express waiver of sovereign immunity when he, at best, can only reveal the ambiguity inherent in
21 the legislative actions.
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23 Moreover, assuming *arguendo* that the plaintiff could avail himself of the
24 APPROPRIATIONS ACT waiver, the plaintiff would not possess the ability to bring an individual
25 suit to address the alleged violations of law. Instead, the DOJ would need to prosecute the
26 matter. APPROPRIATIONS ACT, § 9. The plaintiff can safely assume that the Attorney General
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1 determined, on the basis of the *Complaint*, that she lacked "reason to believe that any person
2 [wa]s in violation of any provision of th[e] Act." *Id.*, § 9(a)(1). Otherwise, the DOJ would have
3 initiated suit since it possesses no prosecutorial discretion.² *Id.*, § 9(b).

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5 **BASED UPON THE FOREGOING**, the Court grants the defendants' *Motion to*
6 *Dismiss* on the grounds identified above. The Court shall provide the parties a period of twenty
7 (20) days to submit legal memoranda, arguing whether the dismissal should be with or without
8 prejudice. The parties should review past judicial decisions on this issue when preparing their
9 respective submissions. *See Laura L. Snake v. Douglas Greengrass*, CV 03-61 (HCN Tr. Ct.,
10 Jan. 22, 2004); *HCN Dep't of Hous, Prop. Mgmt. Div. v. Summer Martin et al.*, CV 03-23 (HCN
11 Tr. Ct., Jan. 13, 2004); *Rachel Heno Mendoza v. HCN Office of Tribal Enrollment*, CV 03-58
12 (HCN Tr. Ct., Dec. 17, 2003); *Troy S. Westphal v. Ho-Chunk Nation et al.*, CV 02-75 (HCN Tr.
13 Ct., Nov. 19, 2003).

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15 The parties retain the right to file a timely post judgment motion with this Court in
16 accordance with *HCN R. Civ. P. 58*, Amendment to or Relief from Judgment or Order.
17 Otherwise, "[a]ny final *Judgment* or *Order* of the Trial Court may be appealed to the Ho-Chunk
18 Nation Supreme Court. The *Appeal* must comply with the Ho-Chunk Nation *Rules of Appellate*
19 *Procedure* [hereinafter *HCN R. App. P.*], specifically [*HCN R. App. P.*], Rule 7, Right of
20 Appeal." *HCN R. Civ. P. 61*. The appellant "shall within thirty (30) calendar days after the day
21 such judgment or order was rendered, file with the [Supreme Court] Clerk of Court, a Notice of
22 Appeal from such judgment or order, together with a filing fee of thirty-five dollars (\$35 U.S.)."
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28 ² Hypothetically, if the plaintiff disagreed with the Attorney General's determination, then the plaintiff could bring
suit for declaratory and injunctive relief against the Attorney General in order to force her to uphold her legal
obligations and responsibilities. The plaintiff could have similarly brought suit against individual actors in the case
at bar.

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HCN R. App. P. 7(b)(1). “All subsequent actions of a final *Judgment* or *Trial Court Order* must follow the [*HCN R. App. P.*]” *HCN R. Civ. P. 61*.

IT IS SO ORDERED this 26th day of January 2004, by the Ho-Chunk Nation Trial Court located in Black River Falls, WI within the sovereign lands of the Ho-Chunk Nation.

Honorable Todd R. Matha
Associate Trial Court Judge