

IN THE
HO-CHUNK NATION SUPREME COURT

FILED
IN THE HO-CHUNK NATION
SUPREME COURT

DEC 18 2000

T. Pettibone
Clerk of Court/Assistant

Mr. Chloris Lowe Jr.,
Mr. Stewart J. Miller,

AMENDED
ORDER DENYING APPEAL
Case No. SU 00-15

Appellees,

vs.

Ho-Chunk Nation Legislature Members
Elliot Garvin, Gerald Cleveland, Sr., Myrna Thompson,
Isaac Greyhair, Dallas White Wing, Kevin Greengrass,
and Clarence Pettibone in their official capacity and
individually; and Ho-Chunk Nation Election Board,
Appellants.

This matter came before the full Court¹ on Saturday, December 2, 2000 to consider the Notice of Appeal filed by the Appellants on November 17, 2000. The Appellants appeal the Honorable Judge Matha's November 13, 2000 Order (Granting Plaintiffs' Motion for Summary Judgement), pursuant to Rule 8 of the HCN Interim Rules of Civil Procedure for use in Election Challenges and Rule 7(a) of the HCN Rules of Appellate Procedure. The Appellees, Mr. Chloris Lowe, Jr., and Mr. Stewart J. Miller, had not filed any opposition to the appeal.

This matter arises out of an election challenge to the special Redistricting Election held on October 14, 2000. The applicable rule is Rule 8 of the HCN Interim Rules of Civil Procedure for use in Election Challenges. Rule 8 states, "*the final judgement of the Trial Court is appealable to the Ho-Chunk Supreme Court. The notice of appeal shall be filed and served within five (5) days of entry of the judgement*". This Court recognizes

¹ It has been the practice of the HCN Supreme Court to review incoming appeals by a full Court pursuant to HCN Const., Art. VII, Sec. 14. All Justices take part in the initial procedural step to accommodate the parties with timely scheduling orders and for purposes of judicial economy. Once an appeal is accepted, a Justice will recuse him/herself if appropriate. See *James and Mildred Smith v. Ron Wilbur*, SU99-12 (HCN S. Ct. Scheduling Order, Nov. 19, 1999.) However, if an appeal is denied, a recusal is not necessary

that the Appellant filed their appeal on time. However, the Order (Granting Plaintiffs' Motion for Summary Judgement) does not meet the standard of a final judgement. According to the Blacks Law Dictionary, Sixth Edition; "*a judgement is considered "final" and thus appealable only if it determines the rights of the parties and disposes of all of the issues involved so that no future action by the court will be necessary in order to settle and determine the entire controversy*". In this case, the language in the order indicates that it is not final. See lines 8-15, pg. 12, Order (Granting Plaintiff's Motion for Summary Judgement) indicating that the matter will not be resolved to allow for the six month requirement. The language used by Judge Matha on page 13, lines 18-23 and on page 14, lines 5-6, indicates that there is still another judicial determination to be made. The pending decision on the constitutionality of the scenarios submitted which would sanction two of three is the decision which would be the final judgement. That decision on the proposed plans would be determinative of all of the issues in the lawsuit. At that time, that decision would be ripe for appeal as a final judgement.

If this Court addresses the decision before it is final, that will impose further delays and costs on this action. This Court would prefer to accept appeals after final judgments are rendered which dispose of all the issues.

Based upon the foregoing, this appeal is DENIED.

Egi Heskekjet, this 18th day of December 2000.


Hon. Rita A. Cleveland, Associate Justice

because the Justice is not considering the merits of the case. The Justice is merely taking part in the procedural step of deciding whether or not to accept the appeal.

Debra A. Greengrass
Hon. Debra Greengrass, Associate Justice

Mary Jo B. Hunter
Hon. Mary Jo B. Hunter, Chief Justice

FILED
IN THE HO-CHUNK NATION
TRIAL SUPREME COURT

DEC 18 2000

T. Pettibone
Clerk of Court/Assistant

CERTIFICATE OF SERVICE

I, Tari Pettibone, Clerk of the Ho-Chunk Nation Supreme Court, do hereby certify that on the date set forth below I served a true and correct copy of the attached paper file in Case No. SU-00-15 By the United States Postal Service, upon all person listed below:

Mr. Gary J. Montana
N12923 Prairie Road
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Hon. Debra Greengrass
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Hon. Mary Jo Brooks Hunter
4 Linder Court N.
St. Paul, MN 55106

Hon. Rita Cleveland
367 River Street
Black River Falls, WI 54615

Date: December 18, 2000

Tari Pettibone

Tari Pettibone, Clerk of Court
Ho-Chunk Nation Supreme Court