

NOV 19 1999

Wileen RedCloud
Clerk of Court/Assistant

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

**James and Mildred Smith,
Appellants,**

vs.

**SCHEDULING ORDER
SU99-12**

**Ron Wilbur,
Appellee.**

This matter came before the full Court on Tuesday, November 16, 1999 on the Notice of Appeal filed on November 8, 1999. The Notice of Appeal asserts that the Ho-Chunk Nation Claims Against Per Capita Ordinance, Sections 101 through 104 is unconstitutional. The Court allowed time for the Appellee to respond pursuant to the Ho-Chunk Nation Rules of Appellate Procedure. The Appellee did not file a response within the ten days allowed to oppose the filing of the appeal. Therefore, the Court accepts the matter for appeal as a constitutional argument within the jurisdiction of this Court.

The Chief Justice has informed the Court that she will be recusing herself from this matter. The Chief Justice was raised by James Smith since she was four years old and considers him to be her father. Therefore, she must recuse herself from this case based upon Article VII, Section 13 of the HCN Constitution. The Legislature must appoint a Justice *pro tempore* to fill her position. The Ho-Chunk Nation Constitution requires that the Chief Justice position be filled by a licensed attorney. HCN Constitution, Art. VII, Section 8 (a).

Based upon the foregoing, the Court hereby ORDERS:

1. That this case is accepted for appeal;
2. That the briefing schedule follow the HCN Rules of Appellate Procedure, Rule 11;
3. That the HCN Legislature appoint a Justice *pro tempore* pursuant to the HCN Constitution, Art. VII, Section 13, Conflict of Interest.

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IT IS SO ORDERED. EGI HESHKEKJET.

Dated this 19th day of November 1999.

Mary Jo B. Hunter

Mary Jo B. Hunter, Chief Justice

HCN Supreme Court