

IN THE  
HO-CHUNK NATION SUPREME COURT

APR 23 1997

*T. Pettibone*  
Clerk of Court

CHLORIS A. LOWE, JR.  
Plaintiff/Appellant,

v.

HO-CHUNK NATION,  
HO-CHUNK NATION LEGISLATURE, and  
HO-CHUNK NATION GENERAL COUNCIL,  
Defendants/Appellees.

SU97-01  
ORDER DENYING  
INJUNCTIVE RELIEF

This matter having come before the full Court on Saturday April 12, 1997 based on the Plaintiff's Motion to Enjoin Special Election and Brief of Plaintiff in Support of Request for Preliminary Injunction filed on April 9, 1997, this Court hereby **DENIES** the Motion to Enjoin [the] Special Election. The denial is based upon the timeliness of the Motion. The pleadings had been filed with the Ho-Chunk Nation Tribal Court. All of the Justices of the Ho-Chunk Nation Supreme Court were attending the Federal Bar Association's Federal Indian Law Conference in Albuquerque, New Mexico. The Assistant Clerk sent the documents via express mail so that the documents would be available to the Supreme Court for their 5:00 p.m. meeting on April 11, 1997. The documents did not arrive until approximately 8:00 p.m. and were left in the hotel room of the Chief Justice. After the Supreme Court meeting, the Chief Justice returned to her room and found the express mail package. She left the extra packets for the Associate Justices to pick up from the hotel's front desk. Associate Justice Whiterabbit did respond to the Motion late Friday evening. Associate Justice Greengrass was unable to respond until the following morning on Saturday, April 12, 1997. The Court had not been informed that the Brief of the Appellant also included the Motion to Enjoin Special Election. The Motion was not a part of the initial Notice of Appeal filed with the Clerk of Court on April 1, 1997. The Court was not able to seriously consider the Motion to Enjoin Special Election on its merit as the Special Election had

commenced on Saturday, April 12 due to the time difference between Wisconsin and New Mexico.

Therefore, this Court is **DENYING** the Appellant's Motion to Enjoin Special Election as the request was rendered moot by Appellant's failure to make the Motion in a timely manner. Appellant could have notified the Court that a Motion which required expedited consideration was being filed with the Appellant's Brief. Or, Appellant could have filed the Motion with the Notice of Appeal to insure the Court's consideration of the request prior to the special election. Appellant did not do either. Thus, the Motion became moot when considered by the Court after the special election had commenced. To consider the Motion on its merits at that point would be pointless. The Motion should have been provided to the Court with the Notice of Appeal.

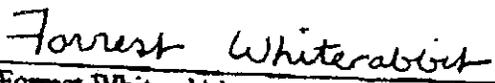
The Motion to Enjoin Special Election filed by the Appellant is **DENIED**.

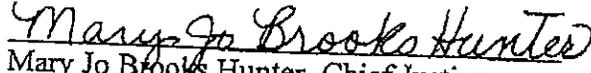
IT IS SO ORDERED. EGI HESKEKJENET.

Dated this 21st day of April 1997.

By the Court:

  
Debra C. Greengrass, Associate Justice

  
Forrest Whiterabbit, Associate Justice

  
Mary Jo Brooks Hunter, Chief Justice  
Ho-Chunk Nation Supreme Court

APR 24 1997

*T. Pettibone*

Clerk of Court

## CERTIFICATE OF SERVICE

I, Tari Pettibone, Clerk of the Ho-Chunk Nation Supreme Court of the Ho-Chunk Nation, do hereby certify that on the date set forth below I served a true and correct copy of the attached paper filed in Case No. SU-97-01 (CV-97-12), by the United States Postal Service, upon all persons listed below:

Mr. John Espinosa  
HCN Legislative Attorney  
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Black River Falls, WI 54615

Mr. William Gardner  
HCN Department of Justice  
P.O. Box 667  
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Honorable Mary Jo Brooks Hunter  
Ho-Chunk Nation Supreme Court  
4 Linder Court  
St. Paul, MN 55106

Honorable Debra Greengrass  
Ho-Chunk Nation Supreme Court  
6200 West Locust Street  
Milwaukee, WI 53210

Honorable Forrest Whiterabbit  
Ho-Chunk Nation Supreme Court  
402 S. Humboldt Street  
Denver, CO 80209

Date: 04/24/97

*T. Pettibone*

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