

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

In the
Ho-Chunk Nation Supreme Court

JOYCE WARNER, and others,
Plaintiffs,

v.

HO-CHUNK NATION ELECTION BOARD,
Defendant.

DENIAL OF APPEAL
Case Nos.: CV-95-03, 04, 05, 06, 09, & 10

Two appeal notices were filed by Clarence Pettibone, candidate for Area I Legislature, which were dated July 11, 1995 and July 12, 1995. Both requests were reviewed by the full Court on July 15, 1995. The decision as to each request will be stated separately but are consolidated in this decision.

First, Mr. Pettibone filed a *Notice of Appeal* dated July 11, 1995 which asserts that he was denied notice as to the Trial Court decision dated June 6, 1995 pursuant to the CONSTITUTION OF THE HO-CHUNK NATION, Art. X., Section 1(s)(8). Upon review, this Court finds that Mr. Pettibone's constitutional rights were not violated because he was not a party to the suit. Since he was not a party to the suit, he was not legally entitled to notice. Although the Area I seat was not specifically challenged, the election process was challenged and the Trial Court's decision affected Area I as part of the entire election process. The Court is sympathetic to Mr. Pettibone's concern but the Court cannot find a legal basis in which to allow his appeal.

This Court does not understand why Mr. Pettibone did not intervene at the Trial Court level as to his concerns. The decision of the Court does not prevent Mr. Pettibone from exercising his right to challenge the election in the future. However, the Court concludes that Mr. Pettibone does not have a legal basis to enter an appeal when he was not a party to the action below. Based upon the foregoing, Mr. Pettibone's request for an appeal is denied.

Second, the Court reviewed the Appeal of the July 7, 1995 Judgment, dated July 12, 1995. Again, the Court holds that Mr. Pettibone was not a party to the action below. Furthermore, the relief requested by Mr. Pettibone, that the Supreme Court limit the function of the Presidents and Legislators

1 who remained in office by virtue of the Trial Court's decision is completely adverse to the express
 2 language of the CONSTITUTION OF THE HO-CHUNK NATION. Mr. Petibone cites Art. V., Section 6, and
 3 Art. VI., Section 5 as the basis for his request. The language therein states, "... until their successors
 4 have been sworn into office." Therefore, the current President and Legislators remain able to act within
 5 the scope of their offices and carry out their duties as prescribed by the CONSTITUTION OF THE HO-CHUNK
 6 NATION "... until their successors have been sworn into office." Therefore, the request for appeal on
 7 this matter is denied.

8 Nothing in this decision prevents Mr. Petibone from his right to challenge the election in his own
 9 right if he is not successful at the polls.

10 DATED this 24th Day of July, 1995.

11
 12
 13 Debra Greengrass
 14 Debra Greengrass, Associate Justice

15
 16
 17 Forrest Whiterabbit
 18 Forrest Whiterabbit, Associate Justice

19
 20
 21 Mary Jo Brooks Hunter
 22 Mary Jo Brooks Hunter, Chief Justice

28