

1 federal law. Petitioner Stuart Taylor, Sr. has come before the HCN Trial Court on behalf of and as legal
2 guardian of Stuart Taylor, Jr. for a determination of “special need” pursuant to the HCN PER CAPITA
3 ORDINANCE, Part VI, § 6.01(b). The Petitioner is seeking the release of a set amount from Stuart Taylor,
4 Jr.’s per capita trust fund. As the legal guardian of Stuart Taylor, Jr., the petitioner has requested the
5 Court to make a determination of special need based on the information provided to the Court in the
6 *Petition* and during the *Hearing* of October 24, 1997. The HCN Trial Court is a court of competent
7 jurisdiction entrusted to make a finds of “special need” in order for the trust fund monies to be
8 accessible.

9 **FINDINGS OF FACT**

- 10 1. Stuart Taylor, Jr., is a Ho-Chunk enrollment member, Tribal Id. #439A004524.
- 11 2. Stuart Taylor, Jr. requested \$503.83 to purchase a class ring. (*See*, Exhibit C.)
- 12 3. Stuart Taylor, Sr. stated that he has no funds to assist his son in purchasing the class ring because
13 he has a household monthly costs of \$1,800.00 exceeding his monthly income of \$1,284.00 due to:
14 an existing \$5,000.00 tribal loan
15 an existing Coop Credit Union loan of \$2,000.00
16 an existing mortgage monthly payment of \$350.00
17 an existing car loan monthly payment of \$150.00
18 an outstanding taxes per month due to the Internal Revenue Service of \$100.00
19 plus miscellaneous household costs for food, clothing and utilities.
- 20 4. Stuart Taylor, Sr. offered a *Supportive PreK-12 Education Grant Program, Individual Grant*
21 *Application Packet* showing that class rings are not covered through this program. (*See*, Exhibit D,
22 page 3.)
- 23 5. Stuart Taylor, Sr. offered a two and a half year old letter; Ms. Paula Johnson, a school counselor
24 for the Black River Falls Middle School, wrote a letter recommending that Stuart Taylor, Jr. be
25 considered for a student achievement award on May 15, 1995. (*See*, Exhibit B.)
- 26 6. Stuart Taylor, Jr. does not work, nor has he approached his mother about assisting him to finance
27 the purchase of the class ring.

1 7. Stuart Taylor, Jr. offered to pay back *half* the money borrowed from his trust fund account.
2 (emphasis added)

3 8. As of August 31, 1996, Stuart Taylor, Jr.'s total funds in the account amounted to \$11,054.61.
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5 DECISION

6 The legal guardian, Stuart Taylor, Sr., has made a petition for the release of per capita funds for
7 the benefit of Stuart Taylor, Jr. The Court will not grant the release of such per capita distribution funds
8 since the petitioner failed to show how the funds will benefit the ward as a "special need." As
9 identified in *Marian Blackdeer v. Ho-Chunk Nation Enrollment Dept.*, CV 96-27 (HCN Tr. Ct., August
10 22, 1996), the Court is ensuring that an adult incompetent or minor through his/her guardian, has the
11 benefit and use of funds deposited and held in trust on his behalf. The Department of Justice, during the
12 *Hearing* and in its *Answer*, objected to this *Petition* submitted by the guardian since the request
13 tenuously appears related to the beneficiary's education and welfare. Thus, it fails to meet the second
14 part of the two prong test which provides that: (1) the needs of such person are not being met from other
15 Tribal funds, or other state or federal public entitlement programs, and (2) upon a finding of special need
16 by a court of competent jurisdiction. *Id.* at 5.

17 This petitioner failed to meet the two-prong test. Stuart Taylor, Sr.'s offered evidence
18 indicates that he, as petitioner seeking trust monies on behalf of Stuart Taylor, Jr., met the two prong
19 test. The Department of Justice objected since the HCN PER CAPITA ORDINANCE, § 6.01(b) was clearly
20 intended to benefit individuals with "special needs." The Department of Justice said that the *Petition*
21 was a wish or want and should not be considered a "special need." This Court was sympathetic to this
22 minor wanting a class ring and "fitting in with his class," but clearly the HCN PER CAPITA ORDINANCE
23 was intended to meet the special needs of its tribal members who are unable to attend to those needs

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1 personally.¹ When such funds provide for the health and welfare of the adult ward, and tribal, state, or
2 local funds are unavailable to the ward, the minors or adult incompetents should be afforded access to
3 the same or similar resources as minors under the HCN PER CAPITA ORDINANCE, § 6.01(b). The Court
4 was not convinced by the petitioner that this *Petition* was a special need and how the best interest of the
5 ward will substantially benefit when funds are available to him for a basic use otherwise not available
6 through other tribal programs.

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8 IT IS SO ORDERED this 3rd day of November 1997, NUNC PRO TUNC October 24, 1997, at
9 the Ho-Chunk Nation Court in Black River Falls, Wisconsin from within the sovereign lands of the Ho-
10 Chunk Nation.

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Hon. Joan Greendeer-Lee, Associate Judge
Ho-Chunk Nation Trial Court

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¹ The Court articulated that this HCN PER CAPITA ORDINANCE would not reach to such requests as Mr. Taylor
25 petitioned, but suggested that Mr. Taylor approach the HCN Legislature to request that youth slot fund or other tribal sources
be available for class ring .so these students gain school pride and a sense of belonging.

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