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THE SUPREME COURT OF THE LUMBEE TRIBE OF NORTH CAROLINA

Anita H. Blanks, in her capacity as
a Tribal Council Member of the
Lumbee Tribe of North Carolina,

Case No.: 2017-009

PETITIONER,

v.

ORDER

Harvey Godwin Jr., in his capacity as
Chairman of the Lumbee Tribe of
North Carolina,

RESPONDENT.

THIS MATTER came on for hearing before the Supreme Court of the Lumbee Tribe (Court) for hearing on March 26, 2018, at the Lumbee Tribal Housing Complex after notice to the necessary parties as a result of a Petition filed by the Petitioner, Anita H. Blanks, Tribal Council Member. Present for the hearing were Justice Joshua Malcolm, serving as Chief Justice by designation, Justice Francine Chavis, Justice Mary Beth Locklear, and Justice Everette Moore. Chief Justice Matthew C. Scott did not participate in this hearing or any matters related to this case. The Petitioner was present and represented herself. The Respondent was present and represented by attorney Danielle McLean.

At the time this matter was called for hearing, Justice Malcolm announced to those participating the manner in which the hearing would proceed, as well as other relevant information.

The Court announced this would be a bifurcated hearing, with the Court hearing first argument from the parties regarding whether the Petitioner had met the threshold requirement to bring her action before the Court. In the event that the Petitioner successfully made the showing, the Court would then proceed to a hearing on the merits of the case and consider evidence. The Court announced, should an evidentiary hearing on the merits occur the parties would be limited to the documents already submitted to the Court and that no additional evidence or witnesses would be allowed, per the Court's Judicial Code. The Petitioner indicated she had additional witnesses and documentation to present as evidence and was not aware of the Judicial Code's five-day requirement. In response to the Petitioner's

assertion, the Court announced it would determine during any evidentiary hearing whether to admit additional evidence. The Petitioner asked it be placed in the record that she did not know about the Court's Judicial Code and that was why she did not provide information to the Respondent in advance of the hearing.

The Petitioner discussed the eight (8) violations alleged in her petition.

The Petitioner admitted to the Court she was acting on her own, as a Tribal Council Member and a Tribal Member, and not on behalf of the Tribal Council as a legislative body. The Petitioner acknowledged she was unsure of any precedent of this Court ever allowing a petition in which an individual Tribal Council Member acted alone in a case against the Executive Branch. The Petitioner also stated to the Court there had never been a vote of a Tribal Council Committee or the Council to take action on the alleged offenses.

This Court questioned the Petitioner regarding the Finance Committee's process for dealing with alleged mismanagement of funds. The Court took notice that the "Budget Approval and Monitoring Process" Ordinance¹ mandates that in the situation of alleged "[m]ismanagement of tribal budgets" that "[a]ll such offenses shall be duly investigated by the Finance Committee who shall report all findings in [a] written report to the Tribal Council." The Petitioner stated there were discussions during Finance Committee meetings, but no formal action was taken by the body as a whole. Justice Chavis questioned the Petitioner as to why given the information that was presented there was no action by the Finance Committee. The Petitioner responded there was no support from the entire Finance Committee to take any action related to the allegations by the Petitioner. The Court stressed the Ordinance requires an investigation by the Finance Committee, in situations asserted by Petitioner, but only if the Finance Committee believes the associated Ordinance has been violated. Petitioner indicated she sought support from all members of the Finance Committee, but "no one signed on." Petitioner further indicated it was difficult to get everyone to "adhere to the law."

There was discussion between the Court and the Petitioner regarding the captions in two prior cases: *Revels v. Brooks*²; and *In the Matters of Contempt of Court by Paul Brooks*³. The Court and the Petitioner agreed that in *Revels v. Brooks*, the named petitioner, Pearlean Revels, was the Speaker of the Tribal Council of the Lumbee Tribe of North Carolina and acting on behalf of the entire Tribal Council as a legislative body.

The Petitioner argued that as an individual Tribal Council Member elected to represent tribal members, she had standing to appear before the Court to discuss the alleged violations listed in the Petition.

Following the close of the Petitioner's presentation, the Respondent presented an argument regarding Petitioner's standing. The Respondent argued the Petitioner lacked standing to bring the matter before the Court in her individual capacity as a Tribal Council Member. The

¹ Ordinance No. 2005-0005 (Date: May 26, 2005; last Amended June 21, 2012)

² Case No.: 2013-0002

³ Case No.: 2013-0021; Case No.: 2014-0001

Respondent alleged neither the Tribal Council nor the Finance Committee had authorized the Petitioner to act and that she lacked the necessary third-party standing to act on the their behalf without express authorization.

The Respondent argued the harm alleged in violation #1 was to the Finance Committee and the Tribal Council, not to the Petitioner in her individual capacity. With regards to alleged violations #2 and #3, the Respondent said the issues were now moot. The Respondent further argued that alleged violation #4 was not ripe and therefore was improperly before the Court. The Respondent argued the Ordinance in question required an investigation by the Tribal Council and no evidence of an investigation, nor were its findings presented to the Court for its consideration. The Respondent put forth to the Court that the failure of the Petitioner to follow the procedure mandated by law was a violation of the Respondent's due process rights. The Respondent argued that alleged violation #5 was improperly before the Court as the issue was not ripe and case law laid out a clear procedure for reports as well as requests for further information. Respondent maintains the Petitioner did not follow the procedure as outlined by this Court and that Petitioner has had access to all bank accounts and direct access to the information sought. The Respondent argued alleged violation #6 was moot as there was no law that addressed the issue. Respondent argued violations #7 and #8 were improperly before the Court because there was no alleged individual harm to the Petitioner.

The Court questioned the Respondent about whether the Court in past cases had allowed one Tribal Council Member to bring actions against the Executive Branch to which the Respondent responded they had no knowledge. The Respondent also stated to the Court that Tribal Staff attended all Finance Committee meetings, which is open to the public, and that to their knowledge no investigation had taken place or been requested.

THEREFORE, after considerable discussion and deliberation, and after considering the evidence presented to the Court and arguments offered on behalf of both parties, the Court finds the Petitioner has not met the necessary burden with regards to standing. The Petitioner as a single Tribal Council Member is not in the position to bring claims on behalf of the Tribal Council, absent approval of that legislative body.

The Court announced its decision verbally to all those in attendance, at the conclusion of the hearing and indicated a written order would follow.

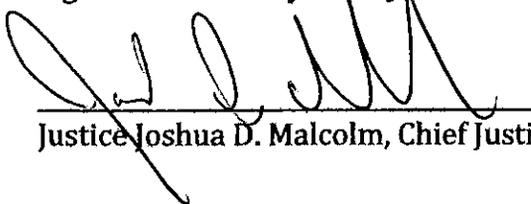
This case is hereby DISMISSED by this Court.

Justice Francine Chavis dissented from the opinion of this court with regards to the Petitioner's standing to act as an individual.

In an admonishment to all present at the hearing, the Court expressed its concern that if the Tribal Council, as a body, feels as if misconduct is occurring the Council or the appropriate Committee should act on concerns brought forth.

On behalf of the Court:

Signed this 18th day of May 2018.

A handwritten signature in black ink, appearing to be 'J. D. Malcolm', written over a horizontal line.

Justice Joshua D. Malcolm, Chief Justice by designation