



07-24-17P03:59 RCVD BB.

THE SUPREME COURT OF THE LUMBEE TRIBE OF NORTH CAROLINA

Chief Justice Von D. Locklear
Justice Wendell Lowery
Justice Matthew C. Scott

Justice Tina Dicke
Justice Francine Chavis

Purcell Jones, Jr. , PETITIONER

Case No.: 2017-003

VS

Decision

Sheila Beck Jones, Harvey Godwin, Jr.
and Freda Porter, RESPONDENTS

JURISDICTION AND PROCEDURAL HISTORY

Now comes this matter before the Supreme Court of the Lumbee Tribe of North Carolina (LTNC) pursuant to petition filed on May 17, 2017 appealing the denial of the LTNC Administrative Court's decision, by Purcell Jones, Jr., hereinafter referred to as Petitioner against Sheila Beck in her capacity as Chairman of the LTNC Elections Board, Harvey Godwin as LTNC Chairman and Freda Porter, LTNC Administrator - hereinafter referred to as Respondents.

A hearing was held on this matter on June 20, 2017, at the Lumbee Tribe of North Carolina's Tribal Complex building. Present on behalf of the Supreme Court were Justices Matthew Scott, Tina Dicke, Wendell Lowery and Francine Chavis. Present for the Petitioner were, Petitioner Purcell Jones, Jr. and Petitioner's representative Reba Scott. Present for the Respondents were Sheila Beck, Harvey Godwin, Jr., Freda Porter and Greg Bullard - attorney representing Chairman Harvey Godwin and Tribal Administrator Freda Porter.

ISSUES

Petitioner alleges pursuant to Tribal Ordinance CLLO-2010-0318-01, he as representative of his committee has the right to obtain copies of the voting records from the poll sites for the 2015 Tribal Election.

APPLICABLE LAW

In determining whether Petitioner has the right to obtain copies of the information requested we must first look at the Constitution. The Constitution does not address the actual disclosure of Tribal records. Therefore, when the Constitution is silent on an issue the court must then look to Tribal Ordinances

The Tribal Constitution, in Article VII (1) states, "The legislative power to enact ordinances of the Lumbee Tribe of North Carolina shall reside in the Tribal Council". From this Constitutional mandate the Council, has a codified Disclosure Ordinance referenced as CLLO-2010-0318-01 whose purpose pursuant to Section 1 "is to establish a procedure for disclosure of tribal government records". Section 1 of the ordinance further states "...access to tribal government records will not be allowed where access is otherwise restricted by applicable tribal, federal or state law. The policy that will guide application and interpretation of the Ordinance is that tribal members generally have an interest in access to tribal documents that affect them, or that involve general tribal government activities....". Section 3 (3) clarifies that "to the extent required to prevent a clearly unwarranted invasion of personal privacy, the Tribe may delete identifying details when it makes available or publishes any record".

The Court heard arguments by the Petitioner and Respondents in this matter and listened to the testimony given. Petitioner argued pursuant to Tribal Ordinance CLLO-2010-0318-01 he has the right to obtain copies of the 2015 Tribal Election Polling site documents indicating the tribal members who voted. Respondent argued Petitioner did not have the right to these documents because it basically was not part of the recall procedure under the Constitution which is why Petitioner wanted the information.

DECISION

Based upon the withdrawal of Petitioner's request for action against Tribal Chairman Harvey Godwin, Jr. and Administrator Freda Porter this Court dismisses that action.

It is the unanimous decision and order of this Court, based upon the evidence presented and testimony received, that pursuant to Ordinance CLLO-2010-0318-01 the information requested by the Petitioner is a "record" as defined in Section 2(l) of the Ordinance. The Respondents have not identified how the requested information would fall into one of the enumerated exceptions as listed in Section 6 of the Ordinance. However, the information requested by the Petitioner clearly contains information that if provided would clearly create an unwarranted invasion of personal privacy and therefore trigger Section 3(3) of the Ordinance. Therefore the Court finds that the Petitioner has the right to copies of the 2015 Tribal Election Polling Site documents indicating the names of those tribal members

who voted in the 2015 election. Further, pursuant to the same ordinance, the documents will have the tribal members' addresses, signatures and tribal enrollment numbers redacted in order to prevent an unwarranted invasion of personal privacy. It is further ordered this information shall be made available to Petitioner within a reasonable time which the Courts finds to be August 28, 2017.

SIGNED by Justice Francine Chavis on behalf of the Supreme Court, this the 24th day of July, 2017.



Justice Francine Chavis