



**Little River Band of Ottawa Indians
Tribal Court of Appeals**

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**ISRAEL STONE, ET AL., &
OGEMA LARRY ROMANELLI.**
Jointly & Severely,
Appellees/Plaintiffs,
v.

CASE NO: 22-164-AP

Hon. Melissa L. Pope, Chief Justice
Hon. Bem Darrow, Associate Justice
Hon. Bernadene Crampton, Associate Justice

**LITTLE RIVER BAND OF OTTAWA INDIANS
TRIBAL COUNCIL ET AL.**
Appellants/Defendants.

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ORDER AND OPINION

INTRODUCTION AND STATEMENT OF FACTS

The Little River Band of Ottawa Indians ("LRBOI") is a federally recognized American Indian Tribe that is governed by the LRBOI Constitution, the supreme law of this Native Nation, LRBOI Tribal Laws, opinions of the LRBOI Court of Appeals, the sole appellate court of last resort when an opinion of the LRBOI is appealed, and the opinions of the LRBOI Tribal Court when final decisions are not appealed, as well as the

applicability of federal laws when specifically stating that the laws apply to Native Nations or have been held by the United States Supreme Court (USSC), when applicable.

This case involves the consolidated cases of Tribal Court Case No. CV 21-639-GC and Tribal Court Case No. CV 21-647-GC in which Appellee/Plaintiff Larry Romanelli in his official capacity as Ogema of the Little River Band of Ottawa Indians ("Appellee/Plaintiff Romanelli") and Appellee/Plaintiff Israel Stone, et. al. ("Appellees/Plaintiffs Stone, et al.") (Collectively "Appellees/Plaintiffs") brought suit against Appellants/Defendants Little River Band of Ottawa Indians Tribal Council ("Appellants/Defendants Tribal Council").

There are two questions presented on appeal. The first is whether the Trial Court erred in holding that the LRBOI Tribal Council did not have authority over the budget of the Little River Casino Resort ("LRCR") pursuant to the Trial Court's interpretation of the LRBOI Constitution. The second question presented is whether the Trial Court erred in holding that the LRBOI Tribal Government budget is separate from the LRCR budget. For the reasons set forth in this *Order and Opinion*, this Court of Appeals affirms the decisions of the Trial Court.

JURISDICTION

The jurisdiction of this Court is defined in Article VI § 8 of the LRBOI Constitution as follows:

Section 8 – Jurisdiction and Powers of the Tribal Courts. The jurisdiction and judicial powers of the Little River Band of Ottawa Indians shall extend to all cases and matters in law and equity arising under the Tribal Constitution or under the laws and ordinances applicable to the Little River Band of Ottawa Indians. Such powers shall include, but are not limited to,

- a) To adjudicate all civil and criminal matters arising within the territorial or membership-based jurisdiction of the Tribe.
- b) To review ordinances and resolutions of the Tribal Council or General Membership to ensure that they are consistent with this Constitution and rule void those ordinances and resolutions deemed inconsistent with this Constitution.
- c) To hear cases based on ordinances and laws of the Tribe for purposes of determining innocence or guilt where trial by jury has been waived.
- d) To assign fines and penalties as allowed by Tribal and Federal law.
- e) To grant warrants for search to enforcement officers when just cause is shown.
- f) To grant warrants, writs, injunctions and orders not inconsistent with this Constitution.
- g) To swear in Tribal Council members and the Tribal Ogema by administering the oath of office.

- h) To establish, by general rules, the practice and procedures for all courts of the Little River Band.
- i) To prepare and present to the Tribal Ogema and Tribal Council a budget requesting an appropriation of funds to permit the Tribal Courts to employ personnel or to retain by contract such independent contractors, professional services and whatever other services may be necessary to carry out the dictates of this Constitution, the Tribal Court Ordinance and all Ordinances creating lower courts of limited jurisdiction.
- j) To preside over all suits for declaratory or injunctive relief as provided for in accordance with Article XI of this Constitution.

This Court, therefore, has jurisdiction over this matter pursuant to Article VI § 8 (a) "[t]o adjudicate all civil and criminal matters arising within the territorial or membership-based jurisdiction of the Tribe" and (b) "[t]o review ordinances and resolutions of the Tribal Council or General Membership to ensure that they are consistent with this Constitution and rule void those ordinances and resolutions deemed inconsistent with this Constitution" and (j) "[t]o preside over all suits for declaratory or injunctive relief as provided for in accordance with Article XI of this Constitution.

STANDARD OF REVIEW

The LRBOI Court Rules of Appellate Procedure § 5.902 provides the standard of review in appellate matters as follows:

5.902 Standard of Review. The following standards apply to the Tribal Court of Appeals when deciding an appeal, unless a clear miscarriage of justice would result:

- (A) **Finding of Fact by a Judge.** A finding of fact by a judge shall be sustained unless clearly erroneous. The trial court's decision will not be changed unless the Appellate Court is definitely and firmly convinced that a mistake has been made. In other words, it is not enough that the Appellate Court may have weighed the evidence differently and/or reached a different conclusion; the trial court's decision will only be reversed if it is implausible in light of all the evidence.
- (B) **Finding of Fact by a Jury.** A finding of fact by a jury shall be sustained if there is any credible evidence to support it.
- (C) **Factual Inference.** A factual inference drawn by a judge or jury shall be reviewed as a finding of fact if more than one reasonable inference can be drawn from the fact(s).
- (D) **§5.902 (D) Witness Credibility.** Any finding, whether explicit or implicit, of witness credibility shall be reviewed as a finding of fact.
- (E) **Conclusion of Law.** A conclusion of law shall be reviewed by the Tribal Court of Appeals de novo, meaning that the Appellate Court shall review it as though it is the first time a court has ruled on this matter.

- (F) Contracts. An unambiguous contract term is reviewed as a conclusion of law.
- (G) Mixture of Law and Fact. A matter which is a mixture of law and fact is reviewed by the standard applicable to each element.
- (H) Discretion of the Court. A matter which is determined to be within the Tribal Court's discretion shall be sustained if it is apparent from the record that the Tribal Court exercised its discretionary authority and applied the appropriate legal standard to the fact(s).
- (I) Sentence or Penalty. A sentence and the imposition of fine, forfeiture, and/or penalty, excluding the assessment of damages, shall be reviewed as a discretionary determination by the Tribal Court of Appeals.
- (J) Substituted Judgment. A matter committed to the discretion of the Tribal Court shall not be subject to the substituted judgment of the Tribal Court of Appeals.

Although the actions of the parties have created the conflicts resulting in the present, consolidated case, the questions presented are questions of law. The proper standard is, therefore, § 5.902 (E) that provides that "[a] conclusion of law shall be reviewed by the Tribal Court of Appeals de novo, meaning that the Appellate Court shall review it as though it is the first time a court has ruled on this matter".

ANALYSIS

In some respects, this is a complicated case of combined complicated cases. The parties have taken many actions and the Trial Court has issued multiple *Orders*. However, with the crucial need being for the outcome that this Court of Appeals issue decisions on the two questions of law presented, this Court shall not engage in analysis of the individual actions that have brought these consolidated cases to Court. It shall focus on providing the Constitutional analysis required so that the parties – primarily representatives of the Executive and Legislative Bodies of this three-branch government – move forward in performance of their duties pursuant to the requirements of the Constitution.

The first question of law is whether the Trial Court erred in finding that the LRBOI Tribal Council did not have authority over the budget of the Little River Casino Resort ("LRCR") pursuant to the Trial Court's interpretation of the LRBOI Constitution. To begin this analysis, the Court shall cite the Powers of the Ogema as articulated in the LRBOI Constitution in Article 5 § 5 (a) (1 – 9):

Section 5 – *Powers of the Ogema.*

- (a) Subject to any limitations contained in this Constitution, the Tribal Ogema of the Little River Band shall be invested with the executive powers of its inherent sovereignty including, but not limited to:

1. To enforce and execute the laws, ordinances and resolutions of the Tribal Council, consistent with this Constitution.
2. To oversee the administration and management of the Tribal government in accordance with the laws, resolutions, and motions adopted by the Tribal Council.
3. To consult, negotiate, and execute agreements and contracts on behalf of the Little River Band with federal, state, and local governments and other tribal governments, or with private persons or organizations. Agreements and contracts reached must be approved or ratified by Tribal Council to be effective.
4. With the approval of the Tribal Council, to appoint members to the Tribal Court, members of all regulatory commissions, and heads of subordinate organizations created by ordinance (Art. IV, Sec. 9(h)).
5. Timely prepare and present the annual Tribal Budget to the Tribal Council for approval or other action and to keep the Tribal Council fully advised as to the financial condition and needs of the Tribe, preparing monthly reports for the Council, and making quarterly reports available to the membership.
6. To have veto power over actions of the Tribal Council modifying the Tribal Budget or appropriations items as provided in subsection (c) of this Section 5.
7. To collect taxes or assessments against members, non-members and businesses.
8. To manage the economic affairs, enterprises, property (both real and personal) and other interests of the Tribe, consistent with ordinances and resolutions enacted by the Tribal Council.
9. To exclude from the lands of the Tribe persons, or other entities, not legally entitled to be present thereon.

In deciding that Tribal Council did not have authority over the budget of the LRCR, the Trial Court applied *Stare Decisis*, with the issue having been decided in *Willis v. Tribal Council*, Case No. 22-010-GC, as noted below:

Count I asks the Court to declare whether or not the Council has budgetary control over the Casino, alleging that it does not as the Constitution gives this authority to the Ogema. Also contained in the complaint is alleged violation of the Budget and Appropriation Act. The Defendant Tribal Council argues that this issue is moot. These issues have been decided by *Willis v. Tribal Council*, Case No. 22-010-GC, in which the Court declared that the "Little River Casino Resort Budget is not subject to approval by the Tribal Council." The doctrine of *stare decisis* applies here. (July 14, 2022 Declaratory Judgment at Page 2).

The 10th Edition of the Black Laws Dictionary defines *stare decisis* as follows: *Stare Decisis*, Black's Law Dictionary (10th ed. 2014) as "the doctrine of precedent, under which a court must follow earlier judicial decisions when the same points arise again in litigation". The concept of *stare decisis*, therefore, involves upholding precedent, whether referred to as reliance on previous decisions or to maintain former adjudications.¹ In the present case, the Trial Court decided in *Willis v. Tribal Council* (Case No. 22-010-GC) that Tribal Council did not have authority over the LRCCR budget. It is the approach of the LRBOI Court System to apply precedent – including precedent of the Trial Court that has not been appealed – to the same issues in subsequent cases. This approach to the law ensures consistency upon which parties may rely.

In addition to the application of *stare decisis* with the Trial Court having decided in *Willis v. Tribal Council* that the "Little River Casino Resort Budget is not subject to approval by the Tribal Council," (July 14, 2022 *Declaratory Judgment* at Page 2), the decision in *Larry Romanelli as the Ogema of the Little River Casino Band of Ottawa Indians and Israel Stone v. Tribal Council* (LRBOI Court of Appeals, Case No. 20-051-AP, Decided May 10, 2021) also applies. In that case, this Court of Appeals held that:

These two Articles in the Constitution do not grant the same authority to both the Ogema and Tribal Council. Article V § 5 (a) (8) grants the authority "[t]o manage the economic affairs, enterprises, property (both real and personal) and other interests of the Tribe" to the Ogema. This provision also requires the Ogema to provide that management in a manner that is "consistent with ordinances and resolutions enacted by the Tribal Council". Tribal Council is authorized in Article IV § 7 (f) of the Constitution "[t]o create by ordinance regulatory commissions or subordinate organizations", as well as delegate powers to the regulatory commissions or subordinate organizations it creates provided that any powers are "expressly delegated". This Constitutional provision only permits the delegation of powers that Tribal Council has pursuant to the Constitution.

As stated earlier in this *Opinion*, the Constitution creates three branches of government with the powers and duties of each branch enumerated within this Constitution. There are specific circumstances where individual branches may delegate some powers of that branch. However, a branch of government may only exercise or delegate the powers that the Constitution establishes that it has. No branch of government may exercise what it does not have, including the enumerated powers of another branch.

In assuming and exercising control of the management of the Little River Casino Resort, both initially and with subsequent Resolutions discussed in this *Opinion*, the Appellant/Defendant Tribal Council violated the separation of powers doctrine as it usurped the authority the Constitution entrusts to the office of Ogema in Article V § 5 (a) (8) "[t]o manage the

¹ See <https://thelawdictionary.org/?s=stare+decisis> . See also the Blacks Law Dictionary.

economic affairs, enterprises, property (both real and personal) and other interests of the Tribe”.

In addition to the importance of precedent affirming that Tribal Council does not have Constitutional authority over the LRCR budget, this precedent also lends insight into addressing the second question presented of whether the LRBOI Tribal Government budget is separate from the LRCR. The Constitutional provisions make clear that the responsibilities of the Ogema, including in relation to working with the LRBOI Tribal Council in Article 5 § 5 (a) (5) of the LRBOI Constitution, involve engaging with Tribal Council to “[t]imely prepare and present the annual Tribal Budget to the Tribal Council for approval or other action and to keep the Tribal Council fully advised as to the financial condition and needs of the Tribe, preparing monthly reports for the Council, and making quarterly reports available to the membership.” In Article 5 § 5 (a) (6), the Constitution goes on to state that the Ogema is also vested with the authority “[t]o have veto power over actions of the Tribal Council modifying the Tribal Budget or appropriations items as provided in subsection (c) of this Section 5.”

In contrast, Article 5 § 5 (a) (8) provides that the Ogema has the duty “[t]o manage the economic affairs, enterprises, property (both real and personal) and other interests of the Tribe, consistent with ordinances and resolutions enacted by the Tribal Council.” The LRBOI Constitution does not include the same requirements for the LRCR Budget as that of the Tribal Government nor even reference the Ogema having to “[t]imely prepare and present the annual Tribal Budget to the Tribal Council for approval or other action and to keep the Tribal Council fully advised as to the financial condition and needs of the Tribe”. Instead, it places the responsibilities for management of “enterprises” solely under the authority of the Ogema.

The Trial Court noted the difference in *Willis*:

No where in the Constitution, nor the Budget Appropriations Act does it state that the Casino budget is approved by the Tribal Council. It is the Court's interpretation of the Constitution and the Budget and Appropriations Act, that the Casino budget is NOT subject to approval by Tribal council. The information is provided purely for the purpose of application of the expected projected revenue to the proposed government budget.

The Appellants/Defendants argue that

The powers of the Ogema include the power “[t]o manage the economic affairs, enterprises, property (both real and personal) and other interests of

the Tribe, consistent with ordinances and resolutions enacted by the Tribal Council." Art. V, Section 5(a)(8) (emphasis added). While this provision empowers the Ogema to manage enterprises such as the LRCR, it also "requires the Ogema to provide that management in a manner that is 'consistent with ordinances and resolutions enacted by the Tribal Council.'" *Romanelli v. LRBOI Tribal Council*, case no. 20-051-AP, Order and Opinion at 14 (May 10, 2021). By its plain terms, therefore, this provision cannot be read to negate the Tribal Council's legislative powers with respect to Tribal enterprises, including its fiscal power under Article IV, Section 7(i). Further, under normal rules of statutory and constitutional construction, this provision cannot be read to render the Tribal Council's fiscal powers provided in Article IV, Section 7 meaningless. *Tom v. Sutton*, 533 F.2d 1101, 1105-06 (9th Cir. 1976) (construing Lummi Tribal Constitution, court stated: "Every provision in a constitution must be interpreted in the light of the entire document; [citations 14 omitted]; and all constitutional provisions are of equal dignity and, if possible, should be construed in harmony with each other."); *Bartha v. Mohegan Tribe Election Comm.*, No. CV-09-0102, 2009 WL 3644293 at *2-3 (Mohegan Tribal Ct. Oct. 20, 2009) (rejecting construction of tribal constitution that would render some provisions superfluous). (Appellants/Defendants Brief at 13-14).

The Court agrees with the importance of interpreting Constitutional powers but has a different interpretation of the arguments cited above and throughout the Appellants/Defendants Briefs. While arguing that Tribal Council has authority over the LRCR budget through enacting legislation, the Appellants/Defendants fail to acknowledge that the legislation must be within their Constitutional power to enact. Further, the Appellants/Defendants argue being denied the right to control the LRCR budget renders their Constitutional authority meaningless when they have enacted legislation that renders the clear Constitutional authority of the Ogema "[t]o manage the economic affairs, enterprises, property (both real and personal) and other interests of the Tribe" meaningless by attempting to take fiscal control of an enterprise solely under the authority of the Ogema. Tribal Council points to the remainder of the provision as proof of their right to fiscal management with the Ogema's management of the LRCR having to be "consistent with ordinances and resolutions enacted by the Tribal Council". However, ordinances and resolutions enacted by Tribal Council must be valid as within their Constitutional authority and the precedent of this Court, including the Separation of Powers Doctrine. The precedent of this Court noted earlier in this *Order and Opinion* directly addresses this issue:

However, a branch of government may only exercise or delegate the powers that the Constitution establishes that it has. No branch of government may exercise what it does not have, including the enumerated powers of another branch. (*Larry Romanelli as the Ogema of the Little*

River Casino Band of Ottawa Indians and Israel Stone v. Tribal Council
(LRBOI Court of Appeals, Case No. 20-051-AP, Decided May 10, 2021))

While the Tribal Council clearly has the authority to enact legislation, it must be done within the actual powers of the Legislative Branch pursuant to the Constitution. Any attempts to exercise fiscal control or management over the LRCR would be a violation of the Separation of Powers Doctrine.

The analysis of the Constitution and application of precedent affirms that the Ogema has the sole authority under the Constitution to manage the LRCR that includes sole management of the budget. This analysis further affirms that the only conclusion pursuant to the Constitution is that the LRCR budget is separate from the LRBOI Tribal Government Budget with Tribal Council having no authority over the LRCR budget.

CONCLUSION

The Constitution authorizes the Ogema "[t]o manage the economic affairs, enterprises, property (both real and personal) and other interests of the Tribe, consistent with ordinances and resolutions enacted by the Tribal Council." This authority includes fiscal management. With the powers enumerated in the Constitution and precedent of the Courts making it clear that the Ogema has sole fiscal management of the LRCR budget, the LRCR budget is separate from the Tribal Government Budget. The Tribal Council does not have authority over the LRCR budget. Although the Tribal Council has the Constitutional authority to enact legislation, it must be done pursuant to the authority of the Legislative Branch as defined in the Constitution and pursuant to the decisions of this Court, including the Separation of Powers Doctrine.

IT IS HEREBY ORDERED:

Melissa L. Pope
Hon. Melissa L. Pope, Chief Justice

5-7-2025
Date

Berni Darrow
Hon. Berni Darrow, Associate Justice

5/7/25
Date

Bernadene Crampton
Hon. Bernadene Crampton, Associate Justice

5-7-25
Date

CERTIFICATE OF SERVICE

I hereby certify that the Order and Opinion in Case No. 22-164-AP was served upon the parties pursuant to Tribal Court Rule 4.100.

5-8-25
Date

Spring Medaco
Court Clerk/Administrator