

LITTLE RIVER BAND OF OTTAWA INDIANS
TRIBAL COURT
3031 DOMRES ROAD
MANISTEE MICHIGAN 49660
(231) 398-3406

PETITIONER:
DIANE LONN

Case Number: 21103EB
Judge Daniel Bailey

v.

RESPONDENTS:
JULIE WOLFE and
LITTLE RIVER BAND ELECTION BOARD

Petitioner:
Diane Lonn
1207 W. Merkey Road
Manistee, Michigan 49660

Respondents:
Julie Wolfe
217 Ninth Street
Manistee, Michigan 49660

Attorneys for the Election Board:
Steven Sandven
Jo Anne Ybaben
11294 Gold Mountain Loop
Hill City, South Dakota 57745

ORDER AFTER EMERGENCY HEARING HELD ON MAY 19, 2021

On May 13, 2021, the Petitioner filed a "*Motion for an Ex Parte Order requesting a Temporary Restraining Order against certifying the Final Election Results and swearing in of Julie Wolfe, as At Large Representative.*" Petitioner alleged that Respondent Wolfe was not a resident of Michigan for the six months prior to the start of the election and therefore did not meet the requirements of candidacy.

In order to issue an Ex Parte Order, the court must be satisfied by the specific facts set forth in an affidavit or verified pleading that irreparable injury, loss, or damage will result from the delay required to effect notice, or that notice itself will precipitate adverse action before an order can be issued. Since none of those requirements were met, an emergency hearing was scheduled. Petitioner and respondents were served by mail

and email with a “read receipt.” The Attorneys were notified by email with a “read receipt” since they would not have received the hearing notice in time if it were mailed.

The hearing was held with all parties present via Zoom. Both the parties relied on their written submissions to the Court and placed testimony on record.

The Election Board attests that the timing of the deadlines for residency is based on the Regular Election and not the Primary Election. In the Election Board Regulations, Chapter 3, Sec. 1, A. states “A Primary Election is designed to reduce the overall pool of Candidates for the Regular Election to a more manageable number for the Membership.” It is plausible that there may not be the need for a Primary Election based on the number of candidates for the open positions.

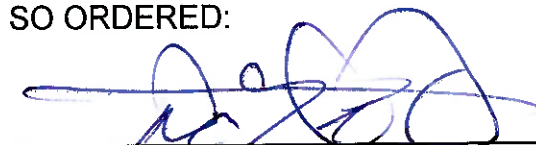
The Tribe’s Constitution is the law of the land for the Tribe. Under Article IX – *Election* in the Constitution, “Section 2 – *Election Methods*: (a.) Regular Elections. Members of the Tribal Council and the Tribal Ogema shall be elected in the month of April, the date to be set by the Election Board. (b.) Special Elections. Special Elections shall be called by the Election Board, when appropriate or when required under this Constitution, to remove, recall, and fill vacancies of elected officials and to submit initiatives and referenda to the Tribal Membership.” There is no mention of a Primary Election in the Constitution.

The Court agrees with the Election Board when they state that the Petitioner was mistaken when she filed a “challenge” to the Election. She should have followed the regulations for an “Election Dispute” instead. According to the Election Board Regulations, Chapter 12, Section 1(C), “the tribal member thereafter has five (5) business days to file an Election Dispute but in any case, no Election Dispute may be filed fewer than ten (10) business days prior to the Election.” This did not happen.

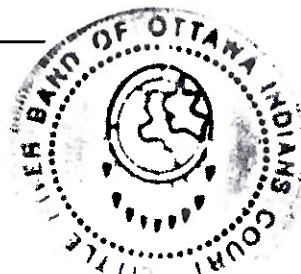
The Court finds that the Election Board exercised due diligence in determining Respondent Wolfe’s residency and certifying her as a candidate. Furthermore, the Court finds the Motion by the Petitioner does not succeed and her request for a Temporary Restraining Order is hereby dismissed based on the preponderance of evidence presented by the Respondents in this matter.

This case is dismissed.

SO ORDERED:



Judge Daniel Bailey



May 19, 2021