

LITTLE RIVER BAND OF OTTAWA INDIANS
TRIBAL COURT

SARA AGOSA,
Plaintiff

Case No.: 21-535-EB
Hon. Angela Sherigan

V.

LRBOI ELECTION BOARD,
Defendant.

**ORDER REGARDING (EXPARTE) MOTION FOR
TEMPORARY RESTRAINING ORDER**

On June 29, 2021, Plaintiff filed a Summons and Complaint/Appeal of an Election Board decision regarding a dispute/challenge she filed on June 15, 2021. On July 6, 2021 Plaintiff filed a Motion for Injunctive Relieve and a Temporary Restraining Order asking that the swearing in now scheduled for July 7, 2021 be Stayed. Due to the fact that Plaintiff is not an attorney, and that there is less than 24 hours before the swearing in is scheduled, the Court will treat this Motion as if it was filed as an Ex-Parte Motion.

Injunctive relief is an extraordinary remedy that issues only when justice requires, there is no adequate remedy at law, and there exists a real and imminent danger of irreparable harm. In this case the Plaintiff must first show why this injunction/restraining order should be granted without notice to the Respondent. If the Court is satisfied, then it will move to analysis as to whether or not a temporary restraining order should issue.

First part: A temporary restraining order *may* be granted without written or oral notice to the adverse party or the adverse party's attorney only if:

- (a) it clearly appears from specific facts shown by affidavit or by a verified complaint that immediate and irreparable injury, loss, or damage will result to the applicant from the delay required to effect notice or from the risk that notice will itself precipitate adverse action before an order can be issued;
- (b) the applicant's attorney certifies to the court in writing the efforts, if any, that have been made to give the notice and the reasons supporting the claim that notice should not be required; and
- (c) a permanent record or memorandum is made of any non-written evidence, argument, or other representations made in support of the application.

Petitioner here does not have an attorney. This Court has always been lenient towards unrepresented parties when it comes to rules and will not require strict adherence. Applied to this case, the court will treat her appeal/complaint as a verified complaint to satisfy the first part of (a).

As to the rest of (a), that immediate and irreparable injury, loss, or damage will result to *the applicant* from the delay required to effect notice or from the risk that notice will itself precipitate adverse action before an order can be issued, the Plaintiff has stated that her appeal is scheduled after the swearing in, thus satisfying requirement of why there would be a delay in effectuating notice. However, as to the requirement that she show how she would be irreparably injured, harmed, or suffer irreparable lose or damage, Plaintiff has failed to show how she would suffer immediate and irreparable harm.

Since Petitioner is unable to satisfy this requirement, no further analysis is needed. However, the Court will address Plaintiff's arguments. Plaintiff has cited Crampton V. LRBOI Election Board as support for her Motion. That case is not on point, as it was a request for a TRO from a candidate whose election results were within 2 votes and there were ballots that were not counted but were in the possession of the Election Board. Here there are no uncounted ballots, nor was Ms. Agosa a candidate for any seat/position in the 2021 election.

As to her supporting documentation, which was not properly attached, the emails she refers to also state that ballots would not be sent out if not corrected. The ballots were sent out. The Tribal Council minutes of May 17, 2017 she references refers to a case that has since been decided and as of the time of the writing of this order, no appeal has been filed. Additionally, it only refers to one category of the election. Ms. Agosa's appeal disputes/challenges the whole election, and contains a lot of information regarding contractual obligations, and very little on whether or not the alleged errors effected the outcome of the election, therefore she is not likely to prevail on the merits.

The interest to the voters in having the candidate that they voted into the seat that is scheduled for swearing in tomorrow be seated, and the need for finality in the election outweighs any personal interest that Ms. Agosa may have.

THEREFORE, Petitioner's request for an Ex-Parte Temporary Restraining Order is hereby DENIED.




Judge Angela Sherigan


Date