

**LITTLE RIVER BAND OF OTTAWA INDIANS
TRIBAL COURT**

3031 Domres Road · Manistee, MI 49660
(231) 398-3406

SARA AGOSA, STACI CHENEY,
and SUSAN THULL,
Plaintiffs

Case No. 22-061-GC

Honorable Caroline LaPorte

v.

ANGELA SHERIGAN, Chief Judge acting
in her official capacity,
Defendant

Sara Agosa
Plaintiff, In Pro Per
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Plaintiff, In Pro Per
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Plaintiff, In Pro Per
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ORDER AFTER INJUNCTION HEARING

PROCEDURAL OVERVIEW

The Plaintiff's filed this action on March 18, 2022. On March 21, 2022, the Plaintiffs filed an amended complaint ("Complaint" herein). On April 5, 2022, the Court held a hearing on the requested injunctive relief at the request of the Plaintiffs, who are pro se, in the above captioned suit. The Defendant, Chief Judge Angela Sherigan, also appeared and was represented by counsel, Mr. Van Alstine.

COMPLAINT

At issue before the Court is the Plaintiffs' Complaint, which is a request for injunctive relief regarding an order that Chief Judge Angela Sherigan entered on December 31, 2021 granting a stay in *Stone et al.* (21-639-GC). In the Complaint, the Plaintiffs allege that the stay did not meet the four-part test the Court has established for granting injunctive relief. Further, the Plaintiffs contend that the Chief Judge interfered with another branch of government without just cause,

that she forced the legislative branch to cease its willful course in violation of the Separation of Powers Doctrine and legal precedent established by the Little River Band of Ottawa Indians Tribal Court, and that she threatened the integrity of the Little River Band of Ottawa Indians processes established by ordinance (and here, the Plaintiffs make a reference to the LRBOI Fair Employment Practices Code, Ordinance number 05-600-003). In sum, the Plaintiffs disagreed with Chief Judge Sherigan's ruling.

ANALYSIS

On the Morning of April 5, 2022, the Court received a Motion to Dismiss from the Plaintiffs, which was withdrawn by the Plaintiffs on the record after the Defendant's counsel made three oral motions at the hearing for injunctive relief.

The Defendant's counsel made the following motions:

1. A Motion to Dismiss for Lack of Subject Matter Jurisdiction on the Grounds of Judicial Immunity;
2. A Motion to Dismiss for Lack of Subject Matter Jurisdiction, alleging that the Relief the Plaintiffs seek is super-appellate; and
3. A Motion alleging a Frivolous Suit under § 4.625 of the Little River Band of Ottawa Indians Tribal Court Rules of Civil Procedure.

Prior to hearing the request for injunctive relief, and because the motions made by the Defendant as to subject matter jurisdiction are completely dispositive to this matter, the Defendant's counsel's motions were heard first.

A. Law and Analysis Regarding the Motions to Dismiss for Lack of Subject Matter Jurisdiction

i. *Motion to Dismiss for Lack of Subject Matter Jurisdiction on the Grounds of Judicial Immunity*

It is a well settled principle of law that judges have judicial immunity. *Stump v. Sparkman*, 435 U.S. 349 (1978). This legal doctrine, enshrined in United States Supreme Court precedent, establishes that judges are immune from suit for their judicial acts. *Id.* Judicial acts are defined as acts that are undertaken by a judge in their official capacity, and as acts that are normally performed by the judiciary. *Id.* The expectation of the parties is also relevant; meaning the Court will look at whether or not the parties dealt with the judge in their judicial capacity. *Id.* at 363. In making its ruling in *Stump*, the United States Supreme Court relied on prior precedent established by *Bradley v. Fisher*, 80 U.S. 335 (1871). In *Bradley*, the Court held that judges of courts of record of superior or general jurisdiction are not liable to civil actions for their judicial acts, even when such acts are in excess of their jurisdiction, and are alleged to have been done maliciously or corruptly. *Id.* at 336. The "distinction as to their liability made between acts done by them in excess of their jurisdiction and acts done by them in the clear absence of all jurisdiction over the subject matter." *Id.*

Angela Sherigan serves the Little River Band of Ottawa Indians as its Chief Judge, having been duly elected and sworn in. The Plaintiffs have brought suit against Chief Judge Angela Sherigan

in her official capacity. The Plaintiffs' Complaint centers on an Order that Chief Judge Angela Sherigan entered on December 31, 2021, in which she granted a stay. A stay, which is a type of injunction, is an act that a judge would normally perform. Having clearly met the standard outlined in *Stump*, it is clear that Chief Judge Sherigan possesses judicial immunity from this suit. It should also be noted that the majority of precedent on the issue of judicial immunity involves judges being sued for the judicial acts under a theory of civil liability. Here, the Plaintiffs are requesting injunctive relief. Regardless, Judge Sherigan is immune from suit with regards to the Plaintiffs' Complaint.

ii. *Motion to Dismiss for Lack of Subject Matter Jurisdiction Regarding a Complaint that is Super-Appellate*

The Plaintiffs' Complaint clearly asks this Court to invalidate another trial court level judge's ruling.

§5.021 of the Little River Band of Ottawa Indians Rules of Appellate Procedure clearly states, "[t]he Court of Appeals shall have *exclusive* jurisdiction to review the decisions of the Tribal Court according to these Rules." (Emphasis added). Without addressing whether or not the Plaintiffs have standing to file an appeal regarding the matter raised in the Complaint, it is clear that a request to overturn a sitting tribal court judge's order falls under the exclusive jurisdiction of the Little River Band of Ottawa Indians Appellate Court. Plaintiffs are aware of the appellate forum, as each of them currently have or have previously brought actions for appellate review.

As stated on the record on April 5, 2022, this Court simply lacks the subject matter jurisdiction to hear this Complaint.

B. Law and Analysis Regarding the Motion alleging a Frivolous Suit under Section 4.625 of the Little River Band of Ottawa Indians Tribal Court Rules of Civil Procedure

Though the Court ruled from the bench regarding the Defendant's first two motions, the Court needed more time to reach a decision regarding the Motion under LRCR §4.625. To meet the requirement of showing that a frivolous lawsuit or action has been filed, the movant (here, the Defendant) must show one of the following:

1. That the primary purpose of bringing the suit was to harass, embarrass or injure;
2. That it was based on untrue facts; *or*
3. The legal position was devoid of arguable legal merit. LRCR §4.625 (Emphasis added).

Having considered the Motion, the Complaint and the allegations contained therein, and the Plaintiffs' requested relief, this Court finds that the third prong of the requirement, that the legal position was devoid of arguable legal merit, is met. It is important to state that the Court is making this finding for the same reasons that this suit is barred for lack of subject matter jurisdiction: that this suit is barred by judicial immunity and was a request for super-appellate review via another trial court judge.

Further, as a matter of public policy, the Court calls attention to a point made by Mr. Van Alstine during the hearing. As he aptly pointed out, it is possible that this lawsuit might conflict the

sitting Judge out of her open cases where the Plaintiffs are parties and/or possibly out of future lawsuits where the Plaintiffs are involved. This maneuver is not without consequence to the Plaintiffs. And while it undermines their credibility before this Court, it also threatens to undermine the judicial process in general.

Accordingly, the Motion under LRCR §4.625 is **GRANTED**.

CONCLUSION

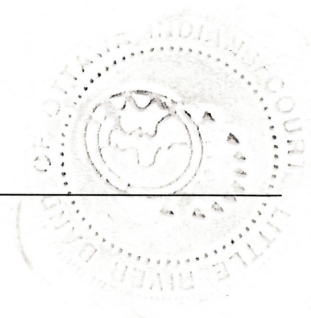
Respectfully, this matter should not be in this Court.

Accordingly, the Plaintiffs' Complaint is **DISMISSED WITH PREJUDICE** for lack of subject matter jurisdiction as outlined above. Having granted the Defendant's Motion under LRCR §4.625, the Court is *required* to award the Defendant the reasonable costs and fees, including attorneys fees, she incurred in connection with this action pursuant to LRCRC §4.625(A)(2). The amount to be assessed shall be apportioned equally amongst the Plaintiffs. The Defendant, as the party entitled to costs and reasonably attorney fees, must prove up their costs and fees in accordance with the Rules of Civil Procedure.

4/12/2022

Date

DocuSigned by:
Caroline LaPorte
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Caroline LaPorte
Associate Judge



CERTIFICATION OF SERVICE

I certify that a copy of this order was mailed to all parties and/or their attorneys via email on the below date.

4-12-22

Date

Spring Medacco
Court Clerk/Administrator