

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

LARRY ROMANELLI,  
As Ogema,  
Plaintiff,

Case No. 23-097-GC  
Hon. Angela Sherigan

v.

SHANNON CRAMPTON, and  
In his capacity as a Tribal Councilor,  
Defendant.

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**ORDER AFTER HEARING ON MOTIONS FOR SUMMARY DISPOSITION**

A hearing was held on both Plaintiff's and Defendant's Motions for Summary Disposition in this matter in which the Plaintiff and his attorney and the Defendant's attorney appeared<sup>1</sup>.

This matter was originally brought before the Court as a declaratory action asking the court to declare the meaning of the word "present" in the Constitution as it pertains to Tribal Council regular meetings.

It is the Plaintiff's position that present means *physically* present. (*emphasis added*). In Plaintiff's Motion for Summary Disposition, he argues that pursuant to Resolution 04-1215-505, that Councilor Crampton must be physically present at the Council meetings. The Resolution states that "all members of the Tribal Council and the Tribal Ogema are required to attend each duly schedule or called meeting of the Tribal Council in person...".

Plaintiff asks to the Court to declare that the Little River Band of Ottawa Indians Constitution requires members of the Tribal Council be physically present at regularly scheduled meetings to be counted for purposes of a quorum, and in order to vote on matters before the Council, and that physically present means that each Councilor be present and seated at the time and in the place named in the resolution setting the schedule of the regular meetings pursuant to Article IV, Section 6(a) of the Constitution.

In Defendant's Motion for Summary Disposition, he argues that the Plaintiff lacks standing to bring the action, and that the doctrine of separation of powers prevents the court from hearing this matter as it is a procedural matter of Tribal Council and not contrary to some

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<sup>1</sup> Defendant failed to appear and was subsequently held in contempt of court after a hearing on the matter.

constitutional mandate. Defendant additionally argues that there is a necessary party missing to this action, namely the Tribal Council.<sup>2</sup>

The Court will first address the issue of standing<sup>3</sup>. The Court finds that the Ogema does have standing as he is charged with enforcement of the laws, ordinances and resolutions of the Tribal Council, consistent with the Constitution pursuant to Article V, Section 5(a)(1) and under Article XI, Section 2(a), which states:

(a)the Little River Band, its Tribal Council members, Tribal Ogema, and other Tribal officials, acting in their official capacity, shall be subject to suit for declaratory or injunctive relief in the Tribal Court System for the purpose of enforcing rights and duties established by this Constitution and by the ordinances and resolutions of the Tribe.

Here the Ogema is seeking declaratory relief from a constitutionally mandated duty placed on Tribal Council members, attending Tribal Council meetings, as well as the resolutions cited, and the interpretation of the word “present” contained therein. It is the Ogema’s position that present means physically present, which he claims Councilor Crampton has not been physically present for Tribal Council meeting for most of 2022 and 2023.

Defendant’s argument that a necessary party is missing is without merit, as while he raised this in prior hearings, he made no attempt to add the Tribal Council as a party. It should be noted that various Tribal Council members appeared at various hearings during the pendency of this case, and thus were aware of it, yet never motioned the Court to intervene. Nonetheless, under Article XI, Section 2(a) allows for Tribal Council *members* to be subject to suit, and it is defendants actions that are the impetus of this case.

The defendant argues that under Article IV, Section 6(e), the Tribal Council has authority to determine its own rules of procedure for meeting of the Tribal Council subject to any limitations imposed in the Constitution., and as such the doctrine of separation of powers prohibits the judiciary from encroaching upon or interfering with legislative function. While the Court agrees, it is not an absolute. The Court does have authority to strike down laws, ordinances, and regulations, and resolutions that are inconsistent with the Constitution.

In this instance, the Court declines to interpret the meaning of the word “present” as it is a procedural function, in which the legislative branch has the authority to determine itself, under Article IV, Section 6(e). However, the Tribal Council, did in fact, make a determination on what “present” means in Resolution #04-1215-505, which states “...all members of Tribal Council, and the Tribal Ogema are required to attend each duly scheduled or called meeting of the Tribal Council *in person...*” (emphasis added). While defendant admits in his answer that he has not been physically present for the meetings, he argues that since COVID19, it has been the “policy”

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<sup>2</sup> Defendant did not motion the court at any point in the case to add the Council as a necessary party.

<sup>3</sup> Standing is a non-jurisdictional affirmative defense and must be plead in the first responsive pleading (answer). A review of the file shows that no affirmative defenses were raised and thus the issue of standing is waived.

of the Tribal Council to allow participation virtually. Defendant failed to provide the Court with any proof of that policy. Additionally, a policy does not trump a resolution.

Since the initial filing of this suit, Resolution #04-1215-505 has been repealed in its entirety by Resolution 23-0816-118. This in effect returns the Court to an interpretation of the word "present" which this Court declines to interpret for the reasons stated above.

THEREFORE, the Court denies the Plaintiff's Motion and grants the Defendant's Motion. This case is DISMISSED. There are no other issues remaining and this matter is closed.

Dated: November 6, 2023

  
Hon. Angela Sherigan

CERTIFICATION OF SERVICE

I certify a copy of this document was served via USPS mail and via email for service to the parties and/or their attorneys of record on this day.

11-6-23  
Date

  
Court Clerk/Court Administrator