



Lumbee Supreme Court

CASE NUMBER: 2003-002

PETITIONER

RESPONDENT

JERRY McNEILL

VS.

LUMBEE TRIBAL COUNCIL

This matter was before the Court on August 19, 2003, at the office of the Lumbee Tribe in its hearing room. The matter is before the Court pursuant to a Petition filed July 24, 2003.

The Petition alleged a violation of Article VII of the Constitution Paragraph 5, "stating all proceedings of the Tribal Council shall be conducted in public session."

The Petition also alleged a violation of parliamentary procedures by voting secret ballot on July 17, 2003 on the issue of Felons holding office within the Tribe specifically the position of Tribal Chairman or a Tribal Council member.

The Petition further alleged that the Tribal Council misinterpreted Article VII Paragraph 2, Section C regarding its authority to enact an ordinance denying certain membership privileges to Felons and such conduct violated the Lumbee Constitution.

Present for the hearing were Mr. Jerry McNeill, Petitioner and Attorneys Donald and Gregory Bullard on behalf of Respondent. Tribal Council member—Mr. Delton Oxendine and other Tribal Council members were in attendance.

Mr. Jerry McNeill submitted a volume of documents to support his allegations that the Tribal Council violated the Lumbee Constitution (See Appendix A).

The Respondents were permitted to provide information and testimony concerning the various issues including the issue of voting by secret ballot and the violations of Article VII of the Lumbee Constitution in all or pertinent part.

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Lumbee Supreme Court

The Court received copies of minutes and transcript from the Tribal Council meetings held May 15, 2003, June 30, 2003 and January 27, 2003 said minutes and transcript were received into evidence.

Jimmy Hunt testified before the Court concerning his intent relative to motions made by him at one or more of the Tribal Council meetings indicated above.

The full Supreme Court heard the matter on August 19, 2003 in the Tribal hearing room from 7:30 p.m. until approximately 9:15 p.m.

Ample time was given to the Petitioner and the Respondent. Several of the Justices had questions of both Petitioner and Respondent. The hearing concluded at approximately 9:45 p.m.

The Court went into closed session from approximately 9:15 to 9:45 p.m. The Ruling was unanimous in that the Tribal Council violated the Lumbee Constitution by voting secret ballot regarding the issue of Felons.

The Court considered and reviewed the minutes of the July 17, 2003 meeting and determined that the Tribal Council failed to follow its own adopted parliamentary procedures. The Council's failure to follow proper procedure violated the Lumbee Constitution and Ordinances.
E. Bullard, Justice

The Court therefore orders that Ordinance Number 2003-008 adopted on July 17, 2003 is hereby declared void based upon procedural error and Constitutional ramifications to wit;

- 1. There was two motions on the floor at one time;**
- 2. The Council voted by secret ballot when the Constitution plainly and specifically called for an open vote except involving certain circumstances.**

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Lumbee Supreme Court

Justices:

H. Oxendine *Henry W. Oxendine*

E. Bullard *Edward J. Bullard*

T. Hunt *Tony Hunt*

A. Blanks *Ashley Blanks*

S. Brooks *Shannon Brooks*

This order entered August 28, 2003.

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