



THE SUPREME COURT OF THE LUMBEE TRIBE OF NORTH CAROLINA

Justice Mark Brooks
Justice Everette Moore

Justice Mary Beth Locklear
Justice Joshua D. Malcolm

David Locklear,)
)
PETITIONER,)
)
v.)
)
Ron Oxendine,)
)
RESPONDENT,)
)
and)
)
Tribal Elections Board,)
)
INTERVENORS-)
RESPONDENTS.)

Case No.: 2021-001
TAC-21-10-02
TAC-21-10-03
ORDER

IN THIS MATTER, the Petition was heard on October 14, 2021 and the Supreme Court of the Lumbee Tribe North Carolina (“Court”) issued an opinion on October 20, 2021. In said opinion, this Court ruled Respondent Ron Oxendine ineligible to run for Tribal Chairperson. This Court further instructed the Lumbee Tribal Elections Board (“Election Board”) that distribution of absentee ballots for the upcoming November 9, 2021 election ought to “resume quickly to lessen any further prejudice to Lumbee voters requesting absentee ballots.” The Court ordered modified absentee ballots to be distributed to Lumbee voters who had requested them, and modified ballots to be made available to Lumbee voters on Election Day November 9, 2021. On October 22, 2021, this Court conferenced in public, via live streaming, to consider matters related to a Resolution issued by the Intervenors-Respondents whereby they had decided, unilaterally, that the election date would be changed to December 14, 2021. On October 22, 2021, this Court announced it had retained jurisdiction. On October 22, 2021, this Court, among other things, ordered the Intervenors-Respondents to comply with its October 20, 2021 Order and to “take any and all necessary steps to modify all schedules, dates, and processes to accomplish the intent of this ruling to ensure that the election occurs on November 9, 2021. The Respondent filed a petition with the Tribal Administrative Court of the Lumbee Tribe of North Carolina

(“Administrative Court”) on October 27, 2021, *Ron Oxendine v. Tribal Supreme Court*, TAC-21-10-02. In said petition, the Respondent Ron Oxendine requests the Administrative Court to review the actions of the Supreme Court and overturn its ruling in *Locklear v. Oxendine*, Case No. 2021-001. On October 28, 2021, Welford Clark filed a petition with the Administrative Court in *Clark v. Tribal Board of Elections*, TAC-21-10-03. In said petition, Clark seeks “cease from conducting the election activity in progress...” On October 29, 2021, David Locklear, the Petitioner in *Locklear v. Oxendine*, Case No. 2021-001, filed a Motion to Allow Friend of the Court Brief with the Administrative Court in TAC-21-10-02. The Court has learned that the Administrative Court has announced it intends to hear TAC-21-10-02 and TAC-21-10-03 on November 2, 2021. The Court having retained jurisdiction in this matter makes the following findings:

1. Article III Section 1 of the Lumbee Constitution states, “the powers expressed herein and those powers necessary and proper to the exercise of those powers expressed herein are delegated to the specific branch of government by the general membership of the Lumbee Tribe of North Carolina.”
2. Article III Section 3 of the Lumbee Constitution states the “powers delegated to the legislative, executive, and judicial branches, except as expressly provided in this constitution, shall be separate and distinct, and no branch shall exercise the powers delegated herein to another branch, except for the office of vice-chairman.”
3. Article VIII Section 1 of the Lumbee Constitution states all executive powers of the Lumbee Tribe, reside in a Tribal Chairperson, “who shall cause all laws of the Tribe to be faithfully executed.”
4. Article IX Section 1 of the Lumbee Constitution states the “judicial power of the Lumbee Tribe of North Carolina shall reside in the Supreme Court of the Lumbee Constitution and such inferior courts as the Tribal Council may establish.”
5. Article IX Section 1 of the Lumbee Constitution states the “Supreme Court of the Lumbee Constitution shall have original jurisdiction over all cases and controversies arising under the Lumbee Constitution and all ordinances of the Lumbee Tribe of North Carolina.”
6. Lumbee Tribal Ordinance 2004-0003 establishes the Administrative Court pursuant to Article IX Section 1 of the Lumbee Constitution.
7. Lumbee Tribal Ordinance 2004-0003 establishes the Administrative Court as an “inferior or lower” court to afford due process to tribal members or those seeking tribal membership when “adverse decisions are made with regard to services and enrollment.”
8. Section IV of Lumbee Tribal Ordinance 2004-0003 defines the Administrative Court’s jurisdiction and states the “lower court shall hear all complaints arising from the administration of tribal programs, including denial of tribal membership and removal, except the court may decline any case upon a majority vote of the judges.”
9. Section IV (B) of Lumbee Tribal Ordinance 2004-0003 states “nothing in this section shall prohibit a person from appealing a declination or adverse decision to the Supreme Court of the Lumbee Constitution....”
10. The Administrative Court is in fact a court inferior to the Supreme Court of the Lumbee Constitution pursuant to both Article IX of the Lumbee Constitution and Lumbee Tribal Ordinance 2004-0003.
11. Being an inferior court, the Administrative Court has no authority to review any matter decided by the Supreme Court of the Lumbee Constitution, which is its superior.

12. The Respondent Ron Oxendine has in fact requested the Administrative Court to review the decision of the Court in this matter
13. The Administrative Court has no jurisdiction, original or appellate, to hear any matters or controversies arising from the Lumbee Constitution or Lumbee Tribal Ordinances.
14. The Respondent Ron Oxendine in his petition with the Administrative Court has stated claims arising from the Constitution and Tribal Ordinance.
15. The Supreme Court of the Lumbee Constitution has appellate jurisdiction over all matters decided by the Administrative Court and would have authority to review any decision made by the Administrative Court, rendering any effort by the Administrative Court to review the Supreme Court improper and moot.
16. The Respondent Ron Oxendine has filed a retributive action with the Administrative Court seeking to remove the Justices of the Court, in an attempt to circumvent its decision in the matter of *Locklear v. Oxendine*, Case No. 2021-001.
17. TAC-21-10-03 Petitioner Clark has filed an action with the Administrative Court requesting the Intervenor-Respondents cease activities ordered by the Court to ensure the election on November 9, 2021 will be carried out.

IT IS THEREFORE ORDERED:

1. The petition filed by the Respondent Ron Oxendine with the Administrative Court is hereby dismissed for failure to state a claim upon which relief can be granted.
2. The Administrative Court shall not schedule or hold any hearing or consider any petition by the Respondent Ron Oxendine, TAC-21-10-03 Petitioner Clark or any other petitioner, requesting any ruling of the Supreme Court to be reversed, amended, or obstructed.
3. The petition filed by the Respondent Ron Oxendine with the Administrative Court is treated by this Court as a Motion for Reconsideration.
4. The Respondent Ron Oxendine is permitted to submit a brief to the Court, supporting the claims made in his Administrative Court filing TAC-21-10-02 before 5:00 p.m. October 30, 2021 via email to Matt Roller at mroller@lumbeetribe.com only. Any brief submitted shall be type written in Times New Roman, 12 font, 1 inch margins, not exceeding five (5) pages and submitted as a single PDF document. After the submission has been received and considered, the Court will decide the extent, if any, to which it shall take additional steps in this matter.
5. If the Court decides to hear from Respondent Oxendine, such matters will be heard on Tuesday, November 2, 2021 and a location and time to be determined.
6. TAC-21-10-03 Petitioner Clark is permitted to submit a brief to the Court, supporting the claims made in his Administrative Court filing TAC-21-10-03 before 5:00 p.m. October 30, 2021 via email to Matt Roller at mroller@lumbeetribe.com only. Any brief submitted shall be type written in Times New Roman, 12 font, 1 inch margins, not exceeding five (5) pages and submitted as a single PDF document. After the submission has been received and considered, the Court will decide the extent, if any, to which it shall take additional steps in this matter.
7. If the Court decides to hear from TAC-21-10-03 Petitioner Clark, such matters will be heard on Tuesday, November 2, 2021 and a location and time to be determined.
8. Respondent Oxendine and TAC-21-10-03 Petitioner Clark shall have until October 30, 2021 at 5:00 p.m. to notify this Court if they will have counsel or a representative speaking on their behalf on November 2, 2021, should the Court set these matters over

for hearing. The notification must list the person's full name, address, contact address, email address and bar number, if they are an attorney. Said notification must be submitted to Matt Roller at mroller@lumbeetribe.com only. Failure to submit this name, as directed will result in the Court disallowing any person from speaking on behalf of Respondent Oxendine or TAC-21-10-03 Petitioner Clark.

9. The Executive Branch, in order to faithfully execute the laws of the Lumbee Tribe of North Carolina shall take whatever action, "necessary and proper," to ensure any hearing scheduled by the Administrative Court, to review the decision(s) by this Court in these matters *shall not* be permitted in tribal facilities controlled by the Executive Branch.
10. The Court recognizes the extraordinary nature and requirements of this Order and enters such with a clear expectation that all related to this matter shall comply as set forth herein.

Per the unanimous decision and on behalf of the Court in Conference.

Signed this the 29th day of October, 2021 at 4:00 p.m.

original signed
Mark Brooks, Justice

original signed
Mary Beth Locklear, Justice

original signed
Joshua D. Malcolm, Chief Justice

original signed
Everette Moore, Justice

BB

OCT 27 PM 2:08

PETITION FOR HEARING BEFORE THE TRIBAL ADMINISTRATIVE COURT OF THE LUMBEE TRIBE OF NORTH CAROLINA

-Office Use Only- Received: 10/27/21 Date TAC# 21-10-02

Robeson County North Carolina

Petitioner

Vs.

Respondent

Ron Oxendine 910-734-1041 Name & Phone No. 1837 Hezekiah Rd Address Maxton, N.C. 28364

Tribal Supreme Court Name 6984 NC-711 Address Pembroke, N.C. 28372

PETITION

COMES NOW, Ron Oxendine, Petitioner and files this Petition against Tribal Supreme Court, Respondent.

The Petitioner is a resident of Robeson County, of NC and resides at the following address: 1837 Hezekiah Rd, Maxton, N.C. 28364. The Respondent is a resident of Robeson County of North Carolina and resides at the following address: 6984 NC-711, Pembroke, N.C. 28372

EXPLAIN THE SECTION OF THE LUMBEE CONSTITUTION, TRIBAL ORDINANCE, or PROGRAM RULE, POLICY OR REGULATION THAT HAS BEEN VIOLATED:

- 1. CLLO-2010-0912-01, Section 1, subparagraph b, used my personal information obtained in execution of their duty that is not available to the public; the Supreme Court did a preplanned act to gather information thus becoming a plaintiff.
2. Article X, Section I, subsection a: Rendered a policy and usurped the authority of the BOE and violated the constitutional mandate of the BOE to establish election policy.
3. Court ruled unconstitutionally when there was no case or controversy before it violating Article 9, Section 1 of the constitution.

STATEMENT OF RELIEF BEING SOUGHT

- 1. Removal of the Supreme Court Justices for violation of their aforementioned constitutional ordinances.
2. Place Ron Oxendine name back on the ballot and reschedule the election to 14 December 2021 proposed by the Board of Elections.

Petitioner's Signature

27 Oct 2021 Date

You may attach extra statements on separate sheet of paper, if necessary.

IN THE ADMINISTRATIVE COURT FOR THE LUMBEE TRIBE

NORTH CAROLINA
ROBESON COUNTY

TAC#21-10-02

RON OXENDINE,
Petitioner

v.

MOTION TO ALLOW
FRIEND OF THE COURT BRIEF

THE LUMBEE TRIBAL SUPREME COURT,
Respondent

COMES NOW David Locklear, a Lumbee Tribal member in good standing, and the Petitioner in the case of *David Locklear v. Ron Oxendine*, case no. 2021-001, by and through counsel, respectfully filing this Memorandum of Law to assist this Administrative Court of the Lumbee Tribe in the case before it for consideration, stating the following:

1. David Locklear does not wish to intervene in this matter although he certainly has an undisputed and significant interest in these proceedings; thus, this filing with the Court. Further, David Locklear does not otherwise submit to the jurisdiction of the Tribal Administrative Court as he is not a party to the instant action.

TIME LINE OF EVENTS

2. The Supreme Court of the Lumbee Tribe heard the matter at length on October 14, 2021, wherein, David Locklear challenged whether Ron Oxendine meet the Lumbee Tribe residency requirements to seek the office of Tribal Chair.
3. Thereafter, that Court issued a lengthy and detailed order on October 20, 2021 setting out Court's basis for determining that Ron Oxendine did not meet the residency requirements to seek election as Lumbee Tribal Chairman in the upcoming election.
4. The instant Petition was filed on October 27, 2021. Ron Oxendine has in all effects, sued the Supreme Court of the Lumbee Tribe in the Tribal Administrative Court, ostensibly because the Supreme Court ruled against him.

ARGUMENTS FOR SUMMARY DISMISSAL

5. David Locklear recognizes that the Lumbee Tribal Administrative Court is not bound by the same rules as are the North Carolina courts or the United States Federal Courts; however; this Court should (and David Locklear believes this Court will) use basic and commonly accepted principles of law in the exercise of its duties.

6. With that said, the instant Petition fails to state a claim, proper or otherwise, upon which relief can be granted. The Petition alleges that the Respondent, the Supreme Court in this instance, violated an Ordinance adopted by the Lumbee Tribal Council that addresses ethics matters. Of course, David Locklear denies any ethical violation and is not aware of any ethical violation by the Supreme Court nor its members, and fully expects that the Supreme Court would vehemently deny such accusation.

7. Codes of ethics are adopted by governing bodies as guidelines and/or guideposts for the affected members, appointed or elected. Failure to adhere to a code of ethics may or may not have consequences, depending on the seriousness. Judges are bound by their own Judicial Code of Ethics. Most ethics codes provide for redress upon a showing of material breach but none provide for the kind of relief the Ron Oxendine seeks.

8. The instant Petition fails to state what personal information was obtained, how it was used, and most importantly, fails to state whether it was material (or immaterial) to the outcome of the case. The Petition appears to be an effort to cast dispersions on the Court for reasons unknown to David Locklear.

9. The Petition should be summarily dismissed without a hearing for the reasons so stated and for additional reasons set out below.

10. Again, with all due respect to this tribunal, the Tribal Administrative Court lacks jurisdiction to hear this Petition, whether meritorious or not. As the name implies and as provided for in the Lumbee Constitution, this Court is a lesser court (the people's court so to speak) designed to hear "administrative" (as opposed to constitutional) matters. To your credit, the Tribal Administrative Court serves a highly useful purpose in resolving disputes between Tribal members and the daily operations of the Lumbee Tribe; however, nothing in the Tribal Constitution or adopted ordinances remotely suggests, again with all due respect, that a lower court has authority or jurisdiction to hear appeals from the Tribal Supreme Court. What Ron Oxendine asks your Court to do is unheard of in modern jurisprudence, and should never be allowed; otherwise, if a lower/lesser court can overrule the Supreme Court, then the Lumbee people no longer have a functioning government. For the reasons stated, the Tribal Administrative Court should summarily dismiss this Petition without a hearing as the Court has absolutely no jurisdiction to hear what in effect is an appeal from the Supreme Court. No such appeal exists, now or ever.

11. Again, with all due respect, the Tribal Administrative Court should take judicial notice that it lacks any and all authority to grant Ron Oxendine the relief that he seeks, overruling the Tribal Supreme Court and placing his name back on the ballot. To do otherwise would make the Lumbee Tribe the “laughing stock” of every other judicial system. As members of the Tribal Administrative Court, David Locklear begs you to avoid this impending constitutional crisis that Ron Oxendine wants you to engage in. For all the reasons stated (and unstated due to time constraints) his Petition should be summarily dismissed without a hearing. Your Court has the inherent authority to dismiss frivolous petitions without a hearing, such as in this situation.

Respectfully submitted this 29th of October, 2021.

/s/ David Locklear
Gary L. Locklear, Attorney
locklearlaw@gmail.com
910-618-4327

PETITION FOR HEARING BEFORE THE TRIBAL ADMINISTRATIVE COURT OF THE LUMBEE TRIBE OF NORTH CAROLINA

-Office Use Only- Received: 10/30/21 Date TAC# 21-10-03

Robeson County North Carolina

Petitioner: Walford Clark 910-618-7669, 837 Singletary Ch Rd, Lumberton NC 28358. Vs. Respondent: Tribal Board of Elections, 6984 Hwy 711 West, Pembroke NC 28372.

PETITION

COMES NOW, Walford Clark, Petitioner and files this Petition against Tribal Board of Elections, Respondent.

The Petitioner is a resident of Robeson County, of NC and resides at the following address: 837 Singletary Ch Rd Lumberton NC 28358. The Respondent is a resident of Robeson County of North Carolina and resides at the following address:

EXPLAIN THE SECTION OF THE LUMBEE CONSTITUTION, TRIBAL ORDINANCE, or PROGRAM RULE, POLICY OR REGULATION THAT HAS BEEN VIOLATED:

1. CONDUCTING election CONTRARY TO RULING IN SUPREME COURT CASE # 2021-001. RESULTING IN THE DEPRIVING OF RIGHTS GUARANTEED IN THE CONSTITUTION OF THE LUMBEE TRIBE PREAMBLE.

3.

STATEMENT OF RELIEF BEING SOUGHT

1. CEASE FROM CONDUCTING THE Election ACTIVITY IN PROGRESS UNTIL NECESSARY TRIBAL LAW IS ENACTED IN COMPLIANCE WITH THE SUPREME COURTS DECISION IN LOCKLEAR V OXEBOWE.

Walford Clark, Petitioner's Signature

10-28-2021, Date

You may attach extra statements on separate sheet of paper, if necessary.



THE SUPREME COURT OF THE LUMBEE TRIBE OF NORTH CAROLINA

Justice Mark Brooks
Justice Everette Moore

Justice Mary Beth Locklear
Justice Joshua D. Malcolm

David Locklear,)
)
 PETITIONER,)
)
 v.)
)
Ron Oxendine,)
)
 RESPONDENT,)
)
and)
)
Tribal Elections Board,)
)
 INTERVENORS-)
 RESPONDENTS.)

Case No.: 2021-001
ORDER

Appearing in this matter:

Gary Locklear, Esq. for Petitioner David Locklear.
Walt Tippett, Esq. for Respondent Ron Oxendine.
Crystal Graham, Esq. for Intervenors-Respondents

IN THIS MATTER, the Petition was filed on October 6, 2021, alleging violation(s) of the Constitution of the Lumbee Tribe of North Carolina (“Constitution”)¹, Article VIII. Section 2(b). The Supreme Court of the Lumbee Tribe (“Court”) issued an Emergency Order (LTNC SC_David Locklear v. Ron Oxendine 2021-001_Prehearing ORDER_10072021 1130 signed) on

¹ [Constitution of the Lumbee Tribe of North Carolina](#)

October 7, 2021, at 11:30 a.m. ET. The Court issued an Order (LTNC SC_David Locklear v. Ron Oxendine 2021-001_Prehearing ORDER_10082021 1830 signed) on October 8, 2021, at 6:00 p.m. ET. The Court issued an Order (LTNC SC_David Locklear v. Ron Oxendine 2021-001_Prehearing ORDER_10092021 1730 signed) on October 9, 2021, at 5:30 p.m. ET. The Court issued an Order (LTNC SC_David Locklear v. Ron Oxendine 2021-001_Prehearing ORDER_10132021 1815) on October 13, 2021, at 6:15 p.m. ET.

Upon receipt of the Petition in this matter, the Court forwarded questions to the named parties and interested parties relating to how the Court should address several procedural and substantive concerns. The Court, believing it proper to notice the parties as well as interested or potentially interested parties, issued questions which were shared with the Lumbee Tribal Elections Board (“Elections Board”). The Elections Board issued responses to the Court’s inquiry, including requests to dismiss the Petition also presented to the Court at the hearing.

After the hearing began, but before the Court allowed any argument on any preliminary or substantive matters involving the controversy at bar, the Court followed its standard process of making inquiry of the parties as to any objections they may have related to the panel of four (4) justices that make up the Court. Thereafter, the Chief made individual inquiry of each of the parties. Respondent’s attorney, addressing the Court, asked that the Chief Justice recuse himself or the remaining members of the panel disqualify him. Respondent then orally expressed his concerns. Respondent, among other things, informed the Court that the Chief was the general counsel for Lumbee Tribe Enterprises, LLC (LTE). Respondent stated the Chief is the President of Lumbee Tribe Holdings, Inc. (LTH). Respondent explained his understanding of the ownership of these entities. Respondent referred to Article XI. Section 2., Article IX. Section 3.c. et al. of the Constitution. Respondent referred to an ongoing legal matter, *LTE v. Ronnie Oxendine and Spencer Locklear*, pending in Robeson County Superior Court. Respondent asserted that the Chief was conflicted in the case at bar because of the ongoing litigation. Respondent asserted that the Chief’s employment with LTE was connected to the ongoing legal matter. Respondent asserted that the Chief has a conflict of interest because of these things. Intervenor-Respondents indicated they had no issues with the panel. Petitioner addressed the Court. Petitioner stated that he believed that just because one of the panel members was involved

in a separate legal matter involving Respondent that does not conflict that panel member out of the case at bar. Petitioner then discussed his understanding of “the standard.” He stated he had heard nothing in the presentation from Respondent that requires the Chief’s disqualification. The Chief responded to Respondent’s statements. The Chief stated he was going to speak clearly to clear up a few misstatements by Respondent. The Chief explained his past employment relationship with LTE. The Chief explained further the ownership interests in LTE. The Chief explained his $\frac{3}{4}$ time work for LTE and private practice through June 2021. The Chief clarified that no one who works at LTE works for the Tribal Council or Chairman. He explained that the six- (6) person LTE Board of Directors is appointed to 15-year terms, not subject to removal or influence by the Tribal Council or Chairman. The Chief explained that he worked directly for the Board of Directors, and not the LTE President. The Chief explained his 14-month tenure as the Interim President/CEO of LTH, which he served in without compensation. He then corrected Respondent’s earlier comments and clarified that effective July 1, 2021, he had become the permanent President/CEO of LTH, while still being responsible for job functions (e.g., compliance related matters) related to LTE. The Chief described the due diligence steps he had taken regarding his different roles, starting in 2019. He explained the additional steps taken in the last few days involving this pending matter, his past roles with LTE, his current role with LTH, and his service on the Court. The Chief described steps taken to obtain feedback/opinions from the NC State Bar. The Chief explained steps taken, although not required, to apply Canon 3 of the NC Judicial Standards to his present situation. The Chief explained the Board make-up of LTH, which has four (4) members. The Chief stated even if Respondent is elected Tribal Chairman, he would not be eligible to sit on the LTH Board of Directors, based on the decision of the Directors. The Chief clarified that he has never sued Respondent. The Chief clarified comments made by Respondent that he has not and is not “counsel of record” on any litigation involving LTE. The Chief announced he would not recuse himself. After the Chief’s comments, each member of the panel then each individually expressed themselves. Justice Brooks spoke of his views on the matter and his opinions of conflicts of interest. Justice Moore commented that he does not see any issues related to the Chief serving on the panel. Justice Locklear indicated she had no comments.

The Elections Board presented what appeared to be three (3) preliminary primary objections to the Court.

First, the Elections Board contends they were not afforded due process because they were not named as actual respondents in the petition nor were they afforded what they considered proper service. While the Court acknowledges the circumstances relating to the timing of this Petition and the subsequent urgency in scheduling a hearing were not ideal, the Court believes proper steps were taken to afford the parties, including the Elections Board due process. Facing an unprecedented challenge to a candidate's eligibility one month prior to the tribal election, the Court weighed what procedural rights should be afforded to the parties in light of needing to suspend distribution of absentee ballots until the matter could be decided. In doing so, the Court announced on Friday, October 8, 2021, the matter would be heard on Thursday, October 14, 2021. The Court believed this best balanced the parties' opportunity to prepare with the need to lessen any prejudice caused to voters requesting absentee ballots. The Court also announced on October 8, 2021, the Elections Board's responses to the Court would be treated as a motion to intervene and would in fact be allowed to intervene. The Court believes the Elections Board's request at the hearing to not be made intervenors unrealistic considering their substantive responses and request to be heard. It is the opinion of the Court, the Elections Board's concerns and objections could only be considered if they were treated as a party to the action. It should also be noted, when asked at the hearing whether they believed the election ought to be delayed to achieve greater due process, the Elections Board agreed with the Respondent Ron Oxendine it should not. Furthermore, the Elections Board made no presentation as to what due process would have looked like to contrast with what they argued was a denial of due process. The Court believes without question, sufficient due process was afforded to the Elections Board.

Second, the Elections Board argues the Petition should be dismissed because the Petitioner failed to exhaust his "administrative remedy" by first filing an appeal with them. This argument of course suggests tribal law requires the Petitioner to file any challenge to a candidate's eligibility with the Elections Board before appealing to the Court. The Elections Board failed to convince the Court such a directive exists. The Court further believes the Elections Board's argument fails for several reasons. First, Article IX. Section 1. of the Constitution states, "The Supreme Court

of the Lumbee Constitution shall have original jurisdiction over all cases and controversies arising under the Lumbee Constitution and all ordinances of the Lumbee Tribe of North Carolina.” Unlike the Supreme Court of the United States, our Court is not limited to only appellate jurisdiction over lower court decisions. The Court possesses the inherent and constitutional authority to hear any controversy so long as the dispute arises out of the Constitution. Second, the Elections Board argued the Court’s authority to hear the petition is limited by Article IX. Section 1. where it states the Court shall have “appellate jurisdiction *only* over those cases and controversies” previously decided by “inferior courts established by the Tribal Council.” The Court’s interpretation of this excerpt from Section 1. differs from the Elections Board for two reasons. Firstly, a plain reading of the word “only” simply means the only type of jurisdiction the Court has over cases which have been previously decided by an inferior court is appellate jurisdiction; this in no way limits the Court’s original jurisdiction over any case or controversy arising under the constitution not previously decided by an inferior court. Secondly, and probably even more importantly, the Elections Board conceded it was not an inferior court as defined in Article IX. Section 1.

The Elections Board’s third and final primary objection is their most substantive and the one this decision will likely impact the most. The Elections Board argues the Petitioner failed to comply with its rules and regulations adopted on November 17, 2016, and amended on September 19, 2021. The Elections Board adopted a rule which limits the right of a challenger to contest a candidate’s certification to be made within five (5) days from the date of said certification. To be clear, this is the date when the Elections Board certifies the candidate’s name to be placed on the ballot. Specifically, the Elections Board argues that because the petitioner failed to challenge the Respondent’s eligibility within 5 days from September 5, 2021, the Petitioner forfeited his right to object at all. Without question, for the Elections Board’s argument to have merit, such a rule would have to first be authorized by tribal law. We find this problematic. It should be mentioned, this Court profoundly respects the independence of the Elections Board and that their decisions constitute final tribal action reviewable only by this Court, presuming those decisions are authorized either by the Constitution or Tribal Ordinance. When pressed on the source of the Elections Board’s authority to make such a rule/policy/regulation restricting the rights of Lumbee voters, the Elections Board cited Article X. Section 1. Subsection a. Subsection a. states

the Elections Board has the authority to “promulgate necessary and appropriate regulations under authority of this Constitution and tribal ordinances governing voter registration and the conduct of all regular and special tribal elections.” The Elections Board contends the word “promulgate” means to “create, make, or establish” tribal regulations relating to tribal elections. The Court disagrees and believes such a sweeping power would effectively authorize non-elected members of the Lumbee government to become lawmakers. Article VII. Section 1. states the legislative or law-making power of the Lumbee Tribe to enact ordinances shall rest with the Tribal Council. Tribal Ordinance 2005-002 (“Election Ordinance”)² also states “all legislative” authority rests only with the Tribal Council. Election Ordinance establishes a list of 22 procedural duties to be carried out by the Elections Board, none of which include making or creating new election rules. The Tribal Council in Section 7. Subsection 5.(a.) did establish a rule which states the certification of an election result may be challenged within five (5) days of said certification. No such rule or its equivalent exists in the Election Ordinance as it relates to the certification of a candidate, an unfortunate reality which has in some way contributed to this unprecedented litigation. While the Court believes the rule in Section 7. Subsection 5.(a.) provided inspiration for the Elections Board’s well-intended policy in question, for these reasons we believe the word “promulgate” as used in Article X. Section 1. Subsection A. of the Constitution means to “carry out” or “put into effect” rules and regulations previously legislated by the Tribal Council. Consequently, it is the Court’s opinion the Elections Board’s policy limiting challenges of a candidate’s certification within 5 days of certification to be an unconstitutional intrusion of the Tribal Council’s legislative authority and therefore does not preclude the Petitioner’s right to challenge the Respondent’s eligibility to run for tribal chair.

The Respondent presented what appeared to be two (2) preliminary primary objections to the Court.

Respondent’s counsel raised as an issue that his client’s Constitutional rights were being impaired by the “pace by which” the Court had scheduled this hearing. The Court specifically asked the Respondent what steps it should take to “cure th[e] potential harm” related to this concern. Respondent argued that the Court had two (2) options/remedies: deny the petition as

² [CLLO-2005-0002 “Election Board” Amended March 21, 2019.](#)

being “irregular, improper in form” among others; or “postpone the election for some period of time” to take away the prejudice to allow Respondent to “prepare in the way we think we should.” Later, after the Court recessed for a morning break, the Court queried Respondent’s counsel “what would due process look like for Mr. Oxendine” related to the second remedy that the election be delayed. The Court informed Respondent that it was prepared to take that request under consideration. However, Respondent informed the Court that he “does not seek postponement of the election.” He went on to inform the Court, “this important election needs to move forward on November 9th and he needs to remain a candidate.”

The Respondent raised issues related to evidentiary matters. The Court considered the Respondent’s remarks and determined it would treat his concerns as an ongoing objection throughout the hearing.

The Chief announced that the NC Rules of Evidence would not be applicable to the hearing, but the tribunal would be operated in a manner that is fair and equitable.

In the October 13, 2021 at 6:15 p.m. ET prehearing Order, the Court informed the parties:

- the Court has considered in Conference thoroughly the phrase in Article VIII., 2., b) “principal place of residence” contained in the Constitution of the Lumbee Tribe of NC;
- the Court has considered in Conference thoroughly the phrase in Article IX., 2. “shall be the will of the Lumbee people as expressed in the Lumbee Constitution, duly adopted tribal ordinances, and Lumbee custom. In the absence of a governing rule of law from these sources, the governing rule shall be federal common law;”
- the Court has taken judicial notice that there does not appear to be any Constitutional provision, Ordinance or prior Court decision establishing a definition or creating a “rule of law” concerning or related to “principal place of residence;”
- the Court has determined that in the absence of contrary legislative intent, residence is the equivalent of domicile; and,
- the Court has taken judicial notice that “[t]he determination of domicile...is a matter of federal common law.” *Acridge v. Evangelical Lutheran Good Samaritan Soc’y*, 334 F.3d 244, 448 (5th

Cir. 2003) (“[w]hile we may look to state law for guidance, the question of a person’s domicile is a matter of federal common law.”).

After the preliminary matters were considered, the respective parties presented their witnesses, evidence, and associated testimony. Over the Petitioner’s objection, he was required to present evidence to the Court supporting his assertions against Respondent. Petitioner had sought to call Respondent Ron Oxendine as his first witness, but the Court disallowed such, informing the Petitioner that he had to first make a “showing” to the Court supporting his assertions against Respondent. David Locklear was the first witness called to testify by Petitioner. Petitioner submitted multiple documents for the Court’s consideration. After a brief recess to consider the documents submitted by Petitioner, the Court announced all those documents would be admitted, without weight given, except for Exhibit I, which was not allowed. Those were accepted and marked by the Court clerk. The witness was questioned by counsel for Petitioner and Respondent. Intervenors/Respondents had no questions for witness D. Locklear.

The Petitioner then called Ron Oxendine as a witness. Petitioner asked questions of witness R. Oxendine and asked him questions related to the documents previously submitted and in general. Counsel for Respondent then requested and was granted permission to present his case in chief while then questioning witness R. Oxendine. Respondent had several documents, including affidavits, he submitted for the Court’s consideration. After a brief recess to consider the documents submitted by Respondent, the Court announced all those documents would be admitted, without weight given. Those were accepted and marked by the Court clerk. The witness was questioned by counsel for Petitioner and Respondent. Intervenors/Respondents had no questions for witness R. Oxendine.

The Court has concluded that under federal common law an individual can only have one (1) principal place of residence/domicile at any time. And that domicile, under common law, has two elements/prongs that must exist simultaneously: a physical presence at the new principal place of residence/domicile in question and an intent to remain indefinitely. The Court has determined that, in accordance with federal common law, it is necessary to look at a series of factors to determine the “intent” necessary to establish a principal place of residence. Those

factors may include: voting registration, church membership, business contacts, real property ownership, place of driver's license and vehicle registration, utility bills, where civic and political rights are exercised, pays taxes, and maintains a home for family.

In evaluating the evidence and testimony offered, the Court took following factors into consideration as it weighted these items. As the Respondent agreed during the hearing, the Court considered the totality of the circumstances in its evaluation. In line with considering factors, the determination of principal place of residence/domicile depends upon no one fact or combination of facts, but upon the whole taken together, showing a preponderance of evidence in favor of one position or the other. The Court considers a person's own testimony regarding his/her intention with respect to acquiring or retaining a domicile to not be conclusive. Most importantly to this Court is that conduct is of greater evidential value than declarations of witnesses. In fact, declarations as to an intention to acquire a principal place of residence/domicile are of slight weight when they are contrary or in conflict with the facts presented.

- Petitioner submitted a Deed of Trust, dated May 11, 2021, 12:26:53, that lists the "borrower" [as] Ronnie Oxendine and wife, Tina Oxendine in the face amount of \$816,500.00 that indicates "[b]orrower has promised to pay this debt in regular Periodic Payments and to pay the debt in full not later that September 1, 2052." The page appears to have the initials of "RO/TO" in the bottom right-hand corner. On page 2 of 9, the "property address" indicates "100 Eagle Point Ln, Southern Pines, North Carolina 28387-2988". The page appears to have the initials of "RO/TO" in the bottom right-hand corner. On page 5 of 9, paragraph 6. it states, "[o]ccupancy, *Borrower shall occupy, establish, and use the Property as Borrower's principal residence within 60 days after the execution of this Security Instrument and shall continue to occupy the Property as Borrower's principal residence for at least one year* [italics added] after the date of occupancy, unless Lender otherwise agrees in writing, which consent shall not be unreasonably withheld, or unless extenuating circumstances exist which are beyond Borrower's control." The page appears to have the initials of "RO/TO" in the bottom right-hand corner. On page 9 of 9, this document appears to have Ronnie Oxendine's and Tina Oxendine's signatures with a written date of 10 May 21. The signature page appears to have been notarized by Homer Craig Phifer, III in Moore County, NC.

- Petitioner submitted a Construction/Permanent Loan Rider to Security Instrument (Including Security Agreement), “made on” May 11, 2021. Page 1 of 3, paragraph 6. states, “Occupancy. Section 6 of this Security Instrument is amended and restated to read as follows. Borrower shall occupy, establish, and use the Property as Borrower’s principal residence within 60 days after the Permanent Mortgage Date and shall continue to occupy the Property as *Borrower’s principal residence for at least one year* [italics added] after the date of occupancy, unless Lender otherwise agrees in writing, which shall not be unreasonably withheld, or unless extenuating circumstances exist which are beyond Borrower’s control.” The page appears to have the initials of “RO/TO” in the bottom right-hand corner. On page 3 of 3, this document appears to have Ronnie Oxendine’s and Tina Oxendine’s signatures with a written date of 10 May 21.
- Respondent testified that this Moore County residential property has been “under construction for one (1) year.”
- Respondent testified against his own interests that his dependent child (9th grader) remained enrolled in the public schools of his purported prior principal place of residence/domicile in Virginia. Excerpts of the testimony included:

Court: You testified that your daughter was enrolled in public school. I said January 1st, but we can use January 15th or February 1st. You indicated your daughter was enrolled in public school this past spring. That’s presumptuous Mr. Oxendine, I apologize. You told us she was enrolled here this fall. And, I am presuming that means she was at Wakefield in the spring of 2021. Is that a correct presumption?

Respondent: Yes, as a virtual student. She actually attended school virtually.

Court: And Wakefield High School is a public school.

Respondent: Yes.

Court: Paid for and supported by the citizens of the State of Virginia.

Respondent: Yes.

Court: You’ve testified that you and your wife became residents of the State of NC on or about, ballpark, September 2020?

Respondent: Yes.

Court: ...do you know whether it is lawful to enroll your child in a public school in the State of Virginia when you and your wife are not residents of the State of Virginia?

Respondent: No.

- Petitioner submitted a document that appears to be a printout from the NC State Board of Elections showing Respondent's voter registration date of January 21, 2021. Respondent testified against his own interests written evidence showing registration to vote occurred on or about January 21, 2021. Respondent provided testimony and an email showing an appointment for a driver's license registration that was delayed from late 2020, but the Court concluded registering for a driver's license has nothing to do with registering to vote. The Court noted it is common knowledge that individuals could "same day register" during the November 2020 federal, state, local elections, as allowed under NC law.

- Respondent testified against his own interests regarding intent to remain at 1837 Hezekiah Road, Maxton, NC. Specifically, the below response suggests to the Court that if he loses the election, he is leaving to go elsewhere. This suggests to the Court that his intent to remain in the Tribal Territory at his purported 1837 Hezekiah Road, Maxton, NC principal place of residence is conditional.

Court: The home that you are building in Moore County. You have zero intentions of living, if you. Let me rephrase that. If you are a candidate Chairman in the next election...this election. You have zero intentions of living at that home that you are currently constructing – correct?

Respondent: Correct.

Court: While you would be the Chairman, if elected.

Respondent: Yes. And, I have reported that many times to answers to questions at meet and greets because that is a major concern that has been brought up to me. And, I have promised all members of the Lumbee Tribe that *if I am successful in this election*, [italics added] I will live at 1837 Hezekiah Road, Maxton, NC.

- Respondent testified, supported by an affidavit from his spouse (Tina Oxendine), that she (Tina Oxendine) remained employed by the State of Virginia as a schoolteacher and worked “virtually” through approximately March 2021.
- Court did note that Respondent testified against his own interests when he stated he didn’t feel comfortable voting in the November 2020 federal, state, local elections because he was still registered in Virginia.
- Respondent offered no evidence or explanation as to whether he did or did not vote in the Lumbee Tribe of NC election in November 2020.
- Respondent testified against his own interests when he initially testified he was not a party to the lease agreement, dated September 26, 2020 but not effective until October 17, 2020, with his wife that he voluntarily submitted to the Court. Respondent further testified the \$500/month rental amount was inclusive of all utilities. Later in the hearing, the Respondent changed his testimony to acknowledge he was a party to the lease agreement. Furthermore, Respondent later in the hearing changed his testimony to acknowledge the lease agreement required tenant to pay certain utilities. Testifying against his own interests, Respondent acknowledged he had no proof or actual knowledge that the \$500/month lease amount had or was being paid, since inception of the arrangement, despite him submitting said lease to the Court as purported proof of him residing at the principal place of residence, 1837 Hezekiah Road, Maxton, NC. Furthermore, Respondent acknowledged he had no proof or actual knowledge of whether utilities had been or were being paid in accordance with the lease document.
- Respondent testified against his own interests that his present living arrangements at 1837 Hezekiah Road, Maxton, NC, do not compare palatially with his prior living arrangements in Arlington, VA, or his alleged “investment/vacation” home he is building outside of the Tribal Territory in Southern Pines, NC.
- Respondent testified against his own interests that there is no existence of renters insurance at 1837 Hezekiah Road, Maxton, NC, his purported principal place of residence/domicile.
- Respondent offered no proof, other than verbal testimony, to support his assertion that any form of taxes were being paid by him related to any vehicles/personal property purportedly registered at 1837 Hezekiah Road, Maxton, NC.

- Petitioner offered as evidence several résumés of Respondent, one of which was as recent as October 2021, that indicated an address of 1300 Crystal Drive, Apt 305, Arlington, VA 22202. When questioned about that, he testified that it is more favorable for national defense contractor opportunities to list an address in the Virginia area, which suggests to the Court that Respondent was still seeking employment opportunities in that area.
- Respondent testified that he lives with his wife, child and brother-in-law at 1837 Hezekiah Road, Maxton, NC. He further testified that the property now belongs to the estate of his mother-in-law, of which his wife now owns only a ¼ interest.
- Respondent offered credible testimony, supported by an affidavit from Phil Locklear, that his company, RNB Technologies, Inc., had been retained to work in the tribal territory for Lock 4, LLC in December 2020.
- Respondent testified that he was not a member of a local church, but asserted he attended Prospect United Methodist Church.
- Respondent presented a credible document that he testified supported his assertion that he obtained a cell phone through Verizon Wireless, with a mailing address of 1837 Hezekiah Road, Maxton, NC.
- The Court reviewed each of the affidavits submitted by the Respondent and did not give any meaningful weight to most of the affidavits because each of the affiants made a conclusion as to the petitioners “principal place of residence.” Such a determination is a question of law for the Court to decide, and furthermore many of the affiants made their conclusion based upon conversations with the Petitioner.

Accordingly, the Court is not convinced the Petitioner resides in the Tribal Territory with the intent to remain indefinitely. He has not demonstrated the necessary intent of 1-year prior to January 2022 to remain in the Tribal Territory indefinitely. The Court finds his stated intent to use the Southern Pines, Moore County, NC property only as a “vacation or retirement” home not credible in light of his loan documents, which state otherwise and the absence of any evidence showing any financial commitment to remaining in the Tribal Territory given his obvious means to do so.

The Court finds that Respondent does not meet the eligibility to run for Chairperson of the Lumbee Tribe of North Carolina because he does not meet the eligibility requirements as set forth in the Article VIII. 2. b)., in that he has not maintained a “principal place of residence in the territory of the Tribe for the preceding one (1) year.” In particular, the Court finds that Respondent did not establish a new principal place of residence/domicile at 1837 Hezekiah Road, Maxton, NC, primarily because he never “intended” to remain at that address indefinitely as has been overwhelmingly substantiated in this candidate challenge. The Petitioner’s evidence and the Respondents own admissions and actions prove to this Court by a Preponderance of the Evidence that he has failed to meet the Constitution’s eligibility requirements to hold office.

We recommend that the Tribal Council and Elections Board develop and/or update existing ordinance(s) to reflect clear guidance to all concerned. In particular, issues/observations identified by the Court ruling should be analyzed and quickly considered by the Tribal Council. We cannot stress enough the importance of developing/updating associated ordinances/regulations well in advance of the next election.

WHEREAS, the Court issued an order on October 8th, 2021, suspending the distribution of absentee ballots until the court could decide the matter between Locklear v. Oxendine.

WHEREAS, the Court has issued a ruling, declaring Ron Oxendine’s certification to run for tribal chairperson unconstitutional in that the court has ruled he has not established the tribal territory as his principal place of residence for one year prior to the commencement of the next term.

WHEREAS, the Order suspending distribution of absentee ballots in October 8th, 2021 is now lifted by this order.

WHEREAS, the distribution of absentee ballots for the upcoming November 9, 2021 tribal election ought to resume quickly to lessen any further prejudice to Lumbee voters requesting absentee ballots.

WHEREAS, any and all absentee ballots requested by Lumbee voters shall reflect the Court's ruling determining Respondent Ron Oxendine ineligible to run for tribal chairperson and shall exclude his name from the list of candidates to choose from.

WHEREAS, any and all ballots to be given to tribal voters on Election Day shall reflect the court's ruling determining Respondent Ron Oxendine ineligible to run for tribal chairperson and shall exclude his name from the list of candidates to choose from.

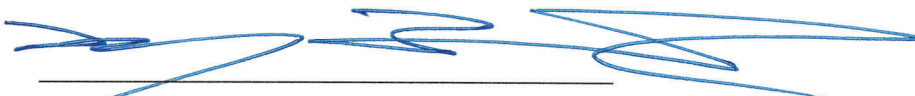
WHEREAS, any absentee ballots received by the Elections Board not conforming to this order shall be destroyed and modified ballots reflecting the eligible candidates mailed out to all tribal members requesting absentee ballots, prior and subsequent to this order.

WHEREAS, the Elections Board, if it deems necessary, should execute a plan to utilize USPS Priority Mail to send out the ballots it has been waiting to distribute to Tribal Members. In addition, the Elections Board should include pre-addressed/pre-stamped envelopes to Tribal Members to mitigate any barriers in ballots being received and submitted in a manner consistent with the current election schedule.

WHEREAS, the Court believes it within the authority of the Elections Board to make a determination of the most efficient and least intrusive means to carry out this order.

IT IS ORDERED, the Elections Board resume distribution of absentee-ballots excluding the name of Ron Oxendine as an eligible candidate and that any and all ballots given to tribal members on Election Day, November 9, 2021 be made or modified to reflect the same.

Signed this the 20th day of October 2021.



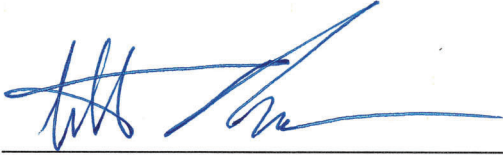
Mark Brooks, Justice



Mary Beth Locklear, Justice



Joshua D. Malcolm, Justice



Everette Moore, Justice



THE SUPREME COURT OF THE LUMBEE TRIBE OF NORTH CAROLINA

Justice Mark Brooks
Justice Everette Moore

Justice Mary Beth Locklear
Justice Joshua D. Malcolm

David Locklear,)
))
PETITIONER,)
))
v.)
))
Ron Oxendine,)
))
RESPONDENT,)
))
and)
))
Tribal Elections Board,)
))
INTERVENORS-)
RESPONDENTS.)

Case No.: 2021-001
ORDER

IN THIS MATTER, the Petition was heard on October 14, 2021 and the Supreme Court of the Lumbee Tribe North Carolina (“Court”) issued an opinion on October 20, 2021. In said opinion, this Court ruled Respondent Ron Oxendine ineligible to run for Tribal Chairperson. This Court further instructed the Lumbee Tribal Elections Board (“Election Board”) that distribution of absentee ballots for the upcoming November 9, 2021 election ought to “resume quickly to lessen any further prejudice to Lumbee voters requesting absentee ballots.” The Court ordered modified absentee ballots to be distributed to Lumbee voters who had requested them, and modified ballots to be made available to Lumbee voters on Election Day November 9, 2021. The Court, in reviewing actions taken by the Election Board to comply with its ruling, makes the following findings:

1. On October 21, 2021, the Court made several attempts to inquire of the Election Board on which steps it had taken to comply with its October 20, 2021 ruling.
2. Subsequently, on October 21, 2021 the Election Board, by and through counsel, finally informed the Court they were in the process of complying with the Court’s ruling and would soon inform the Court of what steps it was taking to do so. At or around 12:16

- a.m. on October 22, 2021, the Court received an email from a 3rd party, where the Election Board had distributed a Resolution to the Tribal Council.
3. Said Resolution was not directed to the Court by the Election Board, nor did it state any intent to comply with the Court's October 20, 2021 ruling, as it relates to modifying the ballots.
 4. Said Resolution stated the Election Board believed it could not meet the requirements of the Court's October 20, 2021 ruling prior to the November 9, 2021 election.
 5. The Election Board, in said Resolution, stated its decision to unilaterally postpone the election until December 14, 2021, 35 days after the existing November 9, 2021 election date, without consulting with the Court.
 6. The Election Board, in supporting its unilateral decision to postpone the election, cited Lumbee Tribe of North Carolina Ordinance 2005-002 Section 3 Paragraph 6 authorizes them to set date and time of election.
 7. The Court, early morning on October 22, 2021 after being made aware of the Resolution, informed the Election Board it was reviewing the document to determine whether it was in compliance with the "letter and intent" of our October 20, 2021 ruling.
 8. The Court, upon making further inquiry to the Election Board for an explanation of their actions, was informed they believed there was insufficient time, resources, and workers to comply with the Court's October 20, 2021 ruling.
 9. The Court, after further inquiry on the matter, based on said Resolution as well as statements made by the Election Board, was advised the Election Board had to issue no more than 398 modified ballots to voters who requested absentee ballots.
 10. The Court having reviewed the Election Board's Resolution, and defenses thereof, find they are not in compliance with the Court's October 20, 2021 ruling.
 11. The Election Board, while having the authority to set election dates, times, and polling sites in general, did not have the unilateral authority to postpone or delay the election set by Court Order.
 12. The Court has determined that the Election Board, in this instance, acted arbitrary and capricious in light of the intrusive and significant effect a delayed election will have on the voters.
 13. The Election Board, when asked about delaying the election during the October 14, 2021 hearing, resoundingly stated they did not believe the election should be postponed.
 14. At no time during this Court's deliberation, from October 14 thru October 20, 2021, did the Election Board express any concerns regarding its ability to carry out its responsibilities for the scheduled November 9, 2021 election.
 15. The Court believes, sufficient time existed from the issuing of our ruling on October 20, 2021 until November 5, 2021, the deadline for which absentee ballots are to be received by the Election Board, to comply with our October 20, 2021 ruling. Nevertheless, the Court intends to modify the date in which absentee ballots may be received by the Election Board to lessen disenfranchisement of absentee voters while affording the Election Board more time to comply with the ruling of this Court.
 16. In considering this matter, the Court must weigh the potential disenfranchisement and chaos to Lumbee voters and eligible candidates caused by the Election Board's Resolution, passed at the dark hour of midnight, which was not proffered to this Court for its review.
 17. The Election Board has indicated it needs at least until Wednesday, October 27, 2021, to

- have all requested modified absentee ballots mailed out, which they believe will leave absentee voters insufficient time to have their ballots returned by November 5, 2021.
18. Consequently, believing it needs a minimum seven (7) days to mail out absentee ballots to eligible voters and that those seven (7) days will be inadequate for absentee voters, The Election Board apparently determined that their unilateral decision to delay the election 35 days was the least intrusive solution. In addition, the Election Board proposes to restart the period allowing new absentee ballot requests et al., which would trigger unconsidered implications for this Court, regarding opening tribal enrollment. All these factors, in the opinion of this Court, would cause unprecedented confusion and potentially greater disenfranchisement of Lumbee voters.
 19. The Court finds the actions of the Election Board to alarmingly appear as efforts to circumvent this Court's ruling. The Election Board's failure to affirm its intention to comply with the Court's ruling, along with the Election Board's public dissemination of its unilateral effort to delay the election, have been interpreted by this Court as something closer to obstruction rather than compliance.
 20. The Court believes the Election Board's failure to "resume quickly" distribution of absentee ballots has caused "prejudice to Lumbee voters requesting absentee ballots."
 21. The Election Board's actions conducted in a manner which seems to disregard our reviewing authority, is not viewed by this Court as being the "most efficient and least intrusive means."

IT IS THEREFORE ORDERED:

1. The Elections Board will begin immediately to take whatever steps necessary to issue modified ballots which comply with the October 20, 2021 Order.
2. Dock Locklear, is hereby appointed to serve as an "observer" for the Court going forward. He shall be given unfettered access to the Election Board processes, meetings, and other activities. He is considered a representative of the Court who will interact with the Election Board moving forward until the November 9, 2021 election results are certified by the Election Board.
3. Any and all ballots will be sent to eligible absentee voters as soon as possible, but no later than Wednesday, October 27, 2021 at 5 p.m.
4. The Election Board shall prepare and post publicly a NOTICE on its social media and any other front facing medium critical information concerning the details of ballot distribution. In addition, this NOTICE shall be shared with the Tribal Administration so it can be posted on the Tribe's social media and any other front facing medium. These NOTICES shall be posted by Saturday, October 23, 2021 at 1:00 p.m.
5. The Elections Board shall send said ballots via USPS Priority Mail and shall enclose pre-paid USPS Priority Mail envelopes to eligible absentee voters for completion and return of the ballot. In this mailing, an instruction letter to each voter detailing the reason for the modified ballot and the urgency of return shall be included.
6. The Elections Board shall receive and count absentee ballots received up through November 12, 2021 at 5:00 p.m. in order to lessen any potential disenfranchisement of absentee voters, while affording the most efficient and least intrusive means to do so.
7. The Board is hereby ordered to take any and all necessary steps to modify all schedules, dates, and processes to accomplish the intent of this ruling to ensure that the election occurs on November 9, 2021 and that absentee ballots are accepted until November 12,

2021 at 5:00 p.m.

8. The Election Board is ordered to expend the necessary funds to comply with this Order (e.g. mailing, personnel, training, etc.).
9. The Court has determined that all available funds in its budget are hereby committed to the Election Board to ensure compliance with this Order.
10. Furthermore, we hereby Order the Tribal Council and Administration to obligate and/or appropriate any additional funds necessary to carry out the intent of this Order, to effectuate the election on November 9, 2021.

Signed this the 22nd day of October, 2021.

original signed

Mark Brooks, Justice

original signed

Mary Beth Locklear, Justice

original signed

Joshua D. Malcolm, Chief Justice

original signed

Everette Moore, Justice