

February 2, 2009

Mr. Lawrence T. Locklear
P.O. Box 2632
2240 St. Anna Rd.
Pembroke, NC 28372

Opinion and Order
Case Number: 009-01

Vs.
Mr. Ertle Oxendine

This matter is for consideration by the Court based on a petition filed by Mr. Lawrence Locklear.

Mr. Locklear is asking the Court to issue an injunction to delay court ordered election scheduled for February 5th in Tribal District 6 between Mr. James Deese and Mr. Jimmy Strickland. Mr. Lawrence Locklear alleges that the procedure for absentee voting is flawed in that this election makes no provision for absentee voting as required by Tribal Ordinance #2005 -002.

Mr. James Deese and Mr. Jimmy Strickland were the two candidates for Tribal Council in District 6. During that election, which was held on November 18, 2008, absentee voting was allowed as provided by statute. Eleven people requested absentee ballots and were sent absentee ballots. Six people voted absentee.

Mr. James Deese challenged the results of that election and at a hearing held on January 8, 2009 the Court ordered a new election in District 6.

We instructed the Election Board to hold this election as soon as possible. This was especially true since this term of the incumbent in District 6, Frances Chavis, was set to expire on January 13th.

Mr. Ertle Oxendine scheduled the Court ordered election for February 5th. The Election Board decided to allow those eleven persons who had requested and received absentee ballots in November to again be give the opportunity to vote absentee. This plan for the new election was discussed with both candidates and they both found it acceptable.

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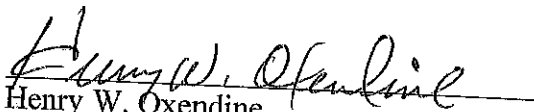
We decline to halt the Election scheduled for February 5th.

In reaching this decision we are taking into account the fact that any and all tribal members who live in District 6, regardless of whether they voted in November or not, will be allowed to vote at the polls on February 5th, 2009. We also take into account that absentee ballots will be provided to those who requested absentee ballots for the November election.

We believe this decision is fair to both candidates. It is also exercising the best use of scarce tribal resources.

Justice David Locklear and Darlene Ransom join in this opinion. Justice Joel Garth Locklear dissents.

This order issued the 2nd day of February, 2009.


Henry W. Oxendine
Chief Justice of the Supreme Court of the
Lumbee Tribe of North Carolina

Cc: Darlene Ransom
Joel G. Locklear
David Locklear
Ertle Oxendine
Chairman Jimmy Goins
Tribal Administrator Tammy Maynor

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