

**THE SUPREME COURT OF THE LUMBEE TRIBE OF
NORTH CAROLINA**

2021-001
ll

**NORTH CAROLINA
ROBESON COUNTY**

CASE NO. 2021-001 ll

**PETITION
CHALLENGING THE RESIDENCY REQUIREMENT OF
RON OXENDINE, CANDIDATE FOR TRIBAL CHAIRPERSON**

DAVID LOCKLEAR,
Petitioner

v.

RON OXENDINE,
Respondent

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1. David Locklear, hereinafter the Petitioner, resides in the territory of the Tribe at 2822 Saddletree Road, Lumberton, N.C. 28360, Robeson County, North Carolina; my telephone is 910-734-1870; I am an active Tribal member and my enrollment number is 116049.
 2. Ron Oxendine, hereinafter the Respondent, based upon information and belief, claims residency at the home of the late Emma Locklear at 1837 Hezekiah Road, Maxton, N.C. 28364. (NOTE: During the drafting of this Petition, the Tribal Elections Board would not disclose the residency date claimed by the Respondent or any other non-personal information in his application for Tribal Chairperson.)

3. A significant Lumbee Tribal constitutional question, set out more fully below, is at issue; thus, this Court has jurisdiction to hear this matter and this Court is the proper forum in which to resolve this matter.
4. Respondent filed a timely application with the Lumbee Tribal Elections Board seeking the office of Lumbee Tribal Chairperson for the three-year term beginning January 2022.
5. This petition seeks a judicial ruling on the issue of whether the Respondent meets the residency requirement set out in Article VIII, Section 2(b) of the Lumbee Constitution. Section 2 of Article VIII reads in part that:

“... the privilege to run for the office of Tribal Chairperson shall be limited to those tribal members who at the commencement of the term:

- a). are thirty-five (35) years of age;**
- b). have maintained his or her principal place of residence in the territory of the Tribe for the preceding one (1) year;**
- c). (Not applicable in this instance)”**

6. The Petitioner alleges and says that to the best of his knowledge, information and belief, formed after reasonable inquiry, the Respondent failed to meet the residency requirement set out above in the Lumbee Constitution in that Respondent has not maintained a principal place of residence in the territory for the preceding one (1) year prior to the commencement of the term; therefore, his candidacy is in violation of Article VIII, Section 2(b) of the Lumbee Constitution.
7. The Petitioner alleges that evidence will be shown at the hearing of this matter that will convince the Court that the Respondent has not abandoned his former residence (for one year preceding the term) regardless of how long the Respondent claims residency in the Tribal territory; and further, upon information and belief, that residence is outside of the Tribal territory in the State of Virginia; and even further, that the evidence will prove more

than sufficient to convince the Court when the it considers the totality of the circumstances, that the Respondent is not eligible to be a candidate for Tribal Chairperson in this election cycle.

8. This Court should follow the generally accepted legal practice of requiring the candidate, Ron Oxendine in this instance, when the challenge or protest is based upon failure to meet a residency requirement, to offer evidence sufficient to prove to the Court by a preponderance of the evidence that the residency requirement has been met.
9. Petitioner asserts that exigent circumstances are present that require quick resolution of this significant constitutional question; otherwise, a cloud of uncertainty, that being whether or not the Respondent truly meets the residency requirements, will taint the Tribal elections and possibly the Office of the Tribal Chairman if Respondent is elected without resolution.
10. This Court recognizes that time is of the essence; thus, Petitioner seeks a waiver from the Court, and such waiver is totally within the Court's discretion, of any other time constraints that would delay this hearing, given the scheduled November 9, 2021 Tribal election.
11. All members of the Lumbee Tribe are entitled to quick, if not immediate, resolution of this matter; thus, on behalf of all members of the Lumbee Tribe, Petitioner urges an expedited hearing within seven (7) days or sooner from filing this challenge.

WHEREFORE, Petitioner prays, in the interest of election integrity and in the best interest of the people who are the Lumbee Tribe, that the Court grant the following relief:

1. In the Court's inherent discretion, waive the time constraints in Section Five-3 of the Court's Judicial Code and Item 9 of the General Instructions for Filing a Petition, and set this matter for an immediate and/or expedited hearing within seven (7) days or sooner so that it can be quickly resolved in order to not interfere with Tribal elections scheduled for November 9, 2021.

2. Enter an immediate Order upon receipt of this Petition that directs the Lumbee Tribal Elections Board to withhold the printing of ballots until this matter is resolved.
3. Follow the accepted legal practice when a voter or candidate is challenged by requiring the candidate, the Respondent herein, to show by a preponderance of the evidence on the record as a whole that he has satisfied the residency requirement in the Lumbee Constitution to be a candidate for Tribal Chairperson in this election cycle.
4. After considering the totality of the circumstances presented at the hearing of this matter, enter an order that the Respondent, Ron Oxendine, is not eligible to be a candidate for Tribal Chairperson in this election cycle.
5. For such other relief as the Court deems appropriate.

This the 6th day of October, 2021.



David Locklear
2822 Saddletree Road
Lumberton, N.C. 28360
Tribal Enrollment #116049

Note: Attorney Gary Locklear will be representing me at the hearing of this matter. He will prepare additional paperwork in support of this challenge/protest for your consideration at the hearing. You may contact him at 910-618-4327 and at locklearlaw@gmail.com . Thank you.