

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

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**Welford Clark, et al.,  
Petitioners**

**Case no. 2014-0005**

**Vs.**

**ORDER**

**Tribal Council of the Lumbee Tribe,  
Respondents**

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This matter came on for hearing and was heard on March 31, 2014. It was combined for hearing with a petition filed by the same individuals who challenged the Court's sanctions in the Pearlean Revels contempt order, see file number 2014-0004, Clark vs. Supreme Court of the Lumbee Tribe. This Court allowed petitioners to proceed in spite of procedural shortcomings in the petition as these matters needed resolution. Welford Clark presented for the petitioners; several Tribal Council members were present, however only the Tribal Council Speaker, Lesaundri Hunt, briefly addressed the Court. The Clark petition alleges that Tribal Council Ordinance, CLLO-201301105-02, enacted November 5, 2013 and entitled "AN ACT TO ESTABLISH LIMITS ON JUDICIAL AUTHORITY" was and is in direct conflict with the Lumbee Constitution, and is therefore unconstitutional. Clark stated many reasons and cited various sections of the Lumbee Constitution in support of his position.

**THE BACK STORY**

On August 12, 2013 Chairman Brooks and then Tribal Council Speaker Pearlean Revels entered into a Settlement Agreement that was adopted by the Court as a court order. It required the Chairman to deliver copies of financial documents to the Tribal Council by August 30, 2013.

On August 23, 2013 Pearlean Revels took, removed, stole, carried away, and/or appropriated for her own use a stack of un-redacted financial documents from Tribal headquarters. She returned the documents but not before copying and distributing copies to various persons. Some pages of the documents contained information that should not have been made public for any number of reasons.

Chairman Brooks cited Pearlean Revels for contempt based upon her conduct in violation of the previously mentioned Settlement Agreement. On October 8, 2013 the Court found Pearlean Revels in contempt and entered ten (10) separate sanctions, including but not limited to, removing her as Tribal Council Speaker, removing her as a Council member, barring her from seeking election in the upcoming election, and banning her from Tribal property and tribal events for five (5) years. Upon motions filed on behalf of Pearlean Revels, the Court refused to grant any relief from the sanctions. The Tribal Council thereafter enacted the ordinance cited above. This ordinance attempted to overturn the Court's sanctions and also attempted to limit the Court's powers of removal in the future. The adopted ordinance and the Court ruling were in direct conflict with each other. This conflict had a considerable negative effect upon our Tribal government, and needed to be resolved, thus the Clark petition was heard.

## PRESENT DAY PROCEEDINGS

Petitioner Clark argued that under the separation of powers clause of our Lumbee Constitution, the Tribal Council makes laws and the Court interprets those laws. While it may not have been argued, it is well settled that the legislative body of a government cannot limit the powers of the judicial branch. It was argued that to allow the legislative body to negate the actions of the judiciary would mean that every time a court ruled, the legislative body, if not pleased with the outcome, could simply "pass a law" that over-rides the court. That process, nor that government, could stand, nor could there ever be anything close to the balance of power in our Tribal government that was intended by the drafters of our Lumbee Constitution.

While a court, and in particular this very Court, the Supreme Court of the Lumbee Tribe, may not get it 100% right in each and every situation, nevertheless, the Court has to be the final arbiter of legal disputes. Judges are human; humans

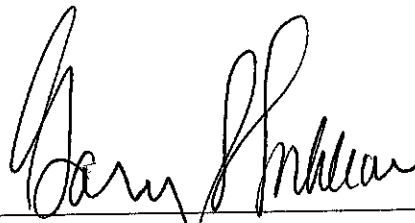
occasionally make mistakes. Chairman Brooks and the members of the Tribal Council are likewise human, too.

As Court members, we think that we understand the sense of frustration on behalf of the Tribal Council as well as their intentions in passing the ordinance in question; however we disagree with the method by which the Tribal Council attempted to accomplish their goal of getting relief from the rather severe sanctions imposed upon their fellow Council member and preventing this Court in the future from being able to remove elected Tribal officials, if the conduct is sufficiently egregious.

IT IS THEREFORE, ORDERED AND DECREED, for the reasons stated above, that Tribal Council Ordinance CLLO-2013-1105-02 (and any amendments thereto) dated November 5, 2013 and entitled "AN ACT TO ESTABLISH LIMITS ON JUDICIAL AUTHORITY" in its entirety is **HEREBY, DECLARED TO BE UNCONSTITUTIONAL** as written and adopted.

This decision is the unanimous decision of this Court.

This the 2<sup>nd</sup> day of April, 2014.



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Gary L. Locklear, Chief Justice  
Supreme Court of the Lumbee Tribe  
(For the entire Court)