



THE SUPREME COURT OF THE LUMBEE TRIBE OF NORTH CAROLINA

Chief Justice Ronette Sutton

Justice Eric Freeman

Justice Emily Deese

Justice Tona Jacobs

Justice Edward Brooks

Tribal Member Allana Nicole Jackson,)
Petitioner,)
)
v.)
)
Lumbee Tribal Council, Chairperson, and)
Lumbee Tribe Elections Board,)
Respondents.)

Case No.: 2026-008

OPINION AND ORDER

Chief Justice Ronette Sutton delivered the opinion of the Court.

ORDER AND DECLARATORY JUDGMENT

This matter came before the Supreme Court of the Lumbee Tribe of North Carolina upon the Petition filed by Tribal Member Allana Nicole Jackson; the parties' Joint Motion for Expedited/Emergency Hearing; Respondents' Answer; the parties' pre-hearing memoranda; the pleadings, historical constitutional materials, ordinances, and exhibits submitted by the parties; and the record before the Court.

The Court has considered the parties' positions, the Lumbee Constitution, CLLO-2026-0917-02, CLLO-2010-0121-01, the relevant constitutional drafting materials, and all other matters properly before the Court.

For the reasons stated below, the Court FINDS, DECLARES, and ORDERS as follows:

I. FINDINGS OF FACT

1. Petitioner Allana Nicole Jackson is a tribal member of the Lumbee Tribe of North Carolina. Petitioner seeks declaratory relief concerning the constitutional process that governs Tribal Council Ordinance CLLO-2026-0917-02, entitled the "Lumbee Tribe Clean Water Fundamental Right Declaration."
2. Respondents are the Lumbee Tribal Council, the Tribal Chairperson, and the Lumbee Tribe Elections Board.
3. On September 17, 2026, the Tribal Council enacted CLLO-2026-0917-02. The ordinance expressly declares clean water to be a fundamental right and interest of the Lumbee Tribe of North Carolina.

4. CLLO-2026-0917-02 provides that it is subject to the constitutional process required for ordinances affecting fundamental rights or interests. The ordinance does not become effective unless and until the applicable constitutional referendum process is completed.
5. The Petition presents an immediate, concrete, and ripe constitutional controversy concerning the proper interpretation and application of Article VIII, Section 1(b), Article V, and Article VI of the Lumbee Constitution as applied to CLLO-2026-0917-02.
6. The controversy is not advisory. The Tribal Council has completed a specific legislative act by passing CLLO-2026-0917-02, and the parties hold adverse or potentially adverse legal positions concerning the constitutional procedure that must be followed before the ordinance can become effective.
7. In their Joint Motion for Expedited/Emergency Hearing, the parties accepted service, consented to this Court's jurisdiction, and jointly waived the ordinary two-week hearing-notice requirement contained in Section 3 of the Judicial Codes of the Supreme Court of the Lumbee Tribe of North Carolina, as well as related timing requirements, for purposes of expedited resolution of this matter.
8. The parties' waivers were made for the limited purpose of obtaining a timely judicial resolution of the constitutional controversy before pending certification and election-administration obligations materially affected the parties and the tribal government.
9. Article VIII, Section 1(b), requires the Tribal Chairperson, within ten (10) days of Tribal Council passage, to certify for referendum any ordinance that affects fundamental rights or interests of the Lumbee Tribe.
10. The Court finds that CLLO-2026-0917-02 expressly declares clean water to be a fundamental right and interest of the Lumbee Tribe and, therefore, is subject to certification by the Chairperson for referendum.
11. CLLO-2010-0121-01, Section 4.b.3 creates an independent administrative urgency. That ordinance requires tribal membership rolls to close thirty (30) calendar days before any Special Election or Regular Election and to reopen thirty (30) calendar days after certification of any Special Election or Regular Election.
12. Because certification of CLLO-2026-0917-02 will require the Lumbee Tribe Elections Board and other affected tribal bodies to determine and administer the appropriate election process, CLLO-2010-0121-01, Section 4.b.3 requires prompt constitutional guidance and timely election planning.
13. Article V of the Lumbee Constitution governs the "initiative" process. Article VI is expressly titled "Referendum" and governs the constitutional referendum process.
14. Article VIII, Section 1(b) repeatedly uses the term "referendum" in directing the certification and voter-review process for ordinances affecting fundamental rights or interests. However, the present text of Article VIII, Section 1(b), refers to Article V and the initiative process.
15. Drafts No. 1 and No. 7 of the Lumbee Constitution, dated August 19, 2001, and October 1, 2001, respectively, provided that an Article VIII referendum concerning an ordinance affecting fundamental rights or interests was to be "conducted in accordance with Article VI of the Constitution."

16. Drafts No. 1 and No. 7 identified Article V as “Initiative” and Article VI as “Referendum.” Both drafts’ reference to Article VI is consistent with the terms “referendum” and “referendum process” used in Article VIII, Section 1(b), and with the distinct constitutional functions of Articles V and VI.
17. No evidence was presented in this proceeding establishing the existence, contents, consideration, revision history, or disposition of any constitutional draft identified as Draft No. 2, Draft No. 3, Draft No. 4, Draft No. 5, or Draft No. 6. The Court therefore makes no finding as to whether any such drafts existed or, if they existed, what language they contained.
18. The evidence establishes that the Tribal Council considered and voted upon Draft No. 7 of the Lumbee Constitution on October 27, 2001. At that time, Article VIII, Section 1(b), of Draft No. 7 expressly provided that a referendum concerning an ordinance affecting fundamental rights or interests would be conducted in accordance with Article VI of the Constitution.
19. No evidence was presented in this proceeding of any subsequent Tribal Council meeting, held between October 27, 2001, and the Lumbee people’s November 6, 2001 vote on the Constitution, at which the Tribal Council considered, entertained a motion to modify, voted to modify, or otherwise approved a change to Article VIII, Section 1(b), replacing the Draft No. 7 reference to Article VI with a reference to Article V.
20. The Court finds that a literal reading of Article VIII, Section 1(b)’s current reference to Article V would create an internal constitutional inconsistency by requiring a referendum to be conducted under the provision governing the initiative process, rather than under the provision expressly titled “Referendum.”
21. The Court further finds that the constitutional text, its internal structure, the titles and functions of Articles V and VI, and the available drafting history, including Drafts No. 1 and No. 7, which expressly cross-referenced Article VI, establish that the reference to Article V in Article VIII, Section 1(b), is a scrivener’s error. The Court reaches this conclusion based on the record presented and does not rely on the contents of any unproduced or unproven earlier drafts.
22. Article VIII, Section 1(b), creates a special mandatory referendum process for Tribal Council ordinances affecting fundamental rights or interests. Thus, Article VIII, Section 1(b) supplies the mandatory certification trigger, and the referendum required should be conducted through Article VI’s referendum/rescission process. The ordinance shall not become effective if it is rescinded through that process. If the ordinance is not rescinded, it shall become effective upon certification of the referendum results, unless the ordinance specifies a later lawful effective date.
23. Article VI supplies the appropriate referendum/rescission framework and applicable referendum-administration procedures, subject to the special and controlling requirements of Article VIII, Section 1(b).
24. Once an ordinance has been enacted by the Tribal Council and is determined to affect fundamental rights or interests within Article VIII, Section 1(b), the Tribal Chairperson’s duty is to certify the ordinance for referendum. That duty is ministerial and does not authorize the Chairperson to withhold certification based on disagreement with the ordinance, its policy, or the referendum process.
25. Article VI shall not be applied in a manner that defeats, delays, or conditions the mandatory certification requirement imposed by Article VIII, Section 1(b). In the event of a conflict between Article VIII’s special requirements and Article VI’s ordinary referendum procedures, Article VIII controls.

26. The filing and expedited pendency of this action stayed the running of the ten-day certification period otherwise applicable under Article VIII, Section 1(b). The stay was necessary to preserve the status quo, prevent certification under an unresolved constitutional framework, permit this Court to resolve the constitutional controversy presented, and allow tribal officials to implement the resulting decision in an orderly manner.
27. The Court finds that the Tribal Chairperson should receive a full ten (10) calendar days, effective upon entry of this Order, to fulfill the certification duty prescribed by Article VIII, Section 1(b), consistent with this Court's declaratory judgment.
28. Respondents' interpretation that Article VI supplies the referendum/rescission process for an Article VIII, Section 1(b) referendum is consistent with the Lumbee Constitution as construed in this Order.
29. The Court's decision is limited to the constitutional procedure required for CLLO-2026-0917-02. The Court does not decide the policy merits of clean-water protections; amend the Lumbee Constitution; determine every issue that may arise during election administration; or displace the authority of the Tribal Council, the Tribal Chairperson, the Elections Board, or the general membership within their respective constitutional roles.

II. CONCLUSIONS OF LAW

1. Article IX, Section 1 of the Lumbee Constitution vests this Court with original jurisdiction over cases and controversies arising under the Lumbee Constitution.
2. This matter presents a justiciable constitutional controversy over the interpretation and application of Articles V, VI, and VIII, Section 1(b), as applied to CLLO-2026-0917-02. The Court has subject-matter jurisdiction and authority to issue declaratory relief resolving that controversy.
3. The Court accepts the parties' acceptance of service, consent to jurisdiction, and joint waiver of the ordinary hearing-notice and related timing provisions for the limited purpose of this expedited proceeding.
4. CLLO-2026-0917-02 affects a fundamental right or interest within the meaning of Article VIII, Section 1(b), because the ordinance expressly declares clean water to be a fundamental right and interest of the Lumbee Tribe.
5. Article VIII, Section 1(b)'s reference to Article V is a scrivener's error. Article VI, which is expressly titled "Referendum," supplies the governing constitutional referendum/rescission framework for CLLO-2026-0917-02.
6. Article VIII, Section 1(b), supplies the special, controlling requirements governing CLLO-2026-0917-02. The Tribal Chairperson shall certify the ordinance for referendum within the period established by this Order. Certification is a procedural referral of the ordinance to the referendum process; it is not approval of the ordinance by the Chairperson, a determination of its merits, or a determination that the ordinance has become effective. The referendum shall be administered through Article VI's referendum/rescission process and applicable election ordinances.
7. The Lumbee Tribe Elections Board shall administer the referendum through Article VI's referendum/rescission process and applicable election ordinances. If CLLO-2026-0917-02 is rescinded through that process, it shall not become effective. If it is not rescinded, it shall become

effective upon certification of the referendum results, unless the ordinance prescribes a later lawful effective date.

8. Article VI supplies compatible referendum and election-administration procedures. Applicable tribal election ordinances also govern to the extent they are consistent with the Lumbee Constitution and this Order.
9. The filing and expedited pendency of this proceeding stayed the certification period otherwise prescribed by Article VIII, Section 1(b). The Court has authority to grant a renewed ten-calendar-day period from entry of this Order to permit the Tribal Chairperson to fulfill the Article VIII certification duty in accordance with this Court's construction of the Lumbee Constitution.
10. Respondents did not violate the Lumbee Constitution by interpreting Article VIII, Section 1(b), to require use of Article VI's referendum/rescission framework rather than Article V's initiative process.

II. ORDER

NOW, THEREFORE, IT IS ORDERED, ADJUDGED, AND DECREED:

1. JURISDICTION.

The Court has original jurisdiction over this action pursuant to Article IX, Section 1 of the Lumbee Constitution. The Court exercises that jurisdiction to resolve the concrete constitutional controversy presented by the parties.

2. ACCEPTANCE OF WAIVERS.

The Court ACCEPTS and CONFIRMS the parties' acceptance of service, consent to jurisdiction, and joint waiver of the ordinary hearing-notice requirement contained in Section 3 of the Judicial Codes of the Supreme Court of the Lumbee Tribe of North Carolina, together with related timing requirements, for the limited purpose of this expedited proceeding.

Nothing in this Order shall be construed as a prospective waiver of any constitutional, statutory, ordinance, procedural, jurisdictional, or other right or requirement in any other action or proceeding.

3. INDEPENDENT ADMINISTRATIVE URGENCY.

The Court DECLARES that CLLO-2010-0121-01, Section 4.b.3 creates independent administrative urgency because it requires tribal enrollment rolls to close thirty (30) calendar days before a Special Election or Regular Election and to reopen thirty (30) calendar days after certification of that election.

Upon certification of CLLO-2026-0917-02, the Tribal Chairperson, Lumbee Tribe Elections Board, and all affected tribal bodies shall promptly determine, consistent with applicable tribal election ordinances and this Order, whether the referendum will be administered through a Special Election or Regular Election. They shall take all timely actions necessary to comply with CLLO-2010-0121-01, Section 4.b.3, and all otherwise applicable election requirements.

4. ARTICLE VIII APPLIES.

The Court DECLARES that, upon certification by the Chairperson, CLLO-2026-0917-02 affects a fundamental right or interest within the meaning of Article VIII, Section 1(b), of the Lumbee Constitution.

Article VIII, Section 1(b), applies to CLLO-2026-0917-02. The ordinance may only become effective if not rescinded by a majority of those voting in the referendum required by Article VIII, Section 1(b), and this Order.

5. STAY AND RENEWED CERTIFICATION PERIOD.

The Court DECLARES that the filing and expedited pendency of this case stayed the running of the ten-day certification period otherwise applicable under Article VIII, Section 1(b), to CLLO-2026-0917-02.

Effective on the date this Order is entered, the Tribal Chairperson is GRANTED a full ten (10) calendar days to certify CLLO-2026-0917-02 for referendum in accordance with Article VIII, Section 1(b), this Order, Article VI as construed herein, and all valid, applicable tribal election ordinances.

For purposes of calculating the certification period, the date of entry of this Order is Day One. The certification period expires at the close of the tenth calendar day following entry of this Order.

6. CONSTRUCTION OF ARTICLES V, VI, AND VIII.

The Court DECLARES that Article VIII, Section 1(b)'s reference to Article V is a scrivener's error.

Article V governs the initiative process. Article VI, which is expressly titled "Referendum," supplies the governing constitutional referendum/rescission framework for the referendum required by Article VIII, Section 1(b), as applied to CLLO-2026-0917-02.

The referendum concerning CLLO-2026-0917-02 shall be administered under Article VI's referendum/rescission framework and under all applicable tribal election ordinances, except where Article VI or an election ordinance conflicts with the special mandatory requirements imposed by Article VIII, Section 1(b). In the event of such a conflict, Article VIII, Section 1(b), controls.

7. SPECIAL ARTICLE VIII REQUIREMENTS.

For the avoidance of doubt:

- a. Article VIII, Section 1(b), supplies the mandatory certification obligation for CLLO-2026-0917-02;
- b. Article VIII, Section 1(b), subjects CLLO-2026-0917-02 to a referendum and only becomes effective if a majority vote is not received to rescind;
- c. Article VI provides the referendum framework and compatible election-administration procedures; and
- d. Applicable election ordinances shall be applied insofar as they are consistent with the Lumbee Constitution and this Order.

8. DISPOSITION OF PETITIONER'S REQUESTED RELIEF.

Petitioner's requested declaratory relief is GRANTED IN PART. The Court declares that:

- a. this Court has jurisdiction over the constitutional controversy;
- b. CLLO-2026-0917-02 affects a fundamental right or interest;
- c. Article VIII, Section 1(b), applies to CLLO-2026-0917-02;

- d. Article VIII, Section 1(b)'s reference to Article V is a scrivener's error; and
- e. Article VI supplies the governing referendum/rescission framework for the mandatory referendum required by Article VIII, Section 1(b).

Petitioner's requested relief is DENIED to the extent Petitioner alleges, contends, or seeks a declaration that Respondents violated the Lumbee Constitution by interpreting Article VIII, Section 1(b), to require use of Article VI's referendum/rescission process. That interpretation is consistent with the Lumbee Constitution as construed by this Court.

9. DIRECTIONS TO RESPONDENTS AND AFFECTED TRIBAL BODIES.

Respondents, the Lumbee Tribe Elections Board, and every affected tribal officer, department, board, commission, or tribal body are DIRECTED to proceed consistently with this Order and this Court's interpretation of Articles VI and VIII as applied to CLLO-2026-0917-02.

Without limiting the foregoing directive:

- a. The Tribal Chairperson shall certify CLLO-2026-0917-02 for referendum within ten (10) calendar days after entry of this Order;
- b. The Lumbee Tribe Elections Board shall timely administer the referendum under Article VI's compatible procedures, Article VIII's controlling requirements, applicable tribal election ordinances, and this Order;
- c. The Tribal Chairperson, Elections Board, and affected tribal bodies shall promptly take all actions necessary to determine whether a Special Election or Regular Election is required and to comply with CLLO-2010-0121-01, Section 4.b.3; and
- d. The general membership shall receive the constitutionally required opportunity to vote on CLLO-2026-0917-02 before the ordinance becomes effective.

10. LIMIT OF ORDER.

This Order resolves the constitutional-procedure dispute presented in this case. It does not amend the Lumbee Constitution, adjudicate the policy merits of CLLO-2026-0917-02, or alter the exclusive constitutional-amendment process established by Article XIII.

IT IS SO ORDERED this 27th day of September 2026, in Robeson County, North Carolina.

Chief Justice 

Supreme Court of the Lumbee Tribe of North Carolina