



THE SUPREME COURT OF THE LUMBEE TRIBE OF NORTH CAROLINA

*Chief Justice Ronette Sutton
Justice Eric Freeman*

*Justice Tona Jacobs
Justice Emily Deese
Justice Edward Brooks*

Dr. Kenneth L. Bowen,
Petitioner,

v.

Josephine Doss,
Respondent.

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Case No.: 2025-003

OPINION AND ORDER

Chief Justice Ronette Sutton delivered the opinion of the Court.

IN THIS MATTER, the Petition of Dr. Kenneth L. Bowen against Council Member Josephine Doss is dismissed for lack of a justiciable case or controversy within this Court’s jurisdiction and for failure to state a claim upon which relief can be granted under the Lumbee Constitution and Ordinance No. 2005-0002.

I. Background and procedural posture

Petitioner, a Lumbee tribal member and resident of Scotland County, filed a pro se Petition alleging that Respondent’s conduct in the 2025 District 12 Tribal Council election violated Ordinance No. 2005-0002, Section 8, Items A(3), A(6), and A(9). The Petition relies on community reports of suspected forging of absentee ballots, coercive and misleading collection of absentee ballot applications and ballots, and distribution of absentee applications after the Elections Board deadline. It asserts that these alleged actions materially affected the outcome of a tied race. Petitioner seeks, among other relief, a “thorough and impartial investigation” by the Lumbee Elections Board and/or this Court, a judicial finding that Respondent violated Section 8, disqualification of Respondent as a candidate and removal from office, and an order prohibiting certification or a coin toss to resolve the race until these matters are adjudicated.

Respondent submitted handwritten denials on the face of the Petition, disputing each category of allegation and asserting that she did not forge ballots, hinder voting, improperly handle absentee materials, or otherwise contribute to fraud or irregularity. No sworn affidavits, Elections Board records, or other documentary exhibits were appended to the Petition to substantiate the factual claims.

Upon review of the pleadings and pursuant to the Judicial Codes, the Court acts on the written submissions without a hearing to determine whether the Petition states a justiciable case or controversy.

II. Jurisdiction and governing law

Article IX of the Lumbee Constitution vests this Court with “original jurisdiction over all cases and controversies arising under the Lumbee Constitution and all ordinances of the Lumbee Tribe of North Carolina.” The Judicial Codes require that a petition (1) identify a specific provision of the Constitution or duly adopted ordinance alleged to have been violated and (2) clearly explain “how or why” the provision was violated in a manner that presents a concrete case or controversy, rather than a request for an investigation or advisory opinion.

The election-related provisions at issue here arise from Ordinance No. 2005-0002, Section 8, which defines certain acts as violations of the Election Ordinance, including hindering the voting of others, knowingly detaining, destroying, altering, or mutilating ballots or election returns, and willfully contributing to the fraud and/or irregularity of an election. Section 8 also authorizes the Elections Board to investigate and enforce these prohibitions, including disqualifying candidates when violations are proven.

III. Justiciability and petition sufficiency

A. Standards from Jones and Blanks

In *Richard C. Jones v. Lumbee Tribal Council*, Case No. 2025-001, the Court emphasized that Article IX confines its role to adjudicating concrete disputes grounded in specific constitutional or ordinance violations, and that structural or generalized election-system concerns implicating the Council’s redistricting and vacancy-filling authority are ordinarily addressed through the political processes and Elections Board procedures provided elsewhere in tribal law. In that matter, the Petition was limited to a narrow constitutional question concerning Article VII, Section 7(b), and requested a specific remedial election, thus providing a sufficiently definite act and provision for review.

By contrast, in *Anita Hammonds Blanks v. Lumbee Tribal Council*, Case No. 2025-002, this Court dismissed a petition challenging a wide range of Council practices because it failed to allege with particularity “any discrete act or ordinance that can be adjudicated under Article IX,” and instead invited the Court to supervise categories of behavior and redesign transparency rules, thereby seeking a non-justiciable advisory opinion and raising political-question concerns. The Court relied on *Rebecca LaClaire v. Lumbee Tribal Council*, Case No. 2020-003, in holding that petitions must identify specific acts, dates, and decision-makers, and that “suspect behavior, without citing enough facts to establish that such behavior is both actual and identifiable, is not reviewable.”

These precedents establish that a petition is justiciable only when it pleads specific, verifiable acts tied to a clearly identified provision and requests relief that lies within this Court’s constitutional authority, rather than a broad investigation or restructuring of political processes.

B. Application to Bowen’s Petition

Petitioner identifies Ordinance No. 2005-0002, Section 8, Items A(3), A(6), and A(9) as the provisions allegedly violated, but the pleading aggregates allegations of “suspected” forging of absentee ballots, unspecified “multiple” reports of misleading statements, and distribution of late absentee applications without identifying dates, particular voters, specific ballot envelopes, or concrete actions of the Elections Board that this Court is asked to review. The Petition does not attach sworn statements from the

referenced elders or community members, copies of the challenged absentee envelopes, or an Elections Board decision certifying or rejecting particular ballots.

As in *Blanks*, the Petition relies on generalized assertions of wrongdoing and requests that this Court order a wide-ranging investigation, rather than alleging an already-taken, identifiable action that can be adjudicated for consistency with the Constitution or an ordinance. Petitioner asks the Court to direct the Elections Board's investigative methods, supervise interviews and chain-of-custody reviews, and then make findings of fact about individual ballots and voters. This task falls squarely within the Elections Board's statutory responsibilities under the Election Ordinance.

Under *Blanks* and *LaClaire*, a request that the Court "go look" for evidence or conduct an original investigation into "suspected" irregularities does not present a justiciable case or controversy. Instead, it seeks an advisory and supervisory role that exceeds Article IX's grant of judicial authority and risks displacing the Elections Board's primary fact-finding function.

C. Failure to state a claim

Even accepting the Petition's allegations as true for purposes of this review, the pleading fails to state a claim upon which relief can be granted for at least three reasons.

First, the Petition does not link any alleged act to a specific, identifiable ballot or voter whose rights were actually denied. It asserts that forged ballots "should be opened" to determine whether they were cast for Respondent, that misleading statements "could" have infringed on a voter's right to a private ballot, and that late distribution of applications "ultimately prevented eligible voters from participating." Still, it does not identify a single voter by initials or other identifier or allege that the Elections Board actually counted an illegal ballot or refused to count a lawful one. Without such specificity, the Court cannot determine whether any act described in the Petition meets the elements of Section 8(A)(3), (6), or (9) as applied to a concrete individual or ballot.

Second, the Petition treats the tied outcome of the District 12 race as itself evidence of "material irregularity," arguing that "even one" altered or hindered ballot could have changed the result. But as the Court explained in *Blanks*, the mere possibility that constitutional or ordinance violations may have occurred is insufficient; the Judicial Codes require factual allegations that, if proven, show an actual violation, not merely a theoretical one. Here, the Petition does not allege that any particular challenged ballot was counted or that removing such ballots would mathematically change the tie and thus does not plausibly plead material impact.

Third, the primary remedies sought, directing an investigation, making original findings of fact about ballot integrity, and disqualifying a candidate, are relief the Election Ordinance places in the first instance with the Elections Board, subject to appropriate review when the Board has taken a final action that is alleged to violate a specific constitutional or ordinance provision. The Petitioner has not alleged that the Elections Board refused to investigate, certified patently illegal ballots, or otherwise acted in a way that conflicts with Ordinance No. 2005-0002 or the Constitution. Absent such an allegation, there is no discrete governmental act for this Court to review.

D. Political-question and separation-of-powers concerns

Petitioner also asks the Court to prohibit "certification, coin toss, or final determination of the District 12 race" until the Court-ordered investigation is complete and final orders are entered. This requested relief would require the Court to assume ongoing supervisory authority over the Elections Board's core electoral functions and to halt the implementation of the Tribe's duly enacted procedures for resolving tied races.

As *Blanks* explains, Article VII and the relevant ordinances delegate to the Tribal Council and Elections Board, not the judiciary, the power to structure election procedures, including methods of breaking ties and determining when elections are certified. Replacing those procedures with a judicially devised investigative and certification regime would “cross the line from interpreting the Constitution to amending it”. It would transform the Court into a continuing overseer of political processes, a role our precedents reject as a non-justiciable political question.

IV. Disposition

For the reasons stated above, the Court holds:

The Petition fails to allege with sufficient particularity any discrete act by Respondent, the Elections Board, or another tribal entity that can be adjudicated under Ordinance No. 2005-0002, Section 8, and therefore does not present a justiciable case or controversy under Article IX.

To the extent Petitioner seeks to have this Court initiate and supervise a broad investigation into “suspected” election irregularities, halt certification of the District 12 race, and redesign the interaction between the Courts and the Elections Board, the Petition raises a non-justiciable political question and seeks relief beyond this Court’s constitutional authority, as articulated in *Blanks* and *LaClaire*.

Because the Petition does not state a claim upon which relief can be granted and seeks remedies assigned by ordinance to the Elections Board rather than the judiciary, it must be dismissed.

Accordingly, the Petition of Dr. Kenneth L. Bowen in *Bowen v. Doss*, Case No. 2025-003, is hereby DISMISSED without hearing, per the Court’s unanimous decision in Conference. This dismissal is without prejudice to any properly filed proceeding that may arise from a final action of the Elections Board or other tribal authority that is alleged, with appropriate particularity, to violate the Lumbee Constitution or a duly enacted ordinance.

SO ORDERED, this 10th day of March 2026, in Robeson County, North Carolina.



Ronette A. Sutton
Chief Justice
Supreme Court of the Lumbee Tribe of North Carolina