



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

IN RE: IMMEDIATE EMERGENCY PETITION)	
FOR JUDICIAL INTERPRETATION OF)	
ARTICLES VI. AND VIII. OF THE LUMBEE)	Case No.: 2026-006
TRIBE OF NORTH CAROLINA'S)	
CONSTITUTION AND FOR DECLARATORY)	OPINION AND ORDER
RELIEF)	
)	

Chief Justice Ronette Sutton delivered the opinion of the Court.

IN THIS MATTER, Petitioners, the Lumbee Tribal Council and the Tribal Chairman, filed an Immediate Emergency Petition for Judicial Interpretation of Articles VI and VIII of the Lumbee Tribe of North Carolina Constitution and for Declaratory Relief. Petitioners request that this Court determine the procedure that would govern if the Tribal Council approves an ordinance authorizing gaming in Lumbee territory.

The Petition asks the Court to declare that Article VIII, Section 1(b)'s reference to Article V is a scrivener's error; that Article VI provides the applicable referendum procedure; that the Chairman's certification substitutes for the member-petition process otherwise described in Article VI; and that a gaming ordinance becomes effective if it is not rescinded under Article VI. The Petition also requests relief directing the Tribal Elections Board and other affected Tribal bodies to act consistently with Petitioners' proposed interpretation.

Article IX gives this Court original jurisdiction over cases and controversies arising under the Constitution and ordinances of the Lumbee Tribe of North Carolina. That authority requires the Court to resolve actual constitutional or ordinance disputes; it does not authorize the Court to issue advisory opinions on anticipated conduct or abstract legal questions.

This Court has previously recognized that limitation. In *LaClaire v. Lumbee Tribal Council*, Case No. 2020-003, the Court stated that its duty is "to only determine if an act, described with particularity, amounts to a case or controversy inconsistent with the Constitution and/or Ordinances" of the Lumbee Tribe. *LaClaire v. Lumbee Tribal Council*, No. 2020-003, (Lumbee Sup. Ct. Sept. 3, 2020). The Court

further held that reviewing an insufficiently identified alleged constitutional violation would be “the constructive equivalent of offering an advisory opinion,” which the Court would not do. *Id.*

LaClaire also establishes that a general allegation of questionable conduct is not enough. A petition must identify facts sufficient to establish that the alleged conduct is both actual and identifiable so that the Court may assess its constitutionality. *Id.* Where a petitioner does not state an act with sufficient particularity, the Court cannot grant the requested relief. *Id.*

The present Petition does not satisfy that requirement. It does not identify a final ordinance enacted by the Tribal Council that authorizes gaming in Lumbee territory. It does not identify a completed certification decision by the Chairman, a refusal by the Chairman to perform a matured constitutional duty, or a final action of the Tribal Elections Board. Instead, Petitioners seek a prospective construction of what Articles VI and VIII would require if the Council later adopts a gaming ordinance.

The Petition therefore asks the Court to decide the legal consequences of future events and to prescribe a referendum process before an actual dispute has developed. Under *LaClaire*, this Court may not decide an alleged constitutional issue that is not presented through an actual, identifiable act or controversy. *LaClaire*, No. 2020-003.

The Court further observes that Petitioners jointly seek the same requested interpretation and have not identified an adverse party. The requested relief would define the constitutional responsibilities of the Tribal Elections Board, yet the Board is not named as a respondent and has not been afforded an opportunity to be heard. The Petition also concerns referendum authority reserved to the general membership under Article VI.

The absence of a final ordinance, concrete official action, adverse legal position, or developed factual record prevents the Court from resolving the merits in a manner consistent with its constitutional role. The Court therefore does not decide whether Article VIII’s reference to Article V is a scrivener’s error, whether Article VI supplies the applicable procedure, whether Chairman certification can replace the member-petition process, or whether non-rescission satisfies Article VIII’s requirement of majority approval.

This dismissal does not reflect a decision on the wisdom of gaming, the validity of any future gaming ordinance, or the correct interpretation of Articles VI and VIII. Those questions may be brought before the Court in a future proceeding that presents a concrete and identifiable constitutional controversy.

DISPOSITION

IT IS THEREFORE ORDERED that:

1. The Immediate Emergency Petition for Judicial Interpretation of Articles VI and VIII of the Lumbee Tribe of North Carolina Constitution and for Declaratory Relief is **DISMISSED WITHOUT PREJUDICE**.
2. The Court does not reach or decide the merits of Petitioners’ requested interpretation of Articles VI and VIII.
3. This Order does not preclude a later petition based upon:
 - A final ordinance enacted by the Tribal Council;

- A concrete official action, refusal to act, or asserted violation of a currently due constitutional duty;
 - A final decision or action by the Tribal Elections Board; or
 - Another actual and identifiable dispute that presents a ripe case or controversy under Article IX.
4. Nothing in this Order authorizes any Tribal official, body, board, or agency to implement the procedure proposed in the Petition or to depart from the requirements of the Lumbee Constitution, applicable Tribal ordinances, or valid election procedures.

The Petition is therefore DISMISSED without prejudice without a hearing, per the Court's unanimous decision in Conference.

SO ORDERED, this 9th day of August 2026, in Robeson County, North Carolina.

Chief Justice, 

Supreme Court of the Lumbee Tribe of North Carolina