

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

PAUL BROOKS,)
Petitioner,)
)
v.)
)
ELECTION'S BOARD of the LUMBEE)
TRIBE OF NORTH CAROLINA, and)
SHEILA BECK-JONES, in her capacity)
as Chairperson of the Election's Board)
of the Lumbee Tribe of North Carolina,)
Respondent.)

PETITION

07-29-15P05:08 RCVD



NOW COMES, Petitioner, Paul Brooks, petitioning this Honorable Court to address the issue of defining a term as it applies to a person filling the remainder of a vacated term by reviewing the Constitution and issuing an order/opinion to ensure the intent of the original authors of the Constitution is sustained. In support, Respondent shows unto the Court the following:

- 1. The Lumbee Tribe of North Carolina defines a term as three (3) years.
- 2. Article VII, Section 2 provides that a Tribal Council member may serve a term of three (3) years.
- 3. Article VIII, Section 2 provides that a Chairman “shall be elected...for a term of three (3) years...”
- 4. Article IX, which addresses the qualifications, responsibilities and duties of the Judiciary, define a term as five (5) years, while Article X defines a term for persons serving on the Election Board as six (6) years. The Constitution is consistent in its definition of a term throughout for each applicable position. One exception in the Constitution is in Article XII provides the process for determining the term of the first sitting Tribal Council.

5. For a better understanding of Article XII, it is important to provide a brief overview of the adoption of the Lumbee Constitution. In 2000, the Lumbee Self-Determination Commission was created through a court-order by the Robeson County Superior Court to assist the Tribe in its mission to formally address the adoption of a tribal government. This Commission was required to hold an election for Tribal Council and Tribal Chairperson. The mandate also required the Commission to pose the question of whether the tribal membership wanted a Tribal Constitution. The Commission conducted an election for the first Tribal Council and Tribal Chairman. The referendum on whether the membership wanted Tribal Constitution revealed that the membership demanded the new government was to present a Constitution within one year of the election.

6. The current Constitution was adopted in 2001, and the Council members elected in 2000 would serve out their three (3) year terms as defined in the Constitution as members at large.

7. In accordance to Article XII, Section 3(d) those elected would be qualified to stand for office in the November 2003 election under the confines of the Constitution, and the term they were currently serving would be "...counted as their first term..." Section 3(e) continues to determine how the terms will be defined for the first elected body under the Constitution. It states, "upon election in November 2003, and twenty-one Tribal Council members shall be divided into three groups of seven by some means of chance, with the first group serving a one year term, the second group of seven serving a two year initial term, and the third group serving a three year initial term, after which all Tribal Councilmembers shall serve three year terms". This provided a clear process to stagger terms to avoid all Council seats becoming vacant at the same time.

8. The document is also clear in providing term limits for members serving in both, elected and appointed positions in the tribal government. Persons either elected or appointed cannot serve more than two consecutive terms.

9. This provision is included in each Article of the Constitution, which addresses elected and appointed government officials; however, it does not change the length of the term in any instance, and it does not provide language on when a term begins.

10. There is no language in the document providing guidance on when a person's term begins if they are filling the seat of a vacated position, or when they are elected.

11. While the document provides a clear procedure on how to fill a vacated term for both the Tribal Council and the Tribal Chairman, it does not provide a clear understanding on when that person's term begins.

12. By defining a term as being started when a person is sworn in to serve office can easily after the intent of a term being three years as defined in the Constitution.

13. While a person filling the seat of a vacated position can assuredly not be guaranteed to serve a three year term; therefore not abiding by the constitutional boundaries. This type of reasoning could surely set a dangerous precedent, nor does not guarantee the person will be afforded an opportunity to serve for two consecutive terms as allowed by the Constitution.

14. The Constitution is clear that a term is defined as three years for a Tribal Council position, and in the position of Tribal Chairman, and this point has not been disputed. This petition does not dispute a term is three years, nor does it dispute the term limits set forth in the governing document; however, Petitioner contends a person must serve three years to have served a term, and six years to have served two consecutive terms. If Petitioner

completes a vacated term with only one year remaining, and Petitioner runs for the seat at the next election, and serves three more years, the question becomes, will Petitioner be allowed to run for an additional term? This is the question before this Honorable Court as the Constitution does not address this issue.

15. Some may argue Petitioner has served two consecutive terms. The question is whether this can be true if Petitioner has only served two terms when Petitioner has only served four years?

16. There are those who would argue if a person fills a vacate term and serves an additional term, if they were allowed to run for office again they would have exceeded two consecutive terms. Two consecutive terms should clearly be defined as six years for a person serving as Tribal Chairman or Councilmember for that particular person.

17. The fact that Petitioner filled the seat of a vacant elected official for either one or two years should have no bearing on his two consecutive terms. A term cannot be shared by two persons.

18. In addition, Article VII references the vacancy in a Tribal Council position in the event of the death of a Councilmember. It states, "A vacancy in a Tribal Council seat will also occur automatically upon the death of a Tribal Council member or the occurrence during the member's term..." This language clearly identifies a term in this instance as the term as that of the Council member whose demise occurred during his/her term in office. It gives possession of the term to the deceased Council member; therefore, the remainder of that term cannot be the term of the person who fills the vacated position.

19. Petitioner asks for an order that will give clear guidance on the definition of a term to allow for three year terms as defined by the Lumbee Constitution.

20. If a person is compelling a vacated term, the likelihood that term will be for three years is virtually impossible. The Constitution does not provide language to address the issue such as the language provided in the United States Constitution, which clearly provides language on when a term begins to ensure a person who runs for office is guaranteed a complete term, as well as two consecutive terms. It is clearly defined in the United States Constitution when a person's term begins.

21. Under the United States Constitution, when Vice-President Lyndon B. Johnson was sworn in to complete the term of President John F. Kennedy in 1963 after his assassination, he ran for the office of the United States presidency in 1964. After winning the election, he served as the President of the United States for a full four year term. In March 1968, he was allowed to run for the Office of President, but renounced the nomination. The Constitution allowed him to run for office, and provided an opportunity for him to have served two consecutive four terms as defined. Serving the remainder of President Kennedy's term was not a factor in determining consecutive terms for President Johnson.

22. The Constitution of the Lumbee Tribe does not provide the same language as the United States Constitution; therefore, we must rely on this Honorable Court for an Order in this matter.

23. Petitioner having served one year of a vacated term of the previously elected Chairman, is elected for a full term, he should be allowed to seek office for a second full term, if the Constitution of the Lumbee Tribe of North Carolina is to be upheld.

24. The time remaining in a vacated term cannot be used to define a term for the individual completing the vacated term, nor can it be used to determine whether the individual has served two consecutive terms.

25. Petitioner contends that if a person is completing a term for a vacated position, they must be allowed to run for election again if they so choose. Completion of a vacated term should not be considered serving a full term as defined in the Constitution.

26. A term is defined as three years, and until a complete six years has been served, the person must be allowed to seek office until he or she has served six years, which clearly is two consecutive terms as defined by the Constitution. To rule otherwise would be to diminish the integrity of the Lumbee Constitution, and alter the clear meaning of a constitutionally defined term.

27. As compared to others who have asked this Court to render a decision on this issue, Petitioner has provided an affidavit to the Elections Board of his intent to file with the fee for filing for the election of the Tribal Chairman to be held in November of 2015. A copy of the affidavit provided to the Elections Board of the Lumbee Tribe of North Carolina is attached hereto as **Exhibit 1**.

28. In addition to the notice to the Elections Board, Petitioner has received funds from campaign supporters, and engaged campaign workers for the operation of a successful campaign.

29. Petitioner has paid for an advertisement announcing his candidacy for the position of Tribal Chairman. Attached hereto as **Exhibit 2** is the advertisement in the Robesonian newspaper and the receipt showing the same paid for by the Petitioner.

30. Petitioner upon paying for the ad was interviewed by a reporter for an article in the Robesonian. The interview was quoted in an article that appeared in the newspaper and on the website of the Robesonian on July 25, 2015, "Brooks announces bid for re-election". A copy of the article is attached hereto as **Exhibit 3**.

31. On July 28, 2015, a second article, "Lumbee Court won't rule on Brooks' Eligibility" appeared in the Robesonian and on the website of the Robesonian with comments from Petitioner's opposition, but the article failed to seek comment from the Petitioner. A copy of this article is attached hereto as **Exhibit 4**. This article is a clear example of the damage that is being done to the campaign efforts of the Petitioner that will be pervasive throughout the campaign until such time as a decision is made regarding the definition of a term clearing the cloud of Petitioner's eligibility to run for the office of Tribal Chairman.

32. While the filing period has not opened, the race for the position of Chairman of the Lumbee Tribe of North Carolina is an extended process and begins long before the filing period begins.

33. Postponing a decision on this matter would substantially inhibit Petitioner's ability to garner support for his campaign. Postponing a decision casts doubt in the minds of "would be" campaign workers, campaign contributors and voters, as these supporters will be hesitant to support a candidate involved in an open litigation and potentially could be precluded from being placed on the November 2015 ballot.

34. The issue before this Court is a constitution matter that lies between the lines of the text of the document, and is ripe for hearing as Petitioner is currently being damaged and will continue to suffer damage until such time this Court offers a remedy. If the

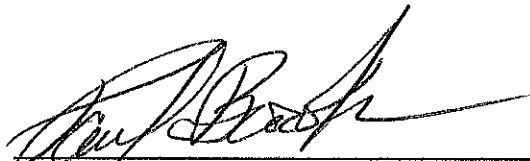
election is held without a remedy being offered, a cloud will hang over the results of any election and may open the door for a flood of litigation before this Court.

WHEREFORE, Respondent prays this Honorable Court to:

1. Render an opinion on the constitutional definition of a term;
2. Determine whether Petitioner may rightfully seek election to another term as the Chairman of the Lumbee Tribe of North Carolina; and
3. Any other remedy this Court determines appropriate.

This the ___ day of July, 2015.

BY:



PAUL BROOKS

EXHIBIT 1

Affidavit of Notification of Intent to File for the Election of Tribal Chairman

LUMBEE TRIBE OF NORTH CAROLINA
COUNTY OF ROBESON


STATE OF NORTH CAROLINA

I, Paul Brooks, being first sworn, deposes and says as follows:

1. I am an adult without any legal disability and have personal knowledge of the matters and things in this Affidavit.
2. As required by Article VIII, Section 2 of the Constitution of the Lumbee Tribe of North Carolina, I am thirty-five (35) years of age or more, have maintained my principal place of residence in the territory of the Lumbee Tribe for the preceding one (1) year, and have not been convicted of a felony disqualifying me serving in the capacity of Chairman of the Lumbee Tribe of North Carolina.
3. I currently serve as the Chairman of the Lumbee Tribe of North Carolina.
4. Under Tribal Law, the regularly scheduled election for the position of Tribal Chairman is set for Tuesday, the 10th day of November, 2015.
5. This affidavit is to provide notice to the Tribal Elections Board of my intent to file for election to the position of Chairman of the Lumbee Tribe of North Carolina.

FURTHER AFFIANT SAYETH NOT.

This the 23rd day of July, 2015.



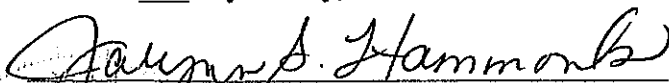
PAUL G. BROOKS

Lumbee Tribe of North Carolina
County of ROBESON

State of North Carolina

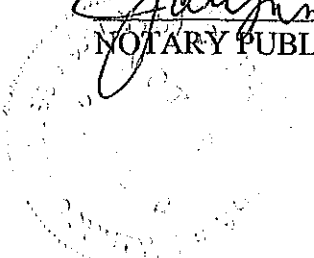
Sworn to and subscribed before me
This the 23 day of July, 2015.

My Commission Expires:



NOTARY PUBLIC

12/3/2018



July 23, 2015

Sheila Beck-Jones
Chairman, Election's Board
Lumbee Tribe of North Carolina
Post Office Box
Pembroke, North Carolina

RE: Notice of Intent to File for the Election to Elect the Chairman of the Lumbee
Tribe of North Carolina

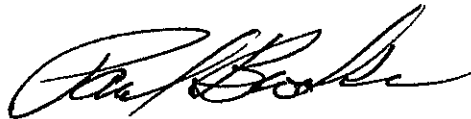
Dear Chairman Jones:

I am writing to provide notice to the Elections Board of the Lumbee Tribe of North Carolina of my intent to file for the office of Tribal Chairman of the Lumbee Tribe of North Carolina. Please find enclosed my sworn affidavit indicating my intent to file upon the opening of the filing period for the November 2015 tribal elections

Should you have any questions or concerns in this matter, feel free to contact me at your earliest convenience.

With regards, I remain,

Sincerely,

A handwritten signature in black ink, appearing to read "Paul Brooks", written in a cursive style.

Paul Brooks

Please sign below to confirm that information presented to you by Chairman Paul Brooks has been received on today Thursday, July 23, 2015.

Shelia Beck-Jones daughter
Mrs. Shelia Beck-Jones

Crawley Locklear
Mr. Crawley Locklear

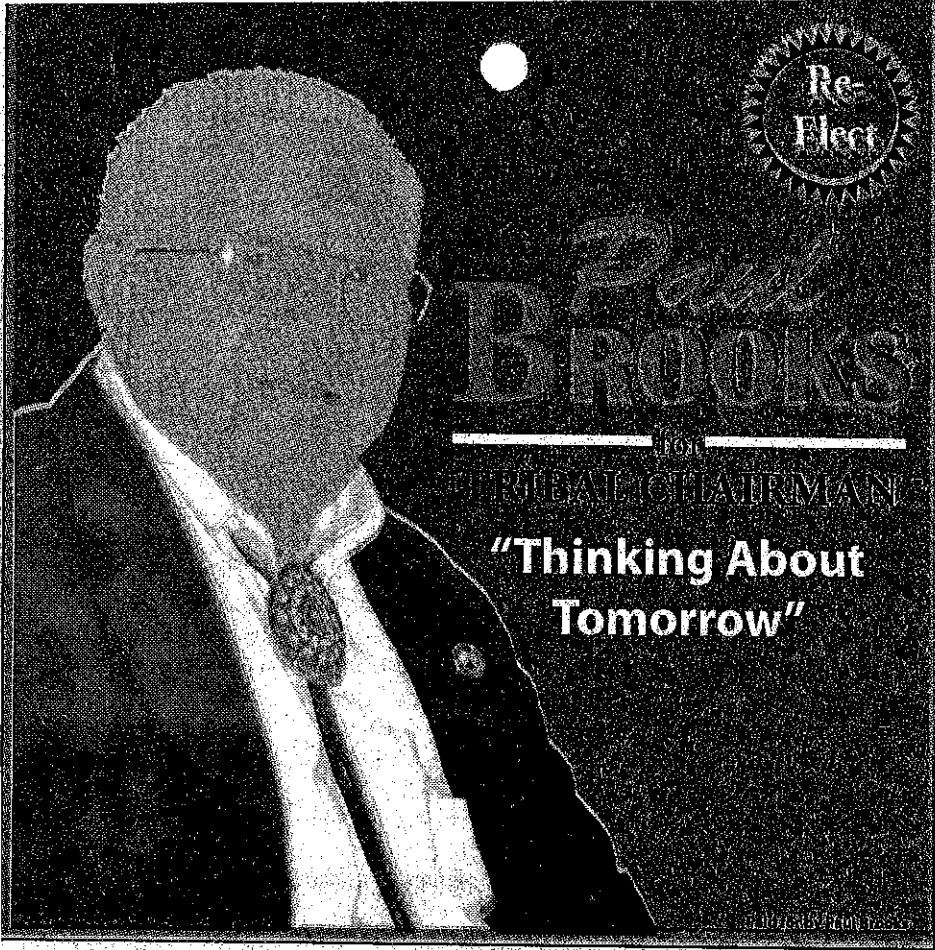
Mabel Revels grandson
Mrs. Mabel Revels

Sharee Strickland
Mrs. Sharee Strickland

Chad Oxendine son
Ms. Patricia Oxendine

EXHIBIT 2

Example of the Advertisement Purchased by the Petitioner and Evidence of Payment by the Petitioner



RECEIPT		DATE <u>7/24/15</u>	No. <u>792857</u>
RECEIVED FROM <u>Paul Brooks</u>		\$ <u>679.00</u>	
<u>Political Ad</u>		<u>7/26/15</u>	DOLLARS
FOR RENT <u>Act # 20032731</u>		<u>ck # 541</u>	
FOR		FROM _____ TO _____	
ACCOUNT		BY <u>AP</u>	
PAYMENT	<u>679.00</u>	<input type="radio"/> CASH <input checked="" type="radio"/> CHECK <input type="radio"/> MONEY ORDER <input type="radio"/> CREDIT CARD	
BAL. DUE			

EXHIBIT 3

“Brooks Announces Bid for Re-Election” Article Appearing in the Robesonian on July 25, 2015

Brooks announces bid for re-election

Questions linger about his eligibility

By Sarah Williets
swiliets@cwrtastmedia.com

PENNBROKE — Lumbee Tribal Chairman Paul Brooks has launched a bid for re-election, doing so even though some question whether he is eligible for what would be a third term.

An advertisement in Sunday's *The Robesonian* reveals his plan.

"My main goal is to focus



Brooks

on job creation through economic development. I want the tribal members to have jobs. Through the tribe's 8A program of which I played an important part, I feel the contracts that we will get will bring in jobs to the tribal territory. It is time to think about tomorrow," Brooks said in a statement.

Brooks said during his time as chairman, he increased the tribe's assets by \$15 million, put in place programs that will bring jobs to the community and initiated the

development of a senior citizen housing facility and a new community building.

"I am very proud of the future Community Building in our tribe's oldest community of Prospect. This building will provide a place for tribal members to gather for all kinds of functions," Brooks said.

The announcement comes amid discussion over whether Brooks is eligible for another term as chairman.

The constitution states that Lumbee officials "shall

be elected by the general membership for a term of three years and shall not serve more than two consecutive terms." Brooks is in his fourth year as chairman, having won election twice, including once to fill the unexpired term of a previous chairman.

Brooks said his eligibility is "very clear."

"The Lumbee Constitution clearly says that a tribal chairman shall be elected by the members for a term of three years. To date, I have only been elected to a three-year term once. I am now seeking to serve my second

three-year term," he said in a statement.

Two petitions have been filed requesting clarification on what exactly defines a term in tribal law.

The first petition, submitted to the court by Eric Locklear, a self-proclaimed community activist, and circulated on Facebook, asks that the Lumbee Tribal Supreme Court make a decision on whether Brooks can serve another term.

Locklear referred to a 2004 Supreme Court ruling that

See BROOKS | 5A

defines a "term" as when a person files for a tribal office, wins the election, and is then sworn into office. The second petition, filed by Anita Hammonds Blanks, a member of the Lumbee Tribal Council, asks the court to reach a general ruling on what law to be an elected term for Lumbee officials.

"It is a simple petition seeking a much needed clarification from this court on the ruling of law that governs our tribe," Blanks says in the petition.

According to the tribe's website, the filing period for elections begins Aug. 24 and will close Sept. 18. The election will be held Nov. 17.

Brooks' seat will be up for election along with seven seats on the Tribal Council. Those seats are: District 1, held by Evan Davenport; District 4, held by Jonathan Locklear; District 5; held by Bobby Oxendine; District 7, held by Robert Chavis; District 9, held by Blanks; District 10; held by Terry Collins; and District 14, held by Homer Fields.

According to the tribe's website, Chavis, Collins and Fields "have all served two consecutive terms and are ineligible to seek re-election." A list of seats up for re-election states that it has not been determined whether Brooks is finishing his second

From page 1A



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Brooks announces bid for re-election

Questions linger about his eligibility

First Posted: 11:43 am - July 25th, 2015 Updated: 11:43 am - July 25th, 2015. - 2188 Views

By Sarah Willets - swillets@civitasmedia.com



Paul Brooks

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PEMBROKE — Lumbee Tribal Chairman Paul Brooks has launched a bid for re-election, doing so even though some question whether he is eligible for what would be a third term. An advertisement in Sunday's The Robesonian reveals his plan.

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Sarah Willets can be reached at 910-816-1974 or on Twitter @Sarah_Willets.

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Billy2shoes • 2 days ago

Paul Brooks is correct. The law is clear.this issue has been settled by the lumbee tribe supreme Court. when Larry Townsend was in the same position, the court ruled that even a partial term served to fulfill some one else's term constitutes a term for re election purposes. Sorry paul, but you can't run this time. Go home. Plant a garden

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LumbeeOversight • 2 days ago

Anyone remember FDR? Johnson? Both served beyond 8 years. If I'm not mistaken, Brooks did finish out Swetts term, and then won the next race. If the constitution doesn't spell it out, why not follow federal law? Meaning Brooks would be eligible to run again, just like Johnson who finished out Kennedys term, but I think he didn't run, but was able too. Given the names I have heard that are running and planning on running, Brooks is surely the best bet of them all so far.

Reply Share



Warrior111 • 2 days ago

A life of public service sometimes comes at a high price!

Reply Share



william • 2 days ago

What is the mind set of a Tribal Chairman who brags about building community centers that cost millions, get a local contractor rich, yet sits empty most of the year and provides little or no practical value to the Lumbee People? Its ridiculous that a large portion of the county still doesn't have access to reliable high speed internet; no accredited trade schools; no public pools or gyms, yet plenty of access to obesity and heart disease; high rate of unwed mothers, yet no affordable housing; no homeless shelters; plenty of guns and crime, but no sport shooting ranges; and whats with Robeson County being the largest county in NC, but horrible hunting and fishing, tons of huge deer, quail, dove, turkey, etc 40 miles in every direction but not in Robco.

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Yes, thank you very much

Ha, no- I kill nearly every single one

I don't know, never tried it

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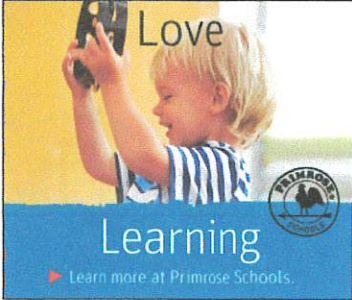


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Contact Information

Business Address:

2175 N. Roberts Ave, Lumberton NC, 28358

Primary Phone:

910-739-4322 (tel:910-739-4322)

Primary Fax:

910-739-6553 (tel:910-739-6553)

EXHIBIT 4

**“Lumbee Court Won’t Rule on
Brooks’ Eligibility” Article
Appearing in the Robesonian on
July 28, 2015**



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Lumbee court won't rule on Brooks' eligibility

First Posted: 8:01 pm - July 28th, 2015 Updated: 9:24 am - July 29th, 2015. - 1172 Views



PEMBROKE — The five-member Lumbee Supreme Court has refused to hear two petitions from tribal members seeking a ruling on whether Chairman Paul Brooks is eligible to run for re-election in November.

The justices decided last week that there is no issue to adjudicate because Brooks has not filed to be on the ballot. The filing period for the chairman and seven seats on the Tribal Council begins Aug. 24 and closes Sept. 18.

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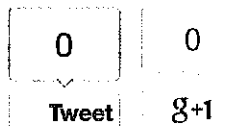
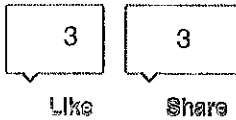
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Brooks did announce in an advertisement published in The Robesonian on Sunday his intention to seek re-election.

“As of the drafting of this order, neither the current chairman nor any other candidate has filed for the office of chairman for the next tribal election cycle,” the court wrote in response to the petition filed by Councilwoman Anita Hammonds Blanks. “It appears the petitioner is requesting the court to give an opinion on an issue that there is currently no issue for the court to decide at this time.

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“Any decision rendered at this time would only be speculative and based on assumptions. This court is not an advisory council or an advisory body, but rather a branch of government created to adjudicate issues actually in dispute and to adjudicate said issues in accordance with the Lumbee Constitution,” the dismissal order reads. “The Court holds at this time that there is no issue ripe for review”

In her petition, Hammonds Blanks asked the court to issue a ruling on exactly what the Lumbee Constitution considers a “term” for Lumbee elected officials. According to the Lumbee Constitution, elected officials can only serve two consecutive terms.

“It is a simple petition seeking a much needed clarification from this court on the rule of law that governs our tribe,” Hammonds Blanks said in her petition.

Brooks and others have argued that the final year Brooks served to complete the unexpired term of former Chairman Purnell Swett should not be considered a term. Afterward Brooks was elected in November 2012 to his current three-year term.

A couple of days before Hammonds Blanks submitted her petition to the court, a petition was submitted by Eric Locklear, a self-proclaimed community activist. In his petition, which had circulated on Facebook, Locklear asked the court specifically to determine Brooks' eligibility to seek another term.

Locklear referred to a 2004 Lumbee Supreme Court ruling that defines a "term" as when an individual files for a tribal office, wins an election, and then is sworn into office. According to Locklear, as of Monday night he had not officially received the order from the court dismissing his petition.

"While I had hoped to bring this matter to a close without a hearing, it appears now that (Paul) Brooks will have to appear before the court to have the previous ruling dismissed," Locklear said. "That previous ruling prohibits the chairman for running for office again."

Alex Baker, the tribe's former public relations director, said there is also an earlier court opinion that defined a term the same way as the 2004 decision. That case, Sherman Brooks vs. the Lumbee Supreme Court, set a precedent, Baker said.

"This law has been on the books so long that it is now Lumbee law and Lumbee custom," he said. "The law just needs to be enforced."

Sheila Beck Jones, who chairs the tribe's five-member Elections Board, said that Brooks will be treated just as any other candidate when he officially files his candidacy.

"For me to speculate what will happen is putting the cart before the horse," she said. "No one is officially a candidate until they have filed all of the paper work. We (the board) will review all of the candidate applications to determine eligibility. If something is wrong with the application, the candidate will not be certified."

Beck-Jones said that if a candidate is ruled ineligible by the elections board that person has the option to appeal that decision to the Lumbee Supreme Court.

"I hope any legal action will not delay the election," she said.

According to Beck-Jones, about \$40,000 is still needed to fund the November elections. An additional \$6,000 has already been allotted to the elections board by the Tribal Council and is being used to purchase equipment and replenish other supplies necessary for running an election.

"People aren't aware of how much it costs to run an election," Beck-Jones said. "For instance, it cost us \$1.45 for each absentee envelope we send out. Last year, in a small election, we sent out 145 absentee ballots. This year, with a chairman's race, we could need as many as 600 to 1,000 absentee ballot packages."

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Info Minute

The Elections Board, which had been without an office for several months, recently agreed to rent space in the building at COMtech Business Park that houses the tribe's Veterans Service Office. The board was forced to move from its most recent office in a building behind the tribal housing complex on N.C. 711 because federal housing dollars cannot be used for election purposes.



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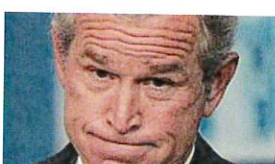
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FILE



The Supreme Court of the Lumbee Tribe of North Carolina

August 18, 2015

Paul Brooks, Petitioner

Vs.

Election's Board of the Lumbee Tribe of North Carolina, and
Shelia Beck-Jones, in her capacity as Chairperson of the Election's Board of the
Lumbee Tribe of North Carolina, Respondent



NOTICE OF HEARING

Please take notice that a hearing has been scheduled for Petition Number: 2015-005 below:

Day: Tuesday Date: August 25, 2015 Time: 6:30 p.m.
Room: Conference Room, Housing Complex Location: LTNC Tribal Building
6984 NC 711 Hwy
Pembroke, NC 28372
(910) 521-7375

It is important you attend this meeting. The Court has set aside this time for you to tell us about your case. You must promptly appear for this hearing at the time and date. If you do not attend the hearing and we do not find you have good reason, we may dismiss your request or proceed with a decision based upon evidence and /or information in the record. We may do so without giving you further notice.

If You Cannot Attend Your Scheduled Hearing:

If you are unable to attend this hearing at the time and place we have set, please call Mr. Billy Hunt, Tribal Clerk at 910-522-5464 immediately with an explanation for good reason.

If you wish to change the time or place of hearing, you must ask for a change. Your request must be in writing to tell us why you need the change. You must ask for this change no later than five (5) days before the date of your hearing. We will decide whether you have a good reason for requesting the change. If we find you have a good reason for your request, we will set a new time and place for the hearing. We will send another notice giving the new time and place for the hearing.

Representation before the Court

Petitioners have the right to represent themselves before the Court. They may also have a spokesperson present their case.

Courtroom Decorum

All persons who appear before the Court and attend the session of Court shall abide by the following basic rules of decorum established by the Court and any general rules posted. Customary rules of decorum are observed when attending or visiting sessions of the Lumbee Tribe Supreme Court.

1) Timely arrival. The Supreme Court convenes promptly at its announced starting times. All Petitioners, Respondents and others having business before the Court shall be seated in the Courtroom before the scheduled time for the Court to convene.

2) Tribal Clerk's announcement. Upon arrival of the presiding Justices to the courtroom, the Tribal Clerk shall announce their presence. At such time, all persons present shall rise to a standing position and remain standing until all members of the Court are seated.

3) Recess and Adjournment. When the Chief Justice announces a recess or adjournment, the Tribal Clerk shall direct all persons to their feet; and they shall continue to stand until all members of the Court have retired from the courtroom. During the recessional, the audience shall refrain from movement or conversation.

4) Courtesy to speaker. Upon Petitioners, Respondents or their witnesses addressing the Court, and when members of the Court are speaking, all other persons in the Courtroom shall remain silent. Persons wishing to retire from the Courtroom shall wait until an oral argument has been completed.

Procedure before the Court

The Chief Judge of The Supreme Court or his/her appointee shall be the presiding official. All proceedings before the Court shall be audiotaped. The hearing shall be open to the public unless the Court determines an open hearing would not serve the ends of justice and fairness. The spokesperson that wishes to address the Court shall stand and obtain permission to address the Court. The Court shall determine the nature or its relevancy and extent of evidence it will consider on a case by case basis. The Petitioner and Respondent shall be allowed to present arguments to the Court with the Petitioner going first. Once the Petitioner has argued its evidence, the Respondent may present its argument. To the extent possible, each side may ask questions of the other side, subject to the discretion of the court. Judges of the Court may ask questions of any witness. If there are any witnesses, a list shall be given to the Tribal Clerk to be forwarded to the Court no less than five (5) days prior to the day of the hearing. In the event documents or exhibits are presented to the Court, the parties offering the exhibits or documents shall have the responsibilities of explaining the relevancy of the documents or exhibits and shall furnish copies of such documents or exhibits to the opposing side and to the Court no less than five (5) days before the hearing. Each side shall be allowed to give a closing argument to the Court with the Petitioner having the last argument.

The Court's Deliberation and Decision

The Court shall meet to deliberate a case, either at the time the case is heard or at some other time to be agreed upon by the members of the Court.

A. The Court's decision shall be by majority vote. Judges who did not participate during the presentation of the case shall exclude themselves from the decision process.

B. The Court shall publish its decision as soon as practical after it is decided. A copy of the decision shall be mailed, 1st class mail, to the Petitioner and to the Respondent. Copies shall be made available to any interested persons through the Tribal Office at cost.

C. The Chief Judge of the Supreme Court shall designate a member of the Court who voted with the majority to write the Majority's opinion. Any members of the Court, whether voting with the majority opinion or against the majority opinion, shall have the right, should they so desire, to write a separate opinion. Those who voted with the majority may write a separate concurring opinion. Those voting against the majority may file a dissenting opinion

On behalf of the Supreme Court of The Lumbee Tribe of North Carolina


Justice Tina K. Dicke 



07-21-15A09:03 RCVD BR

THE SUPREME COURT OF THE LUMBEE TRIBE OF NORTH CAROLINA

**LEROY FREEMAN AND THE COMMITTEE
FOR CONSTITUTIONAL INTEGRITY**

CASE NO:

2015-005

VS.

N/A

DENIAL OF PETITION

The Petitioner is requesting the Court to define a "term," specifically as it relates to the office of the Chairman. As of the drafting of this Order, neither the current Chairman nor any other candidate has filed for the Office of Chairman for the next tribal election cycle. It appears that the Petitioner is requesting the Court to give an opinion on an issue that is not currently ripe for review. It is this Court's opinion that there is currently no issue for the Court to decide at this time. Any decision rendered at this time would only be speculative and based on assumptions. This Court is not an advisory council or advisory body, but rather is a branch of government created to adjudicate issues actually in dispute and to adjudicate said issues in accordance with the Lumbee Constitution.

The Court holds at this time that there is no issue ripe for review. Therefore, the Petitioner's Petition is **HEREBY DISMISSED**.

Should the issue become ripe, the Petitioner shall not be precluded from filing any future Petition.

ON THIS THE 20TH DAY OF JULY 2015, Justice Matthew Scott signs this court's decision on behalf of Justices Tina Dicke, Wendell Lowery and Von D. Locklear. Justice Francine Chavis joins in a concurring opinion.

Justice Matthew Scott

Concurring Opinion of Justice Francine Chavis;

I agree with the majority vote that the issue brought before the court in this petition is not ready to be heard, how I reached this opinion is as follows. I feel this is an issue that should be reviewed and evaluated because of the vast concern throughout the tribal community as

exhibited by the Petitioners in this case, which in my opinion does rise to a level of controversy. In determining if the petition is ready for consideration by the Court, my evaluation is two-fold. First, have the Petitioners in this case experienced any adverse effects regarding the issue of defining a "term"? Secondly, would postponing a decision on the matter create a direct hardship on the filing Petitioners? Unfortunately, none of the Petitioner(s) in this case has shown where he or she will be injured in this matter if not heard, because no one in the petition has noted their specific intent to run for the position of Tribal Chairman. My thoughts are that there would be a more solid argument had the petition been filed by Petitioners whose intent were to run for Tribal Chairman. I feel he or she could then show the Court a direct effect for the clarification of a "term" as defined by the Constitution. Had a tribal member in the petition noted their intent to file for the position of Tribal Chairman, I would have felt it necessary to further evaluate the arguments in the petition and determine if the Constitution of the Lumbee Tribe of North Carolina is clear on what justifies a term. For that reason I concur with the majority in dismissal of the petition until when or if a suitable Petitioner does file.

Francine Chavis

Justice Francine Chavis

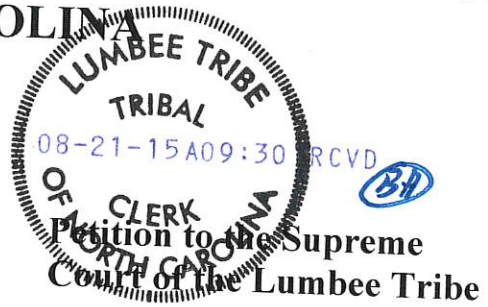
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THE SUPREME COURT OF THE LUMBEE TRIBE OF NORTH CAROLINA

Robeson County
North Carolina



Petitioner,

Anita Hammonds Blanks

Name

Phone No.

919-538-7918

Address

P.O. Box 1752 Lumberton NC
28359

Case No:

2015-005

2015-002

(To be assigned by Tribal Clerk)

V.

Respondent,

Lumbee Tribal Elections Board

Name

Address

**was entered in as a friend of the court motion and is "stayed" decision per Justice Matthew Scott during hearing on 8/25/15 (BA)*

PETITION

COMES NOW, Anita Hammonds Blanks, Petitioner and files this Petition against Lumbee Tribal Elections Board, Respondent.

The Petitioner is a resident of the Robeson County of North Carolina and resides at the following address:

The Respondent is a resident of _____ County of North Carolina and resides at the following address:

EXPLAIN WHAT SECTION OF THE LUMBEE CONSTITUTION OR TRIBAL ORDINANCE THAT HAS BEEN VIOLATED

1. _____

2. _____

3. _____

see
Attached

EXPLANATION OF HOW OR WHY THE LUMBEE CONSTITUTION OR TRIBAL ORDINANCE WAS VIOLATED

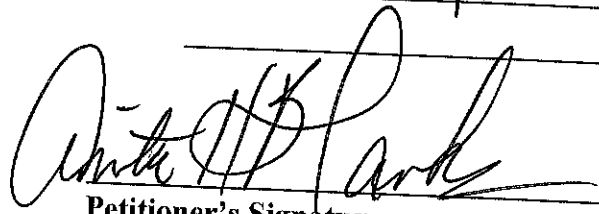
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STATEMENT OF RELIEF BEING SOUGHT

1. _____

2. _____

see
Attached


Petitioner's Signature

8-20-15
Date

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

ANITA HAMMONDS BLANKS,
Petitioner

Case No. 2015-005

PETITION

and

**MOTION FOR CONSOLIDATION WITH
BROOKS V. ELECTIONS BOARD**

v.

**LUMBEE TRIBAL ELECTIONS
BOARD,**
Respondent

COMES NOW Anita Hammonds Blanks, the petitioner above, respectfully showing the Supreme Court of the Lumbee Tribe of North Carolina, the following:

1. Petitioner is a member of the Lumbee Tribe in good standing currently serving as a member of the Lumbee Tribal Council; petitioner brings this action individually as tribal member and not as a Tribal Council member.
2. Respondent is the duly appointed five (5) member Lumbee Tribal Elections Board. The members of that Board are Chairperson Sheila Beck-Jones, Mabel Revels, Sharee Strickland, Patricia Oxendine, and Crawley Locklear.
3. The regularly scheduled tribal elections are set for November, 2015. The filing period opens on Monday, August 24, 2015
4. One of respondent's duties, among other things, is determining who meets the requisite qualifications to run for office within the Lumbee tribal government. Paul Brooks, petitioner in a similar action, has publicly stated his intent to file and run for another term as Tribal Chairman. Whether he can file and run is the issue in his petition and is the same issue previously raised by this petitioner but dismissed by the Court. This petitioner again raises the issue in the instant petition.
5. The current Tribal Chairman, Paul Brooks, named the Lumbee Tribal Elections Board and its Chairperson, Sheila Beck-Jones as respondents in an action filed July 29, 2015, see case no. 2015-005.

6. The Brooks case asks the Court to declare him eligible to seek another term as Tribal Chairman, after first having been elected in November 2011 to serve thru December of 2012, following the resignation of Chairman Purnell Swett in May of 2011. He thereafter was elected to serve a full term.
7. Petitioner respectfully suggests that Paul Brooks, just as any other candidate for Tribal office, should follow the proper procedure in filing for office before asking the Court to declare him eligible. It would appear even to the casual observer that Paul Brooks is attempting to avoid the risk of being denied by the Elections Board. It appears that he feels more comfortable with the five members of the Court.
8. This petitioner filed a Declaratory Judgment action some time ago asking the Court for a ruling declaring that Paul Brooks was not eligible to file again, based upon two prior ruling of this Court which ruled that any portion of a term, regardless of length, was a term, thus former Tribal Councilman Larry Townsend was not eligible to seek a "third" term, nor was Justice Sherman Brooks eligible for re-appointment to the Court after serving an initial one-year term, see *Townsend v. Tribal Board of Elections, 2004-008* and *In the matter of Justice Sherman Brooks, 2003-001*.
9. Petitioner's action for Declaratory Judgment was dismissed on the basis that the matter was not ripe for hearing as no person had filed for office (but of course no person could file at that time). The period for filing opens on Monday, August 24, 2015.
10. This Court on August 18, 2015, without addressing the "ripeness question" given as grounds for dismissal of Petitioner's Declaratory Judgment action, distinguished the Brooks' case from the petitioner's Declaratory Judgment action and on August 18, 2015 issued a Notice of Hearing on his petition some six (6) days before the filing period opens. That hearing is now set for Tuesday, August 25, 2015.
11. Petitioner filed a timely motion for re-instatement of her Declaratory Judgment action that was dismissed by this Court. Petitioner's action addressed the identical question that the Brooks' petition now raises, however petitioner herein and Brooks seek opposite rulings. Both were filed prior to opening of the filing period.
12. To date this Court has not addressed petitioner's motion for re-instatement of her action, thus petitioner has filed this petition and motion, naming the Lumbee Elections Board as the respondent, just as in the Brooks' petition. Petitioner finds no fault with the named respondent, however petitioner does find it necessary to name the Board as a respondent to ensure the hearing of petitioner's case at the same time as the Brooks' case.
13. Petitioner now restates the reasons why Paul Brooks should not be allowed to file for what would in effect be a third term as Tribal Chairman:
 - a. Paul Brooks first filed as a candidate, ran a campaign and was elected to serve as Tribal Chairman from November 2011 thru the end of 2012, the remaining portion of former Tribal Chairman Purnell

Swett after Swett resigned from the position, in accordance with the constitutionally provided procedure.

- b. Paul Brooks was thereafter elected to serve a full three year term that ends in 2015.
- c. The Lumbee Constitution states, in Article VIII, Section 2 that **“the Tribal Chairperson shall be elected by the voting general membership for a term of three (3) years and shall not serve more than two consecutive terms”**.
- d. The Lumbee Constitution does not state what happens when a person serves less than a full term, and more specifically it does not state whether a portion of a term is to be considered a term, for purposes of seeking re-election and determining consecutive terms.
- e. In societies with democratic governments, including tribal governments, citizens rely on their court system to resolve legal disputes, especially those with respect to interpreting their highest legal authority, their constitution. The Lumbee Supreme Court, from time to time, is called upon to interpret our Lumbee Constitution. Such is the case now just as in prior instances.
- f. In 2004 this Court as asked to interpret the Lumbee Constitution when the identical fact pattern now found in the Brooks case arose when Larry Townsend, (*Larry Townsend v. Tribal Elections Board*, see case no. 2004-008) was elected to serve the remainder of a term as a Tribal Councilman and then elected to serve a full three year term in the same office. When he was denied the opportunity to file for a “third” term, he brought an action in the Supreme Court against the Elections Board. The Court ruled that he was not eligible to file again for the same office because the Lumbee Constitution, Article VII, Section 2 states that he could serve only two consecutive terms. In a clear and precise statement, the Court ruled that any portion of a term was a term, thus Townsend could not file for an additional third term. The Court defined the word “term” as used in our Constitution to mean any portion of a term. That is the well-settled law that governs the Brooks’ case; that is the precedent that governs the Brooks’ case; further, this has been the law since 2004.
- g. In 2003 the Court initially addressed the question of what was a term in the case styled as *In the matter of Justice Sherman Brooks*, case no. 2003-001. Justice Sherman Brooks was one of the initial five Justices appointed to the Tribal Supreme Court. In order to stagger the terms, the five Justices drew terms of one year to five years. Justice Brooks drew a one year term. At the end of Brooks’ one year term, then Tribal Chairman Milton Hunt re-appointed him. The Supreme Court, on its own, held a hearing in “executive session” and at the conclusion of the hearing, declared and ruled that Justice Sherman Brooks was not eligible for re-appointment, relying upon the constitutional provision that says no judge may serve consecutive terms. Implicit in the ruling is that any period served, regardless of length, is a “term”. The Court later in *Townsend* adopted and followed the precedent set out in the *Sherman Brooks* case.

- h. Petitioner argues that the Tribal Supreme Court has twice interpreted the Lumbee Constitution to say that any portion of a term, regardless of the length, is a “term” for purposes of determining whether a tribal member can serve additional terms.
- i. Petitioner asserts that this Court is bound by the legal precedents established in *Townsend* and *Sherman Brooks*, unless a compelling reason is shown by petitioner Paul Brooks. Of note is that the Brooks’ twenty-seven page petition never mentions the precedents set out in the *Townsend* and *Sherman Brooks* cases. Petitioner asks rhetorically: Does petitioner Paul Brooks not know about these precedent setting cases? Does he know about them but does not want the Court to consider those cases when deciding whether he can file and run again? Or does he feel that it really doesn’t matter how the Court ruled in the past?
- j. Petitioner asks this Court to ponder this important question in reaching its decision: Will our Lumbee Tribal government be known as a “government of laws” or will it be known as a “government of men”?

**MOTION TO CONSOLIDATE FOR HEARING
WITH BROOKS V. ELECTIONS BOARD**

Petitioner above, Anita Hammonds Blanks, further shows the Court that she and/or other like-minded individuals who file with the Court must be allowed to appear and participate, as a matter of fundamental fairness, in the Brooks’ hearing for the reasons that follow:

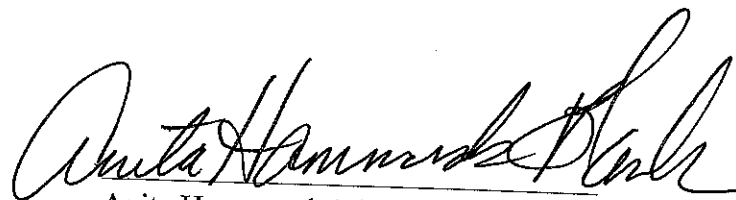
- 14. This Court issued a Notice of Hearing in the Paul Brooks petition, case no. 2015-005 and set the matter for hearing on Tuesday, August 25, 2015.
- 15. The respondent in the Brooks’ petition is the Tribal Elections Board. That Board has not ruled as to Brooks’ eligibility because the filing period will not open until August 24, 2015; further, that Board is now in the untenable position having to “defend” or “respond” to a petition where the Board has not been “accused” of anything because they (the Elections Board) have taken no action. Given that by the time this matter is heard in court, Brooks will have filed with the Elections Board, the two obvious positions that the Elections Board can take in court are as follows: allow Paul Brooks to file for an additional term or not allow him to file. If the Elections Board allows him to file, does that mean the issue of whether he can run for another term is settled? Unless this petitioner is allowed to participate and present the prevailing view to the Court, that being that he is barred from seeking an another term by two prior rulings of this Court, who will offer such showing? If the Elections Board rules that he is ineligible to file for the office of Tribal Chairman, and of course they cannot do that until filing opens on Monday, August 24, 2015 and he files or attempts to file, are they expected to prepare for a court hearing on the very next day? Regardless of whether the Elections Board can be prepared to defend or not, it would be a tremendous travesty of justice to allow a hearing and not allow opposing views to be presented.

16. This petitioner is prepared to show the Court the prevailing Lumbee law and provide a substantial showing as to why Paul Brooks should not be allowed to seek another term as Tribal Chair.
17. This Court chose to dismiss petitioner's earlier action involving the matter. The same court then set Paul Brooks' petition for hearing. This Court must allow this petition to be joined with the Paul Brooks petition so that all sides can have a voice in this matter and can be heard. To do otherwise would call the Court's credibility and impartiality into serious question.

WHEREFORE, petitioner asks this Court to do the following:

1. Join this petition for hearing with the Paul Brooks matter now set for Tuesday, August 25, 2015.
2. As a matter of courtesy, notify this petitioner as quickly as possible that this petition will be joined for hearing.
3. Issue a ruling consistent with the two prior rulings of this Court that say any portion of a term is a term for purposes of calculating consecutive terms.
4. Issue a ruling barring Paul Brooks from seeking a third term as Tribal Chairman.
5. Any and all other relief deemed appropriate and consistent with prior Court rulings.

This the 20 day of August, 2015.

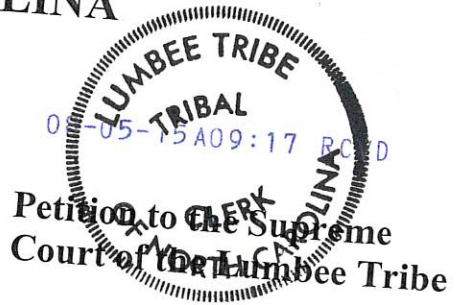


Anita Hammonds Blanks,
Member of the Lumbee Tribe
P.O. Box 1752
Lumberton, N.C. 28359



THE SUPREME COURT OF THE LUMBEE TRIBE OF NORTH CAROLINA

Robeson County
North Carolina



Petitioner, LTNC
Shelia Beck Elections Board
Name 910-374-0433
Phone No.
Address PO Box 1799 Pembroke, NC 28372

Case No: 2015-005
2015-005
(To be assigned by Tribal Clerk)

V.

Respondent,
SCOTLTNC
Name
Address 6984 US 711 W. Pembroke, NC 28372

* was added as motion to 2015-005 per presiding Justice Scott during hearing on 8/25/15
Matthew
BH

PETITION

COMES NOW, Shelia Beck / LTNC Elections Board, Petitioner and files this
Petition against Supreme Court of the Lumbee Tribe of NC, Respondent.

The Petitioner is a resident of the Robeson County of North
Carolina and resides at the following address:
PO Box 1799 Pembroke, NC 28372

The Respondent is a resident of Robeson County of North
Carolina and resides at the following address:
6984 US 711 W. Pembroke, NC 28372

EXPLAIN WHAT SECTION OF THE LUMBEE CONSTITUTION OR TRIBAL ORDINANCE THAT HAS BEEN VIOLATED

1. _____

2. _____

3. _____

see Attach

EXPLANATION OF HOW OR WHY THE LUMBEE CONSTITUTION OR TRIBAL ORDINANCE WAS VIOLATED

1. _____

2. _____

see Attach

STATEMENT OF RELIEF BEING SOUGHT

1. _____

2. _____

see Attach

see Attach

Petitioner's Signature

Date

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

Paul Brooks, Petitioner)

FILE # 2015-005 


v.)

**MOTION TO DISMISS OR ALTERNATIVELY
TO CONTINUE UNTIL FUNDS PROVIDED
FOR LEGAL COUNSEL**

Lumbee Tribal Elections Board, and)

Sheila Beck-Jones, Chairperson,)

Respondents)

08-05-15A09:03 RCVB 

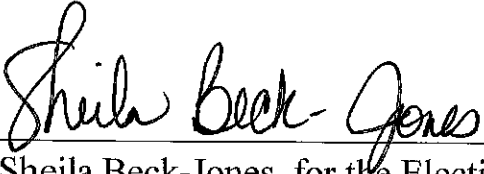
NOW COME the Respondents above, the Lumbee Tribal Elections Board and Chairperson Sheila Beck-Jones, stating the following:

1. Paul Brooks (individually) filed a 28 page petition, as styled above against the Lumbee Tribal Elections Board, hereinafter "Elections Board" and the Chairperson of the Board, Sheila Beck-Jones on Wednesday, July 29, 2015. Paul Brooks is of course the Tribal Chairman of the Lumbee Tribe.
2. The Tribal Elections Board is a five (5) member volunteer board. The members give their time and service on the Elections Board without compensation. They are as follows: Mr. Crawley Locklear, Mrs. Mabel Revels, Mrs. Sharee Strickland, Ms. Patricia Oxendine, and the Chairperson, Ms. Sheila Beck-Jones.
3. This Elections Board is charged with all the necessary activities related to conducting regular Tribal elections. The next election is set for November 17, 2015. This Board has been, is now, and continues to be, grossly underfunded, resulting in significant challenges in trying to conduct timely and credible elections.
4. The petition herein makes all types of unsupported claims but no claims are made against the Elections Board and/or Chairman Sheila Beck-Jones, although this Elections Board and Chairman Sheila Beck-Jones are the named Respondents in the petition.

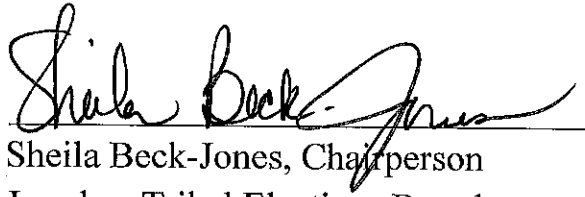
5. The Court addressed this same issue that Paul Brooks now raises in a July 20th order when the Court said there was no issue to decide since no candidate had filed for the office; that the issue was not ripe for hearing; and further that the Court did not issue advisory opinions.
6. In the event that the Court allows this matter to proceed, this Board is entitled to legal counsel for this hearing and has no funds with which to seek counsel. This Board and Sheila Beck-Jones as Chairperson should not be compelled to go forward in this hearing until such time as Paul Brooks, Tribal Chairman and head of the administrative branch of the Lumbee tribal government, provides funds for this Board to hire an attorney.
7. This Board estimates that it needs \$5000.00 for legal fees and a reasonable amount of time thereafter to consult with counsel.
8. The Court should reasonably expect that Paul Brooks will have his attorney at the requested hearing; further, the Court should reasonably expect no less from the Elections Board and Chairperson Sheila Beck-Jones.
9. A copy of the letter requesting funding for an attorney that was sent to Paul Brooks as Tribal Chairman is attached to this motion.

For the reasons stated above, this Elections Board and Chairperson Sheila Beck-Jones move the Court to dismiss this entire action outright as the Petitioner has made absolutely no claims against this Board nor Chairperson Sheila Beck-Jones; further the matter should be dismissed for the same reasons set forth in the Court's July 20th order; and finally in the event that it is not dismissed, then in the interests of plain and simple fairness, to delay hearing requested by Paul Brooks until such time as the Board is provided with the necessary funds to consult with counsel.

Respectfully submitted this 4th day of August, 2015.



Sheila Beck-Jones, for the Elections Board



Sheila Beck-Jones, Chairperson
Lumbee Tribal Elections Board



Lumbee Tribe of North Carolina
Board of Elections
Post Office Box 1799
Pembroke, North Carolina 28372
lumbeeelectionboard@yahoo.com

August 4, 2015

The Honorable Paul Brooks, LTNC Chairman
P.O. Box 2709
Pembroke, N.C. 28372

RE: Elections Board request for funding to hire legal counsel

Chairman Brooks:


Take note of this request for funds with which to seek legal counsel in the case where you sued the Lumbee Tribal Elections Board and Chairperson Sheila Beck-Jones.

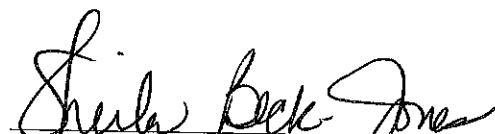
Attached you will find a copy of a motion before the Supreme Court of the Lumbee Tribe seeking dismissal of your petition or in the alternative asking that the Court delay any hearing until such time as the administrative branch of our tribal government (headed by you, of course) provides adequate funds to this Board to hire an attorney for the hearing.

This Board feels confident that you have sought legal counsel and that you will have an attorney by your side at the hearing. This Board seeks \$5000.00 from your administration so that we may hire an attorney as soon as possible

We anxiously await funding so that we can be properly prepared for the hearing.

Thank you.


Sheila Beck-Jones, for the Board


Sheila Beck-Jones, Chairperson
Lumbee Tribal Elections Board



Tribal Clerk of the Lumbee Tribe of North Carolina Case Log

8/5/15 (9:01 AM)

I called Mrs. Melia Beck concerning an actual Supreme Court petition he filled out; I asked her if she was petitioning the SCOTUS and she replied yes. (BN)

sbeck@mksgp.com
first base 11@hotmail.com

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

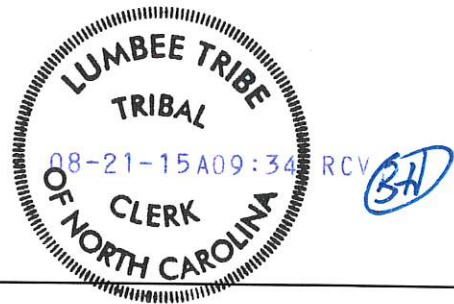
Paul Brooks, Petitioner

Case no. 2015-005

v.

RESPONSE TO PETITION

**Lumbee Tribal Elections Board, and
Sheila Beck-Jones, Chairperson,
Respondents**



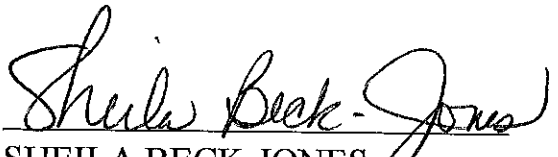
Now come respondents above, the Lumbee Tribal Elections Board, hereinafter “Board”, and Chairperson Sheila Beck-Jones, stating to the Court the following:

1. Respondents again renew all claims in their Motion to Dismiss as set out in a previous filing. To date respondents have heard nothing from the Court regarding the status of their motion, however the Court did issue a notice of hearing in the above-styled matter, thus respondents will argue the Motion to Dismiss at that time.
2. Respondents without re-stating every claim set out in their Motion to Dismiss, are compelled to again say that this Board has done nothing that should cause us to spend needless time, effort and wasted money responding to a misguided petition wherein Paul Brooks named this Board as a respondent.
3. To date, August 20, 2015, the filing period for tribal elections has not opened thus no candidate has filed nor could any candidate file until Monday, August 24, 2015.

Therefore, the Lumbee Tribal Elections Boards says that:

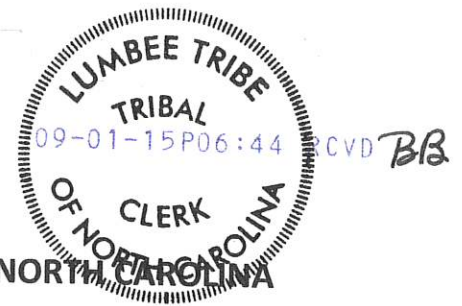
- A. Since the petitioner, Paul Brooks made absolutely no claims against the respondent, this petition should be dismissed outright and Paul Brooks should get no relief from this Court.
- B. Order Paul Brooks to pay the Election Board for the unnecessary time and effort spent responding to a baseless petition.
- C. Issue an order telling Paul Brooks that if he seeks to file for office that he must file with the Elections Board and not the Court just as every other candidate is required to do.

This the 21st day of August, 2015.


SHEILA BECK-JONES,
For the Tribal Elections Board,
and as its Chairperson

4. By filing this petition Paul Brooks seeks to avoid having to appear before this Board and run the risk of being told that he is not eligible to seek another term, in other words he wants a pass. Editorially speaking, given the way he has treated this Board, no wonder he feels that way. Will the Court allow the next candidate to “skip” the Board and go directly to the Court for an opinion? For the record this Board has not issued any ruling on his eligibility to file as that would be, to borrow a phrase from the Court, an issue that is not yet “ripe”.
5. This Board states unequivocally that when and if Paul Brooks files the necessary paperwork to indicate that he is seeking an additional term as Tribal Chairman, we will give him every consideration possible when review his filing documents. This much is true: Paul Brooks cannot file to run with the Court; he must file with this Board.
6. Given that it would be improper for this Board to declare his eligibility, this Board, nevertheless is in the position of having to give some type of response to his petition.
7. As no claims are made against this Board to merit a response, this Board will say this: We will follow the Lumbee Constitution and other adopted rules set out for this Board when considering all applications for tribal elections.
8. By the hearing on Tuesday, August 25, 2015 on the Brooks petition, the world will know whether Paul Brooks filed to seek an additional term as Tribal Chairman and how the Tribal Elections Board ruled, unless of course, the Board needs to take the matter under a reasonable period of advisement, given the gravity of the situation, prior to issuing a ruling.
9. If the Court does not dismiss this Board from the proposed hearing, then if necessary, this Board will respond as best that it can to petitioner’s allegations, most of which are unsubstantiated and unsupported.

ORIGINAL



THE SUPREME COURT OF THE LUMBEE TRIBE OF NORTH CAROLINA

Chief Justice Von D. Locklear
Justice Wendell Lowery
Justice Matthew C. Scott

Justice Tina Dicke
Justice Francine Chavis

Chairman Paul Brooks, Petitioner,

Case No.: 2015-005

vs.

Order

Lumbee Tribal Elections Board,
Sheila Beck-Jones, Chairperson, Respondents.

This case is before the Court on a petition filed by Chairman Paul Brooks, in his individual capacity, requesting that the Court define the word "term" as it applies to a person filling the remainder of a vacated term.

This is not the first time this Court has addressed a similar issue with regards to the definition of a term. In Townsend v. Lumbee Tribal Elections Board, the Court ruled that a term is defined as "when a person files for election for a district seat for the Tribal Council, and wins such election, then at the swearing in ceremony the said person begins that "term".¹ Mr. Brooks was first elected Chairman on November 15, 2011. The Office of the Chairman was placed on the 2011 ballot because of the resignation of former Chairman Purnell Swett. Mr. Swett submitted a letter of resignation to the Lumbee Tribal Council citing health reasons as the basis for his resignation. Mr. Swett's resignation was subsequently accepted on May 19, 2011. Vice-Chairwoman Sharon Hunt became Chairwoman on May 23, 2011, until such time as a special election was to be held to fill the seat of Chairman. It was the decision of the Lumbee Board of Elections to place the Chairman's office on the November 15, 2011, ballot and the winner of that election would serve out the remainder of former Chairman Swett's term.

¹ Townsend v. Lumbee Tribal Elections Board, 2004-008

While the Court disagrees with Mr. Brook's circumventing the tribal elections procedure and failure to adhere to the Tribal Elections Boards process, this Court must look at the law and not the personality of the candidate in rendering its decision. The Court does not have the luxury of making decisions based on whether they like or dislike a party. Those decisions based on those reasons are political and best decided by the ballot box, not a court decision. The Court must try its best, with the knowledge that we are all human, to remove emotion from its decision-making process. Whether one believes Mr. Brooks is a good or bad Chairman should not play a role in this Court's analysis. The law is the law and should be applied equally.

Therefore, it is the Courts opinion that the Tribal Elections Board erred in requiring Mr. Brooks to serve only one year of what should have been a three (3) year term. In replacing a Chairperson who has resigned, the elected replacement shall serve a three (3) year term and not serve more than two (2) consecutive terms. If the Tribal Elections Board would have correctly interpreted the Constitution or Mr. Brooks would have identified the mistake before fulfilling his 1st year of office, Mr. Brooks would have next been on the ballot in November 2014 and if elected his second consecutive term would have ended December 31, 2017. This would have been six (6) years, which under the circumstances of a resignation would be two (2) consecutive terms. Mr. Brooks is therefore allowed to be placed on the November 2015 ballot for Tribal Chairperson. However, if Mr. Brooks is elected, he shall only be allowed to serve two (2) years. While not culpable in the Tribal Elections Board's inaccurate interpretation of the Constitution the Petitioner failed to exercise due diligence in verifying the Tribal Elections Board interpretation of the Constitution. As a result of this failure, the Petitioner will have to be elected three times in order to serve 6 years or two terms as Chairperson.

The Court appreciates the fact that this petition has garnered intense feelings by those who are for or against Mr. Brooks being able to run for office. An election is the ultimate test of the will of the people. This opinion does not crown Mr. Brooks Chairman; it only places him on the ballot. If you do not like the result of this opinion, you can change the outcome thru the elections process. The power of the Lumbee Tribe does not rest in the Chairman, the Tribal Council,

Townsend dealt with a vacancy of a Tribal Council seat which is defined as occurring for any reason under Section VII of the Constitution. As noted above, a vacancy for the Tribal Chairman's position is not defined as "for any reason", but is defined as occurring thru the death or disqualification of a Tribal Chairman. Since the framers of the Constitution drafted the vacancy language differently, we must treat them differently.

The Court will now treat Mr. Brook's petition as a case of first impression. Based on the Court's analysis, the Tribal Elections Board erred in requiring the winner of the November 15, 2011, election for Tribal Chairman, to fulfill the remaining term of Mr. Swett. This action by the Tribal Elections Board was contrary to the Constitution. Mr. Swett did not die nor was he disqualified from serving as Chairman; he resigned his office. Under the Constitution, a special election is only triggered for the office of Chairman thru death or disqualification. Also, the fulfilling of a prior Chairman's term is only required when there is a death or disqualification of the prior Chairman, and when there is more than one year left in his/her term. Because Mr. Swett resigned due to health concerns, the seat should have been deemed open and the individual who replaced him should have received a three-year term. Article VIII, Section 2 outlines out the process of electing a Tribal Chairperson. It states that the Tribal Chairperson "shall be elected by the voting general membership for a term of three (3) years and shall not serve more than two consecutive terms." Thus, a term when dealing with the resignation of a Tribal Chairperson shall be three (3) years. Mr. Brooks first three (3) year term should have began on January 1, 2012. Instead, because of the Tribal Board Elections mistaken interpretation of the Constitution Mr. Brooks only served one (1) year before he was again placed on the ballot in November 2012. Although the Tribal Elections Board mistakenly interpreted the Constitution, some fault should be placed on Mr. Brooks for not identifying and bringing this mistake to light. While the Tribal Elections Board should be considered the subject matter expert with regards to the Tribe's Election procedures, it is also incumbent on a Tribal candidate, especially one running for Tribal Chairperson, to read and understand the Constitution. Mr. Brooks acquiesced to the Tribal Elections Board's mistaken interpretation and served the one year without protest. It is not until the end of his first full term as Chairman, does Mr. Brooks raise an issue as to his eligibility to once again seek office.

It is this decision by the Tribal Elections Board that the court must examine in reaching a decision on the current petition.

First, a thorough analysis of the Lumbee Tribe's Constitution identifies a glaring distinction in the definition of vacancy as it relates to a Tribal Council member versus the Office of Chairman.

As it relates to the Tribal Council, Article VII Section 7(b) states:

- b) If a Tribal Council seat becomes vacant **for any reason** and more than one calendar year remains in the term of the vacant seat, then;
 - i) a special election shall be conducted to fill the vacancy, and
 - ii) the newly elected council member shall serve out the remainder of the vacated term.


As it relates to the Tribal Chairman, Article VIII Section 3 states:

- 3) A vacancy shall occur in the office of Tribal Chairperson **upon the death of the chairperson** or the **occurrence during that chairperson's term of any circumstance listed above in section 2 that would have disqualified the chairperson from running for office.**


Based on the plain language of the Constitution, a vacancy for a Tribal Council member is triggered for any reason. However, for the Office of Chairman, a vacancy only occurs upon death or disqualification. When trying to glean the framers of the Constitution's intent, the Court must look at how they use language throughout the Constitution. If the framers defined a term differently in different sections of the Constitution, then they clearly must have intended for those terms to be applied differently. Thus, if the framers intended for a vacancy to be defined for a Chairman as occurring for **any reason**, the framers would have drafted that section the same way they did for a Tribal Council member. Because they did not, and they drafted a vacancy for the Chairman as only occurring thru death or disqualification, then this Court must interpret a vacancy for Tribal Chairman as for those two reasons and those two reasons alone.

In applying this analysis to the present petition, Townsend v. Lumbee Tribal Elections Board, is inapplicable and therefore not precedent for this petition.

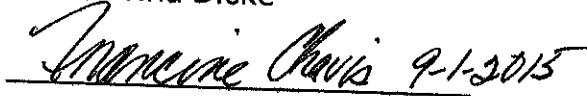
or the Court, but in the hands of the people. The court can only rule on the interpretation of the Constitution as it is currently written. It is the people and the people only who can change the Constitution and the leadership of the Tribe. Therefore, you are encouraged to take ownership in your Tribe and hold the leadership accountable to the will of the people.

 1 Sept 15

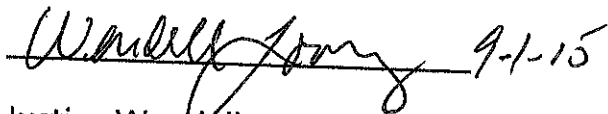
Justice Matthew Scott

 9/1/2015

Justice Tina Dicke

 9-1-2015

Justice Francine Chavis

 9-1-15

Justice Wendell Lowery