



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

*Justice Mark Brooks*  
*Justice Theresa Locklear*  
*Justice Everette Moore*

*Justice Mary Beth Locklear*  
*Justice Joshua D. Malcolm*

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Rebecca LaClaire,

Case No.: 2020-003

**PETITIONER,**

v.

**ORDER**

Lumbee Tribal Council,

**RESPONDENT.**

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**IN THIS MATTER**, the Petition was filed on August 4, 2020, alleging violation(s) of the Constitution of the Lumbee Tribe of North Carolina. Article VII. Section 5. of the Constitution states, “[a]ll proceedings of the Tribal Council shall be conducted in public session, except for proceedings certified in advance by the speaker as implicating privacy rights of a tribal employee or member.” The plain reading of this passage leads this Court to conclude what the framers of this Constitution expected and this document therefore requires is that all legislative “proceedings” be held in a manner open to the public, minus only those implicating the “privacy rights” of a tribal employee or member. The Court takes notice that the terms “proceedings” and “privacy rights” are not defined in the Constitution.

Article VII. of our Constitution describes the authority and responsibilities of the Tribal Council. Section 1. b). of this Article states, “the adoption of rules and regulations governing the Tribal Council’s procedure and decorum, consistent with the provisions of this Constitution.”

The Court takes notice that the Tribal Council issued a public document<sup>1</sup>, available on the Tribe’s public facing web-site, entitled “2020 Regular Business Meeting Schedule.” This document, in the third “[w]hereas” paragraph uses the term “proceedings.” The fourth

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<sup>1</sup> CLLR-2020-0116-01 (Date: January 16, 2020)

“[w]hereas” paragraph then uses the phrase “regular meetings.” The term “proceedings” is not defined in this resolution.

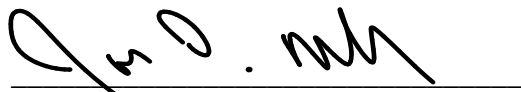
The Petitioner asserts Article VII. Section 5 is being “violated.” Petitioner alleges the “Tribal Council is having meetings named ‘work sessions.’” Petitioner alleges, “[t]ribal members are kept from Judge and election board interviews.” Petitioner’s specific relief sought is, “Tribal Council to stop naming meetings to keep the tribal members out like ‘work sessions.’ Allow tribal members to be present during Judge and election board nomination interviews.”

**Accordingly**, this Court hereby clarifies 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 et al. of the Lumbee Tribe of NC. It is the view of this Court that such a duty precludes us from inspecting insufficiently identified constitutional violations, and that doing so would be the constructive equivalent of offering an advisory opinion. The Petitioner is asking this Court to do so. We will not oblige.

The Petitioner’s concern, no matter how well intended, fails to state an act with sufficient particularity so as to enable this Court to review its constitutionality. A mere allegation of suspect behavior, without citing enough facts to establish that such behavior is both actual and identifiable, is not reviewable. Consequently, we are unable to grant the relief sought by the Petitioner. This matter is therefore **DISMISSED**.

Per the unanimous decision and on behalf of the Court in Conference.

Signed this 3<sup>rd</sup> day of September 2020 at 1:00 pm.

A handwritten signature in black ink, appearing to read "J. D. Malcolm", written over a horizontal line.

Joshua D. Malcolm, Chief Justice