



## Questions presented

1. Whether this dispute is ripe for adjudication, where the Elections Board has issued official election materials identifying Petitioner’s seat as “finishing 2nd term,” but the candidate filing period has not yet opened.
2. Whether, under the Lumbee Constitution and this Court’s precedents in *Townsend v. Lumbee Tribal Elections Board, 2004-008*, and *Brooks v. Lumbee Tribal Elections Board, 2015-005*, Petitioner’s May 2022 special-election service and his current service together constitute two consecutive terms for purposes of Article VII, Section 2’s term limit.
3. Whether the 2024 redistricting ordinance, CLLO-2024-0418-01, alters how Petitioner’s “terms” must be counted for term limit purposes.

## Factual background

The relevant facts are not materially disputed. In September 2020, the Elections Board certified Mr. Alvin Mercer as the winner of the District 7 Tribal Council seat for the 2021–2023 term. Mr. Mercer passed away on January 28, 2022, creating a vacancy in the District 7 council seat with more than one calendar year remaining in the term.

Pursuant to Article VII, Section 7(b), the Elections Board conducted a special election. Petitioner, Rudy T. Locklear, was certified on March 14, 2022, as a candidate in that special election and was certified the winner on May 10, 2022. The Tribe’s official announcement stated that Petitioner “was elected to fill the late Mr. Alvin Mercer’s seat on the Tribal Council,” confirming that his initial service arose from a vacancy election. Petitioner served from his 2022 swearing-in through December 31, 2023, completing the original 2021–2023 term.

On November 14, 2023, Petitioner ran again and was certified the winner of the regular District 7 election in the Tribe’s 2023 general election. Following that certification, he was sworn in with the newly elected Tribal Council in January 2024, beginning a new term projected to run from January 1, 2024, through December 31, 2026.

In April 2024, the Tribal Council adopted CLLO 2024-0418-01, a redistricting ordinance that reconfigured council districts and provided that sitting council members would complete their existing terms uninterrupted, with the newly drawn districts electing representatives at the next election upon expiration of those terms.

For the 2026 election cycle, the Elections Board prepared and disseminated official election materials, identified in the record as “2026 Lumbee Tribal Elections – Key Dates and Key Decisions,” that list Petitioner’s seat as one in which the incumbent is “finishing 2nd term.” Petitioner asserts that this classification signals that the Board will treat him as ineligible to seek reelection in 2026 and that it presently harms his ability to campaign and to be viewed as a viable candidate.

## Applicable constitutional and precedential framework

### Lumbee Constitution

Article VII, Section 2 provides that Tribal Council members “shall be elected by the voting general membership for a term of three (3) years” and that “no council member can serve more than two (2) consecutive terms.” The Constitution thus sets both a fixed term, a three-year term, and a maximum of two such consecutive terms for any council member.

Article VII, Section 7(b) governs vacancies in Tribal Council seats and provides that if a Council seat becomes vacant “for any reason” and more than one calendar year remains in the term, a special election shall be held and “the newly elected council member shall serve out the remainder of the vacated term.”

The text expressly distinguishes service “for the remainder of the vacated term” from the creation of a new full three-year term.

Article VIII, Section 3, by contrast, addresses vacancies in the office of Tribal Chairperson and limits vacancy-triggering events to death or disqualification, not “any reason.” This structural difference was central to this Court’s analysis in *Brooks v. Lumbee Tribal Election Board (2025-005)*.

### **Townsend v. Lumbee Tribal Elections Board, 2004-008**

In *Townsend*, this Court addressed a petition challenging the Elections Board’s application of term limits to a council member who had first won a special election for a vacant seat and later won a subsequent regular election. The Court began by defining “term” as follows: “a ‘term’ is 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.’”

Applying that definition, the Court held that Mr. Townsend’s June 2002 election, although conducted as a special election to fill a vacated seat under Article VII, Section 7(b)(i), constituted his first term, even though he served only the remainder of the vacated 2001–2003 term. The Court then held that Mr. Townsend’s subsequent successful run in the 2003 election for the 2004–2007 term constituted his second term.

Crucially, the Court explicitly described the 2002 special election as “a special election that did not constitute a new term, but the remaining term of District 6,” yet still counted that period of service, together with the 2004–2007 term, as two consecutive “terms” for purposes of the Article VII, Section 2 term limit requirement. On that basis, the Court ruled that Mr. Townsend had served two consecutive terms, was ineligible to run again, and ordered his removal from the ballot.

*Townsend* thus establishes two propositions: (1) for definitional purposes, a “term” begins when a person files, wins, and is sworn in to a council seat; and (2) a period of service arising from a vacancy election that completes a prior member’s term may nonetheless count as a “term” when assessing whether a member has served two consecutive terms.

### **Brooks v. Lumbee Tribal Elections Board, 2015-005**

In *Brooks*, this Court considered whether then-Chairman Paul Brooks’ prior service should count as a “term” under the Tribal Chairperson term limits after his election arose from a vacancy created by resignation rather than by death or disqualification. The Court reaffirmed *Townsend*’s definition that a term begins when a person files, wins, and is sworn in, but concluded that *Townsend* was “inapplicable and therefore not precedent” for that petition because of material constitutional differences between the vacancy language for the Tribal Chairperson and for Tribal Council seats.

Specifically, the Court emphasized that *Townsend* dealt with a council-seat vacancy “defined as occurring for any reason under Section VII of the Constitution,” whereas the Chairman vacancy provision in Article VIII, Section 3 is limited to death or disqualification. Because the framers drafted the vacancy language for Chair and Council differently, this Court treated the Chair vacancy situation as a case of first impression and held that Mr. Brooks’ vacancy-based service did not shorten his first full three-year “term” as Chair.

*Brooks* therefore preserves *Townsend*’s binding effect in its original context, council seat term limits under Article VII, while declining to extend *Townsend*’s reasoning to the distinct Chair vacancy framework in Article VIII.

## **Analysis**

### **I. Ripeness**

We first address the Elections Board’s contention that this matter is not ripe because the filing period for the 2026 election has not yet opened. Generally, a case is ripe when there is a concrete, present controversy and not merely a hypothetical or contingent future dispute.

Here, the record reflects that the Elections Board has already issued official 2026 election materials classifying Petitioner’s seat as one in which the incumbent is “finishing 2nd term.” Those materials are not internal drafts; they are described as “Official Notice Published by the Lumbee Tribe Elections Board.” By publicly characterizing Petitioner’s service as “finishing 2nd term,” the Board has conveyed to the Tribe and its members that the seat is occupied by a two-term incumbent and, by inference, that Petitioner will be treated as reaching the Article VII, Section 2 term limit ceiling at the end of the current term.

Petitioner avers that this classification presently affects his ability to prepare for a potential campaign, to seek support, and to be viewed by the voting membership as an eligible candidate. He further argues that the Board “cannot pre-determine Petitioner’s eligibility in practice while avoiding judicial review in theory.” This Court agrees. When an official tribal body, acting within its authority, issues a formal public notice that definitively characterizes a member’s eligibility status, it has taken final action sufficient to create a justiciable controversy. The fact that the filing period has not opened does not render the controversy speculative; the Board has already spoken.

Accordingly, we hold that the matter is ripe for adjudication and deny the Board’s ripeness objection.

### **II. Application of Townsend to Petitioner’s service**

The core dispute centers on whether Petitioner’s service from May 2022 through December 31, 2023, combined with his current service beginning January 2024, constitutes two consecutive terms for purposes of Article VII, Section 2. Petitioner contends that his 2022 election “constituted only service of the remainder of a vacated term under Article VII, Section 7(b)” and therefore cannot be counted as a full term. He argues that to count that partial service as a “term” would “redefine a constitutional ‘term’ as something less than three years” in conflict with Article VII, Section 2, and with this Court’s recognition of a fixed three-year term unit.

The Elections Board, by contrast, invokes *Brooks* to distinguish between the vacancy rules for Chair and for Council and relies on *Townsend’s* interpretation of Article VII, Section 7(b) as authority that a vacancy-filling election, followed by swearing-in, can count as a term for term-limit purposes.

We begin with *Townsend*. In that case, Mr. Townsend first won a special election under Article VII, Section 7(b)(i) to fill a vacated District 6 seat for the remainder of the 2001–2003 term. The Court acknowledged that the June 2002 special election “did not constitute a new term, but the remaining term of District 6.” Yet the Court also “unanimously defined” a term as beginning when a person files, wins, and is sworn in, and expressly held that Mr. Townsend “had served his first term” by virtue of that 2002 vacancy election, and his “second term” by virtue of the subsequent 2003–2004 election.

Thus, *Townsend* draws a critical distinction: for structural purposes, a vacancy election does not create a new three-year term in place of the original term; the person elected serves only the remainder of the vacated term. But for term limit counting under Article VII, Section 2, that period of service, however long or short, can nevertheless constitute a “term” when the individual has filed, been elected, and been sworn into office.

Petitioner asks this Court to treat *Townsend* as controlling only on its definitional language and not on its outcome, arguing that *Townsend* “confirms” the idea that a vacancy election does not create a new term and therefore should not count as a full term. We cannot accept that narrowing of the precedent. *Townsend* did more than define “term”; it applied that definition to a factual scenario materially indistinguishable from the present one, a council member elected in a special election to fill a vacated seat, then elected again in a subsequent regular election, and held that those two periods of service constituted two consecutive terms, rendering the member ineligible to run again under Article VII, Section 2.

Here, Petitioner’s situation closely parallels *Townsend*’s:

- Petitioner first ran for and won a special election conducted pursuant to Article VII, Section 7(b) to fill a vacated District 7 seat originally held by Mr. Mercer.
- Upon certification, he was sworn in and served until the expiration of the 2021–2023 term on December 31, 2023.
- Petitioner then ran again in the regular November 14, 2023, election and was certified the winner, beginning a new term in January 2024, projected to end December 31, 2026.

Under *Townsend*’s definition, Petitioner’s first “term” began when he filed, won, and was sworn into the special election seat in 2022, notwithstanding that he served only the remainder of Mr. Mercer’s 2021–2023 term. His second “term” began when he filed, won, and was sworn in following the November 2023 regular election. Just as Mr. Townsend’s vacancy plus regular service counted as two consecutive terms, so too does Petitioner’s vacancy plus regular service.

Petitioner emphasizes that Article VII, Section 2 states that council members serve “three-year” terms and argues that counting his shorter 2022–2023 service as a full term improperly redefines that constitutional unit. That argument, however, was effectively resolved against him in *Townsend*, where this Court recognized the three-year structure but nonetheless counted a vacancy remainder period as a term for the limited purpose of enforcing the two consecutive term cap. *Townsend* demonstrates that the three-year language defines the ordinary length of a term, but does not immunize shorter vacancy remainder service from being treated as a “term” when a member has actually stood for election and been sworn in.

Moreover, *Brooks* does not undermine *Townsend*’s binding effect in this context. In *Brooks*, the Court declined to treat *Townsend* as precedent only because the vacancy language for the office of Tribal Chairperson in Article VIII, Section 3 is materially different from the “for any reason” vacancy language for Council members in Article VII, Section 7(b). The Court explicitly limited its analysis to the Chairman vacancy context and treated that case as one of first impression, while leaving *Townsend* intact as the controlling interpretation of Article VII.

Because Petitioner’s case, like *Townsend*, arises under Article VII’s council vacancy and term limit provisions, *Townsend* remains directly applicable. We therefore hold that:

1. Petitioner’s 2022 vacancy-based service, obtained through a special election under Article VII, Section 7(b), constitutes his first term for purposes of Article VII, Section 2’s two consecutive term limit, notwithstanding that he served only the remainder of Mr. Mercer’s 2021–2023 term.
2. Petitioner’s current service, obtained through the November 14, 2023, regular election and commencing in January 2024, constitutes his second consecutive term.

### **III. Effect of redistricting ordinance CLLO-2024-0418-01**

Petitioner further argues that the 2024 redistricting ordinance, CLLO-2024-0418-01, supports his position because it “expressly provid[es] that current council members would remain representatives in affected districts until the expiration of their current terms,” confirming that redistricting does not alter or redefine existing terms. He contends that the ordinance’s continuity language underscores that his 2023 election

term is his “first full constitutional term” and that his earlier vacancy service should be treated as separate and not counted as a term.

We agree that CLLO-2024-0418-01 preserves the continuity of existing terms despite redistricting, but we do not agree that it alters the counting of those terms under Article VII, Section 2. The ordinance addresses how sitting members continue to serve when district boundaries change; it does not purport to redefine what counts as a “term” or to modify the constitutional two-term limit. Nothing in the ordinance suggests that a vacancy remainder term should be excluded from term-limit calculations or that a member’s term history is reset by redistricting.

Indeed, the ordinance’s directive that current members “would finish their terms uninterrupted” confirms that Petitioner’s current service from January 2024 through December 31, 2026, is a continuation of the three-year term he began upon his 2023 election, not the beginning of a new term triggered by redistricting. That continuity supports the Elections Board’s characterization that Petitioner is “finishing 2nd term”: his first term having been 2022–2023, and his second term 2024–2026.

Accordingly, CLLO-2024-0418-01 does not displace *Townsend*’s rule or change the outcome here.

#### **IV. Petitioner’s additional arguments**

Petitioner also raises broader structural concerns, asserting that if every vacancy election is counted as a full term for term limit purposes, the Constitution’s explicit direction that such individuals “serve out the remainder of the vacated term” is rendered meaningless. We disagree. Article VII, Section 7(b) ensures that the original term’s end date remains fixed and that a vacancy election does not extend or restart that term; it does not address, much less prohibit, counting such service as a “term” for purposes of the separate Article VII, Section 2 term limit provision. *Townsend* harmonized these provisions by giving each operative effect: vacancy elections do not create new three-year terms, but members who are elected and sworn in to serve the remainder of a term can still accrue a “term” toward the two-consecutive-term maximum.

Petitioner further notes that the Constitution’s term-limit language does not specify that terms must occur within the same district, and he suggests that even under a “broad” view of consecutive terms, he has not served two full three-year terms. *Townsend* again answers this argument: the petitioner there served one partial term (remainder of a vacated seat) and one subsequent term, and the Court counted those as two consecutive terms without requiring that each be a full three-year period. District configuration and the precise length of the first term did not prevent term limit application.

Finally, Petitioner contends that public announcements and certifications describing his 2022 service as filling “the late Mr. Mercer’s seat” confirm that his initial service was a vacancy remainder and not a “full” term. We accept that characterization as accurate but reiterate that the question is not whether that service was a “full” three-year term in the structural sense; it was not. The question is whether, under *Townsend*, it nonetheless counts as a “term” for the narrow purpose of applying Article VII, Section 2’s two-consecutive-term limit. Under binding precedent, the answer is yes.

#### **Holding**

For the reasons set forth above, the Court holds:

1. The controversy is ripe. The Elections Board’s issuance of official 2026 election materials describing Petitioner’s seat as “finishing 2nd term” constitutes present and definitive action affecting Petitioner’s rights, sufficient to invoke this Court’s original jurisdiction.
2. Under Article VII, Sections 2 and 7(b) of the Lumbee Constitution, as interpreted in *Townsend v. Lumbee Tribal Elections Board, 2004-008*, Petitioner’s 2022 vacancy-based service constitutes

his first term for term limit purposes, and his current service beginning in January 2024 constitutes his second consecutive term.

3. The 2024 redistricting ordinance, CLLO-2024-0418-01, preserves the continuity of existing terms but does not alter the counting of those terms under Article VII, Section 2, or reset Petitioner's term history.
4. Accordingly, the Elections Board's classification of Petitioner as "finishing 2nd term" is consistent with the Lumbee Constitution and controlling Supreme Court precedent, and Petitioner is subject to the two consecutive term limitation upon completion of his current term.

**Disposition**

Petitioner's request for declaratory and injunctive relief is DENIED. The Lumbee Tribe Elections Board's interpretation and application of Article VII, Section 2 to classify Petitioner's service as consisting of two consecutive terms is AFFIRMED.

SO ORDERED, without hearing, per the Court's unanimous decision in Conference this 20<sup>th</sup> day of May 2026, in Robeson County, North Carolina.



Chief Justice \_\_\_\_\_  
Supreme Court of The Lumbee Tribe of North Carolina