



THE SUPREME COURT OF THE LUMBEE TRIBE OF NORTH CAROLINA

Justice Mark Brooks
Justice Ronette Sutton

Justice Tona Jacobs
Justice Eric Freeman
Justice Emily Deese

Richard Jones,)
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 PETITIONER,)
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 v.)
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 Lumbee Tribal Council,)
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 RESPONDENT,)
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Case No.: 2025-001
FINAL DECISION

IN THIS MATTER, a Petition was filed on January 21st, 2025 and heard on March 3rd, 2025, alleging violation(s) of the Constitution of the Lumbee Tribe of North Carolina, specifically that Tribal Ordinance CLLO-2024-0418-0, also known as “2024 Tribal Council Redistricting Maps,” violates Article VII, Section 7 of the Constitution, which states in part, *“A vacancy in a Tribal Council seat will also occur automatically upon the death of a Tribal Council member or the occurrence during that member's term of any circumstance listed above in section 2 that would have disqualified the member from serving upon the Tribal Council.”* More specifically, the Petitioner alleges that tribal members residing in newly created districts 15, 17, and 21 lack adequate representation due to vacancies created because of CLLO-2024-0418-0. WE DISAGREE.

BACKGROUND

Prior to April 18th, 2024, the Lumbee Territory consisted of 14 tribal districts represented by 21 Tribal Council members. On April 18th, 2024, the Lumbee Tribal Council passed an ordinance creating 21 entirely new districts, to comply with Article VII Section 3 and Article XII Section 3(b) of the Constitution, as well as previous decisions of this Court. In doing so, some Tribal Council members serving on the Tribal Council, while previously residing in one district, became residents of a completely new and distinct district. Additionally, some Council members continued to reside together within the same newly created district (see District 20), while some newly created districts lacked a resident representative (see Districts 15, 17, 21), at least until the next tribal election to be held in November 2025.

The Petitioner's point of contention then is that the absence of Tribal Council members residing in Districts 15, 17, and 21 constitutes vacancies in those districts as defined by Article VII Section 7 of the Constitution, and that public hearings should be held to fill the vacancies as prescribed in Article VII Section 7(a). The Tribal Council's rebuttal is that the absence of representatives residing within Districts 15, 17, and 21, does not constitute vacancies as defined in the Constitution, because the ordinance specifically accounts for those three districts without a seated Council member residing in them. CLLO-2024-0418-0, states in part, "*In those districts who lack a Council member residing in such district the current Council member currently representing that district will remain their representative until the expiration of their current terms.*" Therefore, the issue before the Court is whether vacancies exist in newly created Districts 15, 17, and 21, and whether they should be filled pursuant to Article VII Section 7(a)?

If this Court concludes that vacancies do not exist in Districts 15, 17, and 21, then it cannot grant the relief requested by the Petitioner.

RULING

This Court feels compelled to restate its long-standing commitment to upholding the Constitution in its entirety, including its necessary protection of our Government's separation of powers. This Court WILL NOT substitute what it believes to be the best course of action for either of the other two branches of government, who have been duly elected to represent the Lumbee people, to make and carry out Tribal Law. However, this Court WILL decisively strike down any tribal law, or execution of tribal law, it concludes violates the constitution after careful and responsible judicial review.

The Petitioner's strongest argument is the most obvious one; can tribal members live in a tribal district without a Council member residing within that district, and it not result in a vacancy? Article VII, Section 7 specifically states that a vacancy exists where an "*occurrence during that member's term of any circumstance listed above in section 2 that would have disqualified the member from serving upon the Tribal Council.*" Looking at Article VII, Section 2(b), it includes the following requirement for a person seeking a Tribal Council seat; they must "*have maintained their principal place of residence in the particular council district for which the member stands for election no less than the preceding one (1) year;*" This would seem to mean that a person elected to a Tribal Council seat, must "maintain" their residence within that Tribal District, or else that particular seat will become vacant.

The Petitioner alleges that the new districts were drawn hastily and harmfully, that many tribal members no longer know who their tribal representatives are, and many don't know where to look. However, the Petitioner failed to produce any material evidence or witness testimony, to

indicate that these allegations were either credible or attributable to the Tribal Government or relevant to whether vacancies exist in Districts 15, 17, and 21. The Petitioner does make an intriguing point that even the Lumbee Tribe's government website (although not administered by the Tribal Council according to the Tribal Speaker) uses the word "vacant" to describe the Tribal Seats in Districts 15, 17, and 21. However, the Petitioner concedes that CLLO-2024-0418-0 as published on the Tribal Government website, does not use the word "vacant," and informs tribal members residing in Districts 15, 17, and 21 that their current Council member will remain their representative until the expiration of their term.

Responding to the Petitioner's claim that vacancies exist in Districts 15, 17, and 21, the Tribal Council, by and through its Tribal Speaker, denies any such claim. The Tribal Speaker insists that the Tribal Council acted in good faith to create 21-districts within the tribal territory without violating any aspect of the constitution, including the unlawful removal of any duly elected Tribal Council members. The Parties agree that to fill the alleged vacancies in Districts 15, 17, and 21, three duly elected Tribal Council members would need to be removed, a power the parties also agree is not expressly granted to the Tribal Council in the Constitution.

This Court believes it could be more harmful than not, to violate the Constitution in one area to defend it in another. However, we do not believe we have to get close to doing so. We CONCLUDE that a vacancy, as defined in Article VII Section 7, occurs when a seated Tribal Council member in an existing tribal district, is no longer able to remain seated in that same district, either because of death, volition, or a disqualifying occurrence. We conclude that Districts 15, 17, and 21, were not "existing" districts at the time of CLLO-2024-0418-0, but new districts that would take constructive effect at the expiration of the current term. Therefore, Council Members currently representing tribal members within those districts, as specified in

CLLO-2024-0418-0, have not failed to maintain their residence within those districts, because those districts will not enter full effect until the expiration of this current term, which is presumably January 2026. We further CONCLUDE the language in the ninth “WHEREAS” of CLLO-2024-0418-0 to be sufficient to mean that persons residing in newly created Districts 15, 17, and 21, will remain residents of their previous district, and the Council member of that previous District, will remain their representative, until the expiration of their term. At worst, we CONCLUDE that CLLO-2024-0418-0 changes our Tribal Territory from an unconstitutional 14-Tribal District territory, into a constitutional 21-Tribal District territory in waiting.

It should be noted that the Court makes this decision while also considering the logistical problems posed by ruling in favor of the Petitioner. This does not mean that practical concerns should ever outweigh constitutional concerns, but rather that practical concerns of considerable degree must at least be met with constitutional concerns that are so clearly compelling and convincing that we should dismiss the former and defend the latter. We do not believe the Petitioner’s claims are so clearly compelling and convincing.

THEREFORE, THE PETITIONER’S REQUEST IS DENIED

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

Signed this the 6th Day of March 2025



Mark Brooks, Chief Justice