

Oneida Tribal Judicial System

Onʼayote ʔ aka Tsiʔ Shakotiyaʔ Tolé hte

TRIAL COURT

Linda S. Dallas
Petitioner

Docket # 11-TC-105

v.

Date: October 5, 2011

Oneida Election Board,
Oneida Police Department
Respondent

Decision

This case has come before the Oneida Tribal Judicial System, Trial Court. James Van Stippen, Gerald Cornelius, Robert Miller, Jr., Judicial Officers presiding.

Background

Ms. Linda Dallas filed a complaint on August 10, 2011, contesting the results of the Oneida General Election of July 16, 2011. Ms. Dallas was a candidate for the Oneida Business Committee Council Member. Ms. Dallas is alleging violation of the Oneida Election Law Recount Procedure Section C.

Issues

Was Petitioner's complaint filed timely?

Should the Respondents' Motion to Dismiss be granted?

Analysis

Was Petitioner's complaint filed timely? No. Petitioner filed her complaint under Oneida Appeals Commission Civil Rules of Procedure using the Rules of Appellate Procedure timeline of 30 days.

The issues in this case are covered by the Election Law, Section D, 2.11-11 which allows ten (10) calendar days from the date of election to file a challenge to the election. The Election Law requires challenges to be filed within ten (10) calendar days of the election. The election was held on July 16, 2011. Therefore any challenge was due on July 26, 2011. Ms. Dallas filed her complaint on August 10, 2011, making it 16 days late.

Section D. Challenges and Declaration of Results. 2.11-11. Challenges. Any qualified voter may challenge the results of an election by filing a complaint with the Oneida Appeals Commission within ten (10) calendar days after the election.

The Trial Panel agrees with the Respondents' assertion "The Petitioner attempts to sidestep the Oneida Election Law by filing the complaint alleging Constitutional violation."

Should the Respondents' Motion to Dismiss be granted? Yes.

The Respondents' filed a Motion to Dismiss pursuant to Rule 14(B) Involuntary Dismissal of the Oneida Tribal Judicial System Rules of Civil Procedure, which states in part:

A party against whom a claim has been made may move the original hearing body to dismiss the claim of the adverse party upon any of the following grounds, to include, but not be limited to:

- 1) Failure of the adverse party to pursue prosecution of the claim;
- 3) Failure of the adverse party to establish a right to relief based on the facts and law presented.
- 4) Failure of the adverse party to prove a claim, for which dismissal is the proper relief afforded to the moving party.

Rule 14(C) Final Adjudication: Dismissal of the action or claim shall be deemed to be an adjudication of the merits of the issue unless the trial court orders otherwise.

In addition to the filing being untimely, the Petitioner did not provide supporting evidence or testimony that would persuade this Trial Panel that her claims had merit and met criteria listed in the Oneida Election Law or the Rules of Civil Procedure.

Decision

The Respondent's Motion to Dismiss is granted. It is so ordered.