

Oneida Tribal Judicial System

Onλyote ʔ aka Tsiʔ Shakotiyaʔ Tolé hte

TRIAL COURT

**Leah S. Dodge,
Michael T. Debraska
Cathy L. Metoxen,
Petitioners**

Docket No: 13-TC-129

v.

**Oneida Business Committee,
Respondent**

DECISION ON RESPONDENTS' MOTION TO DISMISS

This case has come before the Oneida Tribal Judicial System, Trial Court. Judicial Officers; Mary Adams, Sandra L. Skenadore, and Jean M. Webster, presiding.

Background

On October 22, 2013 Petitioners filed a Request for Injunction to immediately reverse the Respondent's decision and immediately terminate the Emergency Temporary Attorney employment contract with Mr. Layatalati Hill.

On October 23, 2013 the trial court held a deliberation and found that Petitioners' request for an Injunction failed to meet the terms in Rule 31, but decided that the case may proceed as an Original Complaint. A hearing was scheduled and held to hear the merits of the case on Tuesday, November 26, 2013 at 9:00 a.m.

At the November 26, 2013 hearing the following parties appeared: Petitioners Leah Dodge and Kathy Metoxen appeared, however, Michael Debraska failed to appear; Respondents, Vice Chairman Greg Matson and Attorney Rebecca Webster appeared.

Judicial Officer Jean Webster stated for the record that Attorney Rebecca Webster is married to her nephew and that she took the oath of office to judge fairly and independently without prejudice. Judicial Officer Sandra Skenadore stated that Layatalati "Lati" Hill is her sister's nephew and in no way related to Hon. Skenadore and that she took the oath of office to judge objectively.

Based on these statements, Petitioner orally motioned to recuse both Judicial Officers Jean Webster and Sandra Skenadore. Petitioner cited Chapter Five of the Judicial Code, Article VI, Sec. 6-1(c) alleging that both judicial officers have close family members as a party or attorney on the case. Petitioner further argued that Article VII requires that the parties must independently agree in writing to continue the hearing in order for both Honorable Webster and Honorable Skenadore to remain as hearing officers on the case.

Analysis

A. Recusal requests

Article VI, Sec. 6-1, is intended to remove a judicial officer from a proceeding in which their impartiality might reasonably be questioned and it gives a list of instances. According to Sec. 6-1(c), removal is necessary if both judges are reasonably close family members with either Attorney Becky Webster or Lati Hill. In both instances, Attorney Webster and Mr. Hill are married into the judicial officer's extended family. Recently enacted Chapter 152, Cannons of Judicial Conduct, defines "Immediate Family;" there is no reference to nephew-in-law or niece-in-law within the definition. Lati Hill is a nephew-in-law to Honorable Skenadore. Attorney Webster is niece-in-law to Honorable Webster.

In addition, this court is unique in that it has three judges for every trial; no other court in this country that we are aware of has a panel of three judges for each trial. The reasoning behind the three-judge panel is so that personal bias, conflict of interest and prejudicial notions are minimized. Also, Attorney Webster has practiced before Judicial Officer Jean Webster many times without recusal issues. The Honorable Jean Webster has always disclosed the relationship

and has not had to recuse herself. Accordingly, Petitioners' motion for recusal was and is denied.

B. Injunction

By way of background, we give a brief statement of the facts. In this case, we will accept, for purposes of the motion only, the facts as pleaded in the complaint. The facts are fairly simply. Mr. Lati Hill was hired by the Tribe by contract to provide legal services to the Legislative Operating Committee. The term of contract at issue is September 30, 2013 to February 28, 2014. The contract was approved by the Business Committee on October 9, 2013. Mr. Hill is not licensed by the State Bar of Wisconsin nor is he admitted to practice before the Courts of the State of Wisconsin. The attachments to the complaint indicate that Mr. Hill received his J.D. degree from University of Kansas Law School in 2012.

Petitioners filed their complaint to contend that Mr. Hill should be terminated immediately because he is not admitted to practice before the Courts of the State of Wisconsin nor he is licensed by the State Bar of Wisconsin. After several requests by the panel for Petitioners to address their case complaint, Petitioners failed to present evidence or argue their position. Petitioners were adamantly not interested in moving forward to address the merits of their case. Therefore, the Court allowed Respondents to state their opposition to the merits.

Respondent's arguments

Respondents claim Petitioners fail to demonstrate that any law has been violated. Respondents assert neither Wisconsin nor Oneida tribal law requires an attorney to be licensed at the time of being hired as an attorney. Section 757.30 of the Wisconsin Statutes refers to practicing before State courts; there is no allegation Lati Hill is practicing before State courts. Generally, state civil regulatory laws do not apply to tribal activities of tribes on Indian reservations. See *Bryan v. Itasca County*, 426 U.S. 373 (1976). Respondents reference the Supreme Court Rule 23.02(n), which specifically excludes Indian tribes and their employees carrying out their responsibilities provided by law from the requirement of State Bar licensing. The Code of Federal Regulations (CFR) do not require an individual to have a state bar licenses to practice law for Indian tribes.

25 CFR Section 88.2 appears to refer to practicing before the Bureau of Indian Affairs. Therefore, Mr. Hill's position with Oneida does not require a State license or approval with the Bureau of Indian Affairs. Most importantly, Mr. Hill is not violating a State law or federal law. Respondents request the Court to dismiss Petitioner's complaint.

Petitioners had no answer to Respondents' arguments. Petitioners failed to address their complaint or the issues stated above in Respondents' arguments. We agree with Respondent's arguments and reasoning. Without Petitioners addressing their complaint the Court has no other option but to dismiss their complaint.

Decision

The court grants the Respondents' request to dismiss. IT IS SO ORDERED.