

Oneida Tribal Judicial System

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TRIAL COURT

GREG MATSON,
Petitioner,

Docket No: 14-TC-143

v.

ONEIDA ELECTION BOARD,
Respondent

DECISION

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

Background

On July 21, 2014 Petitioner, Greg Matson, filed his petition, Statement of Challenge, to stop the Respondent, Oneida Election Board, from certifying the July 12, 2014 tribal election results. Petitioner is requesting that the Court invalidate the election results for the Chairman position by either disqualifying candidate Christina (Tina) Danforth and/or disqualifying the Milwaukee poll results that Petitioner alleged were skewed by Cristina (Tina) Danforth using tribal funds to attend two candidate forums on June 7, 2014 and June 28, 2014.

Petitioner asserted this petition is not a suit against the Election Board other than to stop the certification of the results of the July 2014 OBC election until this Court issues its decision involving several violations to the Election Law.

Petitioner provided the following exhibits: (1) two anonymous letters attacking both candidates the Petitioner and Tina Danforth and, (2) a Mileage Reimbursement Form showing that Tina Danforth approved mileage for her assistant, Mary Graves, to drive her to SEOTs on June 7 2014 and June 28, 2014. Petitioner alleged that Tina Danforth violated Section V.D.2.III.e of the Oneida Tribe's Personnel Policies and Procedures which lead to a violation of Section 2.5-9.c of the Election Law to be violated.

Petitioner provided statistics showing that he won the voting poll located within the Oneida Tribe, but lost the vote from the Milwaukee poll. Petitioner claimed the Oneida Tribe contributed monies to Danforth's campaign, via mileage reimbursement approved by Danforth, and if Danforth had not attended the two (2) campaign functions in Milwaukee he would have won the Chairman position. Petitioner requested that the Court disqualify Tina Danforth and/or disqualify the Milwaukee poll results that were skewed by the use of tribal funds to attend two candidate forums on June 7, 2014 and June 28, 2014.

On July 22, 2014, Respondent submitted a Motion to Dismiss Complaint Challenging the General Election and Request for Injunctive Relief and Disqualification for Failure to State a Claim on Which Relief Can Be Granted. Respondent requested this Court dismiss Petitioner's request to disqualify candidate Tina Danforth and/or disqualify the Milwaukee poll results.

Respondent claimed Petitioner failed to prove that he would have won the election but for Tina Danforth appearing at the Milwaukee polling site and approving her assistant Mary Graves for mileage reimbursement in violation of the Oneida Election Law. Respondent asserted Petitioner failed to prove he would have won the election but for the anonymous letters sent to select voters within the reservation boundaries. Respondent contended that the two (2) violations noted by Petitioner should be dismissed for failure to state a claim on which relief can be granted as the Petitioner has failed to prove the outcome would have been different.

On July 23, 2014 Petitioner filed a Motion for Subpoena/Summons of Witness for the following: (1) Tina Danforth – Oneida Tribal Treasurer, (2) Mary Graves – Executive Assistant to Oneida

Tribal Treasurer and, (3) Patti Hoeft – Oneida Tribal Secretary. The Court attempted to subpoena the three (3) individuals but the individuals were unavailable.

Petitioner also submitted a Motion to Quash Respondent's Motion to Dismiss due to the Election Board failing to state their legal ability to challenge in accordance to the Oneida Election Law, Section D. 2.11-11. Petitioner asserted that he is not challenging the Election Board, but the election results. Petitioner claims Section 2.11-11(b) Provides the authority for the Court to invalidate the election results and order a special election. In addition, Section 2.11-11(a) places the burden on the challenger to "prove by clear and convincing evidence that the Election Law was violated or an unfair election was conducted, and that the outcome of the election would have been different but for the violation."

On July 24, 2014, a hearing was held and those present included: Petitioner, Greg Matson, and Respondent, Vicky Cornelius – Election Chairperson with Attorney Patricia Garvey. Both parties restated their position. Neither party introduced any new evidence. After much discussion, the Court verbally announced that there may be a violation of the Election Law; however, Petitioner failed to prove by clear and convincing evidence that the outcome of the election would have been different. Therefore, the Election Board shall wait for our written decision to allow Petitioner the opportunity for further appeal.

Court's findings and fact of law

The Court found, that according to Section D, 2.11-11 (a) "*The Person challenging the election results shall prove by clear and convincing evidence that the Election Law was violated or an unfair election was conducted, and that the outcome of the election would have been different but for the violation.*" The law has two (2) prongs. First, Petitioner must prove that the Election Law was violated or an unfair election was conducted. Second, the Petitioner must prove that the outcome of the election would have been different but for the violation. Even if the Election Law was violated, Petitioner has failed to prove that the outcome of the election would have been different. Tina Danforth's alleged campaign financing violation is for the Election Board to decide and their remedy is to impose a fine. According to Campaign Financing, 2.5.8(b) Fines,

violations shall result in a fine imposed by the Election Board.

Decision

The Court dismisses Petitioner's claim for failure to state a claim on which relief can be granted as Petitioner failed to prove the outcome would have been different.