

Oneida Tribal Judicial System

Onayote ʔ aka Tsiʔ Shakotiyaʔ Tolé hte

Trial Court

Linda S. Dallas
Petitioner

v.

Docket No: 08-TC-111

Oneida Business Committee
Respondent

Date: 8-16-08

REQUEST FOR INJUNCTIVE RELIEF MOTION FOR PROHIBITION OF ONEIDA APPEALS COMMISSIONERS MOTION FOR OUTSIDE JUDGES

This case has come before the Oneida Tribal Judicial System, Trial Court. Judicial Officer, Stanley R. Webster, Sandra Skenadore (replacing Mary Adams recusal) and Jean Webster, presiding.

I Background

On August 7, 2008, petitioner filed a motion for injunctive relief, requesting a temporary restraining order stopping the Oneida Business Committee from swearing-in the newly elected officials on August 7, 2008.

On August 8, 2008, petitioner filed two motions; (1) prohibiting all past and present Commissioners from hearing this case claiming real and perceived improprieties, personal, political and financial conflicts of interest, and (2) requests the Oneida Appeals Commission to assign experienced pro temp judges familiar with the content and application of relevant rules and precedents to hear and decide this matter.

We deny Petitioner's request for a temporary restraining order due to untimely filing.

II Issues

- (1) Is petitioner's motion for a temporary restraining order stopping the Oneida Business Committee from swearing-in the newly elected officials to various bodies of Oneida government filed timely?
- (2) Is petitioner's motion to prohibit all past and present commissioners from hearing petitioner's challenge to the Oneida Election properly before the trial court?
- (3) Is Petitioner's motion for outside judges properly before the trial court?

III Analysis

- (1) Is petitioner's motion for a temporary restraining order stopping the Oneida Business Committee from swearing-in the newly elected officials to various bodies of Oneida government, filed timely?

The case at hand presents a challenge of the Oneida Nation General Elections held July 5, 2008, under which Petitioner cites the following:

*Chapter 2. Oneida Election Law,
2.10-0. General Election Outcome and Ties,
Section C. Declaration of Results/Challenges
2.10-4. The Election Board shall forward to the Tribal Secretary a Final Report
after time has lapsed for appeal or recount requests, or after all appeals or
recounts have been completed, whichever is longer.*

Yet, Petitioner has filed a request for injunctive relief with the trial court of the Oneida Appeals Commission even though Petitioner claims that "all appeals have not been completed".

The issue before this hearing body however, is one of timeliness. The issue of timely challenges to the Oneida Election Law was decided in Graham v. Oneida Election Board, Docket No. 03-TC-327, (Oneida Nation Reporter, Aug. 12, 2003). The decision in that case is cited: *The Oneida Legislature intended Articles 2.7-0 and 2.10-0. to deal with appeals. Until the Oneida General Tribal Council, or Oneida Business Committee amends the law for different challenges, these sections and the five (5) working days time-line will be used for all the election challenges.*

The hearing body established a five working 5-days time line for challenges to an election. The 2008 Oneida Nation General Election was held July 5, 2008. The matter at hand was filed on August 7, 2008. Therefore Petitioner's request for a restraining order is untimely and therefore must be dismissed.

Since this case was not filed in a timely manner, Petitioner's motions to prohibit Oneida Appeals Commissioners from hearing the matter at hand and to assign outside judges will not be addressed. Furthermore, in our view, even if we were to address the motions for recusal, Petitioner has not raised any meaningful issues which require the recusal of the Commissioners or the use of judges outside the Oneida Nation.

IV Decision

Petitioner's motion for injunctive relief is dismissed due to being untimely filed.