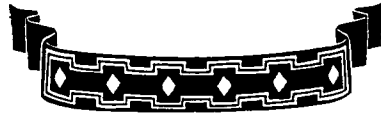


Oneida Appeals Commission

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Trial Court

Gary G. Metoxen
Petitioner

Docket No. 03-TC-326

vs.

Oneida Election Board
Respondent

Date: August 7, 2003

Injunction Hearing

This petition has come before the Oneida Appeals Commission Trial Court.
Judicial Officers Stanley R. Webster, Pearl House and Leland Wigg-Ninham presiding

I. Background

The Petitioner filed for injunctive relief, seeking a stay against the certification of the election results for the election held on July 26, 2003 for the Oneida Gaming Commission. The Petitioner asserted that the Respondent failed to include his name on the ballot. The trial court issued a temporary restraining order barring certification of the July 26, 2003 election results for the Oneida Gaming Commission. An injunction hearing was held on August 7, 2003, at 10:00 a.m.

Petitioner Gary G. Metoxen appeared and represented himself.

Respondent, Leyne Orosco, Chair of the Oneida Election Board, represented the Oneida Election Board. The full body of the Board appeared as well.

The Petitioner requests that his name appear on the ballot as a candidate for the Oneida Gaming Commission, and that further, that the Oneida Election Board conduct another election for the Oneida Gaming Commission.

II Issue

Was Gary G. Metoxen's name improperly omitted from the election ballot for the Oneida Gaming Commission?

III Analysis

The Petitioner's name appeared on sample ballots published in the Kalihwisaks. The Respondent admitted in the hearing that the Petitioner's name should not have been omitted and that the Respondent would take full responsibility for the oversight and error. While in the hearing, the parties agreed that a new special election for the open positions in the Oneida Gaming Commission would be scheduled and that the Petitioner's name would be properly placed on the ballot for the special election.

IV Decision

A special election for the open positions in the Oneida Gaming Commission will be scheduled and held in accordance with the Election Law. All previously named candidates who are still eligible for a seat on the Gaming Commission may be placed on the ballot, as well as the Petitioner. The injunction against certification of the election results for the Gaming Commission seats will remain in effect until the special election is completed and the results are tabulated by the Respondent. All other elections results from the July 26, 2003 election may be certified by the Respondent and the newly elected or reelected officials may take office in accordance with the Election Law, internal procedures established by existing entities, or other applicable Tribal laws or procedures.