

Oneida Appeals Commission

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Trial Court

Gary G. Metoxen,
Petitioner

v.

Docket No. 03-TC-326

Date: August 4, 2003

Oneida Election Board,
Respondent

Temporary Restraining Order

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

I Background

The Petitioner has filed a challenge to the July 26, 2003 election held by the Oneida Tribe. The Petitioner was a candidate for the Oneida Gaming Commission, but his name did not appear on the ballot on the day of the election. The Petitioner has filed for injunctive relief, seeking a hold on the certification of the election results.

II Issues

Has the Petitioner met the grounds for a temporary restraining order?

III Analysis

Under the Rules of Civil Procedure, a party may receive a temporary restraining order if it can be established that the party is entitled to relief requested and that failure to provide relief without notice to the opposing party may result in irreparable harm to the moving party.

On the face of the pleadings, the Petitioner appears to have a valid claim. His name appeared on sample ballots in the Tribal newspaper, The Kalihwisaks. His name did not appear on the list of candidates under the Gaming Commission section of the official ballot. While the Respondent may have had a valid reason for removing the Petitioner's name, it is not apparent in the pleadings. If the election results are certified, the candidates who are the apparent victors in the election will be entitled to take the oath of office and commence their terms as elected officials. This court finds such an event to be an immediate and likely irreparable potential harm to the Petitioner, who appears to have been entitled to appear as a candidate.

IV Decision

A temporary restraining order is issued against the certification of the July 26, 2003 election results for the Oneida Gaming Commission. The only candidacy in question is for the Gaming Commission, so this court finds no need to interfere with the certification of other entities' election results. A hearing on the merits of the Petitioner's claim will be scheduled as soon as possible to resolve this matter.