

# Oneida Appeals Commission

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## Trial Court

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Bradley W. Graham,

Petitioner

Docket No. 03-TC-327

vs.

Oneida Election Board/Oneida Business Committee,

Respondent

Date: August 12, 2003

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### Motion for Injunction and Temporary Restraining Order

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

#### I Background

The Petitioner has filed a challenge to the July 26, 2003 election held by the Oneida Tribe. The Petitioner has filed for injunctive relief, seeking a hold on the certification of the election results.

#### II Issue

Was the appeal filed timely?

### **III Analysis**

Since the timeliness of the appeal is the main issue, this hearing body looked at this issue first. Section D., Oneida Election Law, Recount Procedures, 2, 9-10, states:

*A written request of the election board, limited to one (1) request per candidate, per election, must be filed by a candidate within five (5) working days of the election by hand delivery to the Tribal Secretary's office, or designated agent as identified on the announcement in Article X.*

Section C., Declaration of Results/Challenges, 2.10-4 states:

*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.*

The Petitioner had five (5) working days to appeal the results of the July 26, 2003 election to the Election Board. The Petitioner's challenge was received by the Oneida Appeals Commission on August 6, 2003, eight working days (8) after the election. Therefore, the Petitioner failed to meet the requirement of the Oneida Election Law.

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.

### **IV Decision**

The Petitioner failed to meet the time-line requirements of filing an appeal timely. Therefore this case is dismissed with prejudice.