

**IN THE SUPREME COURT  
OF THE MISSISSIPPI BAND  
OF CHOCTAW INDIANS**

No. SC 2004-10

Mississippi Band of )  
Choctaw Indians, Phillip Martin, Chief and )  
Choctaw Resort Development Enterprise, )  
Petitioners, )  
v. )

**OPINION AND ORDER**

Mack W. Jimmie, Jr. Carl W. Anderson, )  
And Frank L. Simpson, )  
Respondents )

Appearances: Melissa T. Carleton and Bryant Rogers for the Petitioners  
Before: Rae Nell Vaughn, C. J., Carey N. Vicenti, A.J., and Frank R.  
Pommersheim, A.J.

C.N. Vicenti, Associate Justice, for a unanimous Court.

This matter comes before this Court upon an Emergency Petition for Extraordinary Review of Controlling Question of Choctaw Constitutional Law ( the Petition) filed in this Court on October 18, 2004. We have previously held that this Court can, under appropriate circumstances, exercise jurisdiction to decide important issues of law . See Mississippi Band of Choctaw Indians, et al v. Melba Smith, et al, No. CS 2001-10 (June 11, 2001). The basis for this petition is that the named respondents, Mack W. Jimmie, Jr., Carl W. Anderson and Frank L. Simpson, filed a petition with the Election Committee to have a referendum on a current effort by the Tribal Council of the Mississippi Band of Choctaw Indians and the Choctaw Resort Development Enterprise

**FILED**

**OCT 18 2004**

CHOCTAW SUPREME COURT  
BY:   
COURT CLERK

(CRDE) to refinance the projects that were at the heart of the Melba Smith case. That petition was denied by the Election Committee and any appeal on the part of those named Respondents is, at best, speculative. This Petition, further, requests deadlines for a response of October 22, 2004-four days from now- and for a hearing on October 25, 2004- a week from now- to hear the issues raised by this Petition. The emergent grounds for this Petition appear to be that a financial window of opportunity presents itself for a refinancing of the project, which window might become clouded by the potential of a referendum on this issue. We, however, deny the relief requested in this Petition.

The Melba Smith case is the governing precedent. There is nothing presented in the Tribe's Petition to even remotely suggest that the facts at issue in the "refinancing" raise a different legal question. The original jurisdiction of this Court ought not to be routinely invoked to review or ratify Tribal business decisions. There are appropriate administrative and lower court processes to consider the adequacy and sufficiency of the "Petition for Referendum" sought by the Respondents.

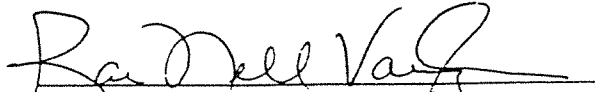
The granting of the relief requested would, however, send the wrong message to financial institutions that have dealings with the Mississippi Band of Choctaw Indians and its enterprises<sup>1</sup> that the issuance of judicial decrees might be conditions precedent to the entry into financial agreements. This is especially true when there is tribal precedent already on point. To grant the requested relief would violate the essential principles underlying the separation of the branches of government contemplated by United States and Choctaw Constitutional law. More importantly, the expedited timelines requested in

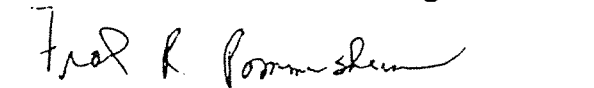
1. (and, for that matter, any Indian tribe),


**this Petition may very well violate the Due Process rights of the Respondents.**

**For the foregoing reasons the relief requested by the Petition is denied.**

**IT IS SO ORDERED, this the 18<sup>th</sup> day of October, 2004.**

  
Rae Nell Vaughn, Chief Justice

  
Frank R. Pommersheim, Associate Justice

  
Carey N. Vicenti, Associate Justice