

IN THE SUPREME COURT
OF THE
MISSISSIPPI BAND OF CHOCTAW INDIANS

FILED

JUL 12 2005

CHOCTAW SUPREME COURT
BY: M. Lisa Shelby
COURT CLERK

TONY MARTIN,)	SC-2005-5
PETITIONER)	
)	ORDER
V.)	
MISSISSIPPI BAND OF CHOCTAW INDIANS)	
RESPONDENT)	


This matter was filed in the Supreme Court upon a Motion submitted by Tony Martin on June 8, 2005 seeking equitable relief in regards to a decision of the Tribal Council to void the election results for the Tucker Community. In a proposed Order for Temporary Restraining Order attached to the Motion the Petitioner cites to Tribal Code Section 1-2-6 as a basis for the exercise of Supreme Court "exclusive original jurisdiction" in this matter. This Court does not endorse that assertion here. This Court has jurisdiction over "appeals from judgments, sentences, rulings and or other orders of the tribal court". Tribal Code Section 7-1-1.

This Court has previously been faced with the opportunity to determine whether an exercise of original jurisdiction was within this Court's authority and declined to so rule. See Mississippi Band of Choctaw Indians v. Melba Smith, et al., CS 2001-10. The Motion as filed does not present us with a case that compels us to address that issue. It is also noted that the Petitioner did not file a complaint with his Motion for Temporary Restraining Order nor did he indicate that he had served the tribe in this matter. Both of these defects must be corrected in any further proceeding.

There are a number of factual concerns that weigh significantly in considering a request of this nature. It is in the Trial Court where a factual record is developed upon which an appeal may later be taken through Section 7-1-1 into this Court, if appropriate. Moreover, if the facts that are proven in the Trial Court,

and the legal grounds cited by the Petitioner are proper, that court possesses the necessary authority to grant precisely the equitable relief requested by the Petitioner. Accordingly, this Court dismisses this Motion and denies the relief requested by the Petitioner.

IT IS SO ORDERED the 12th day of July, 2005.


CHIEF JUSTICE
CHOCTAW SUPREME COURT