

FILED

JUN 05 2017

CHOCTAW SUPREME COURT
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IN THE CHOCTAW TRIBAL SUPREME COURT
OF THE

MISSISSIPPI BAND OF CHOCTAW INDIANS

KEVIN J. EDWARDS

PETITIONER

v.

CAUSE NO. SC 2017-02

VICKIE WISHORK-RANGEL; ELIJAH K.

RESPONDENTS

JIMMIE; CHRISTOPHER SHANE COTTON

ORDER DENYING PETITION FOR REHEARING OF VICKIE WISHORK-RANGEL,
ELIJAH K. JIMMIE AND CHRISTOPHER SHANE COTTON REGARDING
OPINION AND ORDER DATED MAY 3, 2017

Petitioners request for rehearing in this case is denied. Petitioner fails to “state with particularity each point of law or fact that the petitioner believes the court has overlooked or misapprehended”¹ Instead, the petitioner avers that this Court’s opinion leaves the initiative rights of “the people” devoid of any protection in all future initiative efforts and, further, would seek to cast the issue before this Court as “a power struggle between the elected branch and the people.”

¹ FRAP 40 Petition for Panel Rehearing. See also, Rule 40. Motion for Rehearing, Mississippi Rules of Appellate Procedure.

Petitioners also would seek to present three questions which they contend are of significant importance that should require a rehearing. “(1) Can the tribal chief and/or tribal Council defeat an initiative by passing legislation that will supersede the submitted initiative? (2) Can the tribal chief and/or tribal council render an initiative meaningless by passage of an identical resolution, as in the case, *sub judice*, after a submitted initiative to the TEC by the Tribal Chief? (3) Can this Court address the conflict between the tribal chief/tribal Council and the Choctaw people under the prescribed mandamus requirement?” The Court disagrees.

The Opinion and Order dated May 3, 2017 addressed only the review of a single decision of the Tribal Election Commission (TEC). This Court did not issue a “blanket rule” – neither was the issuance of such a broad ruling necessary to this Court’s review of the TEC decision. A reframing of the issue by the petitioner as a power struggle between the elected branch and the people is disingenuous at best, and divisive and self-serving at its worst.

As stated in the May 3, 2017 Opinion and Order, the people of the Mississippi Band of Choctaw Indians have created a parallel process for the making and passage of laws. The members have reserved unto themselves the power of initiative and referendum in their Constitution. The Constitution also provides for the governing actions of the Tribal Council and Chief to make and pass laws. It is at the intersection of these actions that TEC made its decision and this Court issued its Opinion and Order of May 3, 2017. In

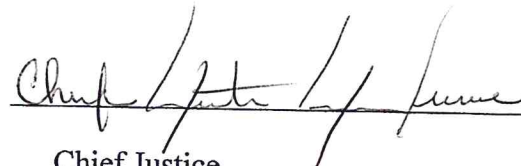
cases cited by petitioner, the actions by the legislatures being renounced by the courts were taken after the initiative petitions were approved for circulation or referendum, not before. In the case *sub judice*, the petitioners application for an initiative had not been approved prior to the legitimate passage of CHO 17-031 and CHO 17-032 by the Tribal Council.

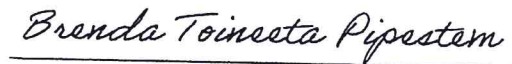
Further, as relates to petitioner's second issue, "[c]an the tribal chief and/or tribal council render an initiative meaningless by passage of an identical resolution, as in the case, *sub judice*, after a submitted initiative to the TEC by the Tribal Chief?" The Tribal Council resolutions in this instant case situation did not supercede or otherwise displace the initiative measure's proposed language from being put to a vote. Instead, what stopped their proposal from being able to move forward was that the language proposed by petitioners submission as well as the TEC decision rationale were patently in error. The validity of both CHO 17-031 and 17-032 acquired lawful effect only after this Court struck down both the defective proposed measure's language and the TEC's flawed ruling approving the language of petitioners' submission. The mere submission of petitioner's proposed measure, whether to the tribal chief or after forwarding to the TEC, cannot and should not estop the governing entities from proposing possible alternative uses of the funds, should the worded measure be set aside either by the TEC or by the court upon appeal. Furthermore, even the Tribal Council's putting forward of any alternative proposal -- whether legally effective or not -- may nonetheless have the practical purpose of giving voters pause to at least consider whether there might be a better alternative way for governmental expenditures of the *Ramah* proceeds. Simply

proposed measure's introduction should not immediately constrain an entire tribal governing body from expressing differing views than those of the three proponents.

For the reasons stated above, this petition for rehearing is denied.

SO ORDERED, this the 5th day of June, 2017.


Chief Justice



Associate Justice




Associate Justice