

After service upon the Election Board was made and various pleadings (answers, motions and briefs) were filed, the Tribal Judiciary heard arguments on March 27, 2018 for three (3) motions: (1) Defendant Election Board's Motion for Summary Disposition; (2) Plaintiff's Emergency Motion to Stay Recall Election; and (3) Plaintiff's Voluntary Dismissal [of Charles "Jim" Petoskey].

Various pleadings (answers, motions, and briefs) were filed with the Tribal Judiciary regarding procedural and factual matters but the critical contested argument proffered by the parties revolves around jurisdiction of the Tribal Court to hear recall matters.

II. Opinion and Analysis

At the forefront, the critical issue to be determined is whether the Tribal Court has jurisdiction to hear recall matters. The Defendant asserts that the Tribal Judiciary lacks jurisdiction over the subject matter because the Plaintiff has not alleged impropriety required by the Tribal Constitution at Article VII, Section 5(c). Conversely, the Plaintiff asserts the Tribal Judiciary does have jurisdiction to hear recall petitions under Article VII, Section 5(c) because the underlying statute at 5 GTBC §§201 et seq. is unconstitutional.

Without delving into the pleadings, procedural or factual, the sole question before the Tribal Judiciary is whether the Tribal Judiciary has jurisdiction to hear a recall matter in which no claim of impropriety is alleged. This question has already been examined and answered by the Tribal Judiciary in 2014 and, for this reason, precedent must control wherein the Tribal Judiciary remains firm that as the judicial branch, it is not the Tribal Judiciary's place to create law from the bench; the creation of laws is conferred to the Tribe's combined executive/legislative branch, the Tribal Council.

a. Precedent - *Raphael v. Grand Traverse Band Election Board*

In 2014, the Grand Traverse Band Judiciary, sitting en banc, held that the court does not possess jurisdiction to review decisions of the Grand Traverse Band Election Board relating to recall petitions or elections. *Raphael v. Grand Traverse Band Election Board*, No. 13-2189-CV-CV (May 21, 2014) (en banc) (attached as an appendix). The reasoning behind that holding was that nothing in Article VIII of the Tribal Constitution, which governs Tribal Councilor recalls, removals, and vacancies, authorizes the Tribal Judiciary to assert jurisdiction over recalls. *Id.* at 4-5. In *Raphael*, we detailed our analysis as follows:

Although the Grand Traverse Band tribal court is one of general jurisdiction, the Constitution limits the tribal court's jurisdiction over election and recall matters. In general, the Election Board's decisions in relation to election disputes and recall petition and election disputes are "final and conclusive." Grand Traverse Band Constitution art. VII, § 5(a) (election decisions); 5 Grand Traverse Band Code § 209(d) (recall petition and recall election disputes).

Article VIII governs recall petitions and recall elections. Section 1 governs recalls originated by individual tribal members. Section 1(a) provides that the Tribal Council must enact an ordinance to govern recall petitions and elections under Section 1. The Tribal Council enacted an ordinance to govern recall of elected officials in 1992. 5 Grand Traverse Band Code § 201 et seq.

There are two limitations expressed in the Constitution on the power of individual tribal members to recall elected officials. The first limitation, not at issue here, is that an elected official may not be subject to a recall petition in his or her first year of the official's current term of office. Constitution art. VIII, § 1(a) ("Any elected official of the Band shall be subject to recall at any time after holding office for one (1) year..."); 5 Grand Traverse Band Code § 201(b).

The second constitutional limitation is that no elected official may be subject to recall more than once per term. The Constitution specifically states, "[E]ach official shall be subject to only one recall petition per term." Constitution art. VIII, § 1(a).

* * *

We must decline to decide the appeal on the merits and decline to accept the invitation by both parties to interpret Article VIII, Section 1(a). The structure of Article VIII must be read in its entirety, and to do so compels the outcome we reach today.

As we noted above, Section 1 governs recall petitions originating from voters of the tribe. Section 1(a) provides the two limitations on recalls – the one year buffer period and the bar on more than one recall. Section 1(a) also provides the number of signatures a recall petitioner must gather before the Election Board is required to hold a recall election. Section 1(b) gives the Election Board ten days to verify the signatures collected. Section 1(c) requires the Election Board to hold an election within 30 days of its verification of the required number of signatures. There is no provision for review by the tribal court of any stage of this specific process.

Conversely, Section 2 – governing the recall of tribal officials initiated by the Tribal Council – specifically provides for the participation of the Tribal Judiciary. In Section 2, the Tribal Council may refer elected officials subject to recall by the Council to the Tribal Judiciary. Sections 2(d) through (e) provide the procedural and substantive rules governing the Tribal Judiciary's role in adjudicating the recall of elected officials initiated by the Tribal Council. This court interpreted those rules in the foundational case, *In re McSauby*, No. 97-02-001-CV-JR, 1997 WL 34691849 (Grand Traverse Band Tribal Judiciary, July 29, 1997).

The Constitution does not afford the Tribal Judiciary *any* role in Section 1 recalls. We could perhaps locate jurisdiction in the ordinance enacted by the

Tribal Council that governs Section 1 recalls. But there we read, “Disputes over the validity of signatures and sufficiency of the petitions shall be decided by the election board *whose decision shall be final and conclusive.*” 5 Grand Traverse Band Code § 209(d) (emphasis added). This language mirrors the general exclusion of the tribal court from regular election matters under Article VII, Section 5(a) of the Constitution. There is no other provision for judicial review or involvement in any kind elsewhere in the recall ordinance.

Petitioner Raphael argues that the court should import its Article VII precedents into Article VIII disputes and find jurisdiction that way. We disagree. Article VII specifically allows the Tribal Judiciary a limited role in election disputes; specifically, the Tribal Judiciary may address “allegations of impropriety by the Election Board” under Article VII, Section 5(c). There is no parallel provision in Article VIII, and we decline to read jurisdiction into this Article, especially in light of a tribal ordinance expressly vesting “final and conclusive” authority in the Election Board to decide Section 1 recall matters.

Raphael, at 3-5.

We noted in *Raphael* that Section 1 of Article VIII governs the process by which individual Tribal Members may recall sitting councilors. The first line of Section 1(a) dictates that the Tribal Council must enact an ordinance to govern recalls by Tribal members: “An ordinance shall be enacted by the Tribal Council to provide for the recall of any elected official of the Grand Traverse Band.” The council did so on April 21, 1992. 5 GTBC § 201 et seq. A careful review of the recall ordinance shows that the Tribal Council placed the exclusive obligation to address recall petitions and elections on the Election Board and did not provide for judicial review of the Election Board’s decisions.

b. Application of Raphael.

The *Raphael* precedent unequivocally and unambiguously clarifies that the Tribal Judiciary does not possess jurisdiction over recalls. In this case, the plaintiff brings a suit attempting to invoke the power of the Tribal Judiciary to issue a stay delaying a recall election called by the Election Board. Plaintiff while citing to the Tribal Judiciary’s jurisprudence and court rules on Article VII, Section 5(c) of the Tribal Constitution, which authorizes the Tribal Judiciary to settle “allegations of impropriety” by the Election Board in the administration of regular elections. However, *Raphael* stands for the decision that Article VII, Section (5), including ancillary court rules, were not applicable then and are still not applicable today to create jurisdiction.

One might disagree with the Tribal Judiciary’s holding in *Raphael*, especially given the reality that any potential Election Board abuse of power is not reviewable by this Court. As we

stated in *Raphael*, “We take seriously our obligation to interpret the meaning of the rights of Tribal Members under the Grand Traverse Band Constitution, and we know from its pleadings, and its able counsel, and its carefully promulgated election regulations that the Election Board does as well.” *Id.* at 7. We similarly expressed our concerns about aspects of the Election Board’s decision in the *Raphael* matter itself, see *id.* at 7-9.

In the current case before the court, Plaintiff alleged violations of his due process rights that give us pause as well. For example, all the parties agreed in oral argument that 5 GTBC § 202(c), which provides the standard the Election Board must follow to allow a recall petition to proceed, is a scrivener’s error at best or an artlessly crafted word salad at worst. Additionally, plaintiff alleges that the Election Board improperly allowed the board chairman to preside over a hearing in this matter after the chairman signed a recall petition that was the subject of the hearing. Still, we declined in *Raphael* and we decline here to create a legal standard from Article VII into Article VIII of the Tribal Constitution.

The Constitution is clear that the Tribal Judiciary has jurisdiction under Article VII, Section 5(c) for allegations of impropriety and Article VIII Section (2) for removals. However, no such jurisdictional authority for recalls exists under either Article VIII Section I or within Tribal laws at 5 GTBC § 201 et seq. For this reason, the Tribal Judiciary will not entertain the act or notion of creating law from the bench; under our democratic system of government and the constitution that governs our Tribal Membership, the role of creating laws lies exclusively with the Tribal Council.

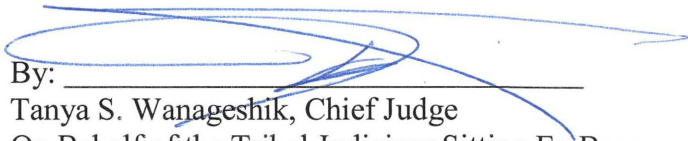
Our decision in *Raphael* was the first instance we are aware of in which the Tribal Judiciary interpreted Article VIII of the Tribal Constitution or the recall ordinance. *Raphael* is now nearly four (4) years old. The Tribal Judiciary continues to hold firm that Article VIII, Section 1(a) places the onus on the Tribal Council to legislate changes in the law regarding Tribal Court jurisdiction or perhaps even conduct a thorough do-over of the recall ordinance.

At bottom, this case is governed by the critical principle of separation of powers. Article V, Section 6 of the Tribal Constitution provides that the Tribal Judiciary is “independent from the legislative and executive functions of the tribal government and no person exercising powers of the legislative or executive functions of government shall exercise powers properly belonging to the judicial branch of government. . . .” Similarly, Article IV, Section 1 of the Tribal Constitution vests the executive and legislative powers of the tribe with the Tribal Council: “The

Tribal Council of the Grand Traverse Band shall be vested with all of the sovereign governmental executive and legislative powers of the Tribe not inconsistent with any provision(s) of this Constitution or federal law.” Most critically for our discussion today is the recall provision in the Tribal Constitution, Article VIII, Section 1(a), which vests the power to create laws for recalls with the Tribal Council; the power to create laws is not vested with the Tribal Judiciary. We reaffirm our decision in *Raphael* in holding that asserting the power to review the Election Board’s decisions, involving recalls without express authorization (jurisdiction), would be usurping the Tribal Council’s explicit powers.

We, therefore, reaffirm the holding in *Raphael* that the Tribal Judiciary is not empowered by the Tribal Constitution to review Election Board decisions relating to recalls. Plaintiff’s complaint must be and is DISMISSED with prejudice. As other motions are DENIED as MOOT.¹

Date: 3/28/18

By: 
Tanya S. Wanageshik, Chief Judge
On Behalf of the Tribal Judiciary Sitting En Banc

¹ We granted the motion to dismiss Charles Petoskey as a defendant at the outset of oral argument, but this opinion and order makes that decision also MOOT.

**BEFORE THE TRIBAL JUDICIARY
FOR THE
GRAND TRAVERSE BAND OF OTTAWA AND CHIPPEWA INDIANS**

TANYA SUE RAPHAEL,

Petitioner,

Case No. 13-2189-CV-CV

v.

By the Tribal Judiciary en banc:*

Hon. Gregory Blanche

Hon. Matthew L.M. Fletcher

Hon. Michael Long

Hon. Quintin Walker

**GRAND TRAVERSE BAND
OF OTTAWA AND CHIPPEWA
INDIANS ELECTION BOARD,**

Respondent.

Emerson Hilton (P76363)
Attorney for Petitioner
Olson, Bzdok & Howard, P.C.
420 E. Front Street
Traverse City, MI 49686
(231) 946-0044

Wilson D. Brott (P51446)
Attorney for Respondent
Brott, Settles & Brott, P.C.
5168 U.S. 31 North, P.O. Box 300
Acme, MI 49610-0300
(231) 938-1000

ORDER DISMISSING PETITIONER'S FIRST AMENDED COMPLAINT

We hereby DISMISS with Prejudice the First Amendment Complaint of Petitioner Tanya Sue Raphael. For the following reasons, we hold that the Grand Traverse Band Judiciary does not have jurisdiction over the Election Board's decision to reject Ms. Raphael's proposed recall petition regarding Tribal Councilor Rohl.

* Chief Appellate Tribal Justice Mary Roberts and Chief Tribal Judge John A. Kern recused themselves from this matter. Justice Blanche sits by appointment.

I. Facts

The relevant facts in this matter are not disputed by the parties. From Ms. Raphael's opening brief, we learn that in October 2011, a tribal member named Pamela Russell submitted a proposed recall petition to the Election Board, naming several tribal councilors, including Jane Rohl. Normally, the tribal code requires the Election Board to hold a hearing on whether the proposed recall petition was "of sufficient clarity to enable the official whose recall is being sought and the voters to identify the course of conduct which is the basis for the recall." 5 Grand Traverse Band Code § 202(c). However, Ms. Russell withdrew that initial petition before the so-called clarity hearing. Later in October 2011, Ms. Russell submitted a second proposed recall petition to the Election Board, again naming several councilors, including Ms. Rohl. This time, Ms. Russell maintained her petition long enough to allow the Election Board to hold a clarity hearing. After that clarity hearing, the Election Board determined that Ms. Russell's proposed recall petition was not of sufficient clarity, and dismissed the petition on November 30, 2011.

On May 30, 2013, Petitioner Raphael submitted a proposed recall petition to the Election Board, naming Ms. Rohl as the subject of the proposed recall. On June 4, 2013, the Election Board held what counsel for the Board asserts was a regularly scheduled Election Board meeting with a full agenda that included other Board business. Ms. Raphael was not specifically noticed about the meeting, or that the Board would consider her proposed recall petition. Counsel for the Board is unsure whether the agenda included Ms. Raphael's proposed recall petition as an item of business. The Board concluded that Ms. Raphael's petition must be rejected. The Board notified Ms. Raphael in writing the day after the meeting that since Ms. Rohl had previously been subject to a recall petition, Ms. Raphael's proposed recall petition was barred. *See* Grand Traverse Band Constitution art. VIII, § 1(a) (barring more than one recall petition per term against a tribal councilor).

Ms. Raphael appeals. We preliminarily accepted the appeal acting as the full tribal judiciary, and heard argument on April 29, 2014 en banc.

II. Jurisdiction over Recall Petitions and Recall Elections

The interpretation of Article VIII, Section 1 (a) is a matter of first impression before the Judiciary.

Although the Grand Traverse Band tribal court is one of general jurisdiction, the Constitution limits the tribal court's jurisdiction over election and recall matters. In general, the Election Board's decisions in relation to election disputes and recall petition and election disputes are "final and conclusive." Grand Traverse Band Constitution art. VII, § 5(a) (election decisions); 5 Grand Traverse Band Code § 209(d) (recall petition and recall election disputes).

Article VIII governs recall petitions and recall elections. Section 1 governs recalls originated by individual tribal members. Section 1(a) provides that the Tribal Council must enact an ordinance to govern recall petitions and elections under Section 1. The Tribal Council enacted an ordinance to govern recall of elected officials in 1992. 5 Grand Traverse Band Code § 201 et seq.

There are two limitations expressed in the Constitution on the power of individual tribal members to recall elected officials. The first limitation, not at issue here, is that an elected official may not be subject to a recall petition in his or her first year of the official's current term of office. Constitution art. VIII, § 1(a) ("Any elected official of the Band shall be subject to recall at any time after holding office for one (1) year..."); 5 Grand Traverse Band Code § 201(b).

The second constitutional limitation is that no elected official may be subject to recall more than once per term. The Constitution specifically states, "[E]ach official shall be subject to only one recall petition per term." Constitution art. VIII, § 1(a).

It is this provision that detains us briefly today. The parties largely dedicate their briefs to the competing interpretations of this provision. In 2011, Ms. Russell's proposed recall petition to the Election Board included Councilor Rohl as the subject of recall. In 2013, Ms. Raphael submitted a proposed recall petition that also named Councilor Rohl as the subject of recall. The Election Board rejected Ms. Raphael's proposed recall petition on the grounds that Councilor Rohl had been previously subject to a recall petition, and therefore she was (in Raphael's words) immune from further recall petition proposals. Ms. Raphael argues that Ms. Russell's proposed petition never reached the point at which Ms. Rohl was "subject to" a recall petition, which should allow Ms. Raphael's proposed petition to proceed to a clarity hearing before the Election Board. Ms. Raphael further argues that a councilor is not "subject to" a recall petition until an election is either called or held. The Election Board argues that an elected official is subjected to a recall petition after a clarity hearing is held.

We must decline to decide the appeal on the merits and decline to accept the invitation by both parties to interpret Article VIII, Section 1(a). The structure of Article VIII must be read in its entirety, and to do so compels the outcome we reach today.

As we noted above, Section 1 governs recall petitions originating from voters of the tribe. Section 1(a) provides the two limitations on recalls – the one year buffer period and the bar on more than one recall. Section 1(a) also provides the number of signatures a recall petitioner must gather before the Election Board is required to hold a recall election. Section 1(b) gives the Election Board ten days to verify the signatures collected. Section 1(c) requires the Election Board to hold an election within 30 days of its verification of the required number of signatures. There is no provision for review by the tribal court of any stage of this specific process.

Conversely, Section 2 – governing the recall of tribal officials initiated by the Tribal Council – specifically provides for the participation of the Tribal Judiciary. In

Section 2, the Tribal Council may refer elected officials subject to recall by the Council to the Tribal Judiciary. Sections 2(d) through (e) provide the procedural and substantive rules governing the Tribal Judiciary's role in adjudicating the recall of elected officials initiated by the Tribal Council. This court interpreted those rules in the foundational case, *In re McSauby*, No. 97-02-001-CV-JR, 1997 WL 34691849 (Grand Traverse Band Tribal Judiciary, July 29, 1997).

The Constitution does not afford the Tribal Judiciary *any* role in Section 1 recalls. We could perhaps locate jurisdiction in the ordinance enacted by the Tribal Council that governs Section 1 recalls. But there we read, "Disputes over the validity of signatures and sufficiency of the petitions shall be decided by the election board *whose decision shall be final and conclusive.*" 5 Grand Traverse Band Code § 209(d) (emphasis added). This language mirrors the general exclusion of the tribal court from regular election matters under Article VII, Section 5(a) of the Constitution. There is no other provision for judicial review or involvement in any kind elsewhere in the recall ordinance.

Petitioner Raphael argues that the court should import its Article VII precedents into Article VIII disputes and find jurisdiction that way. We disagree. Article VII specifically allows the Tribal Judiciary a limited role in election disputes; specifically, the Tribal Judiciary may address "allegations of impropriety by the Election Board" under Article VII, Section 5(c). There is no parallel provision in Article VIII, and we decline to read jurisdiction into this Article, especially in light of a tribal ordinance expressly vesting "final and conclusive" authority in the Election Board to decide Section 1 recall matters.

III. Due Process, Mino-Bimaadziwin, and the Seven Grandfathers

At bottom, Ms. Raphael's claims against the Election Board implicate the Due Process Clause of the Constitution, Article X, § 1(h), which prohibits the tribe from "deny[ing] to any person within its jurisdiction the equal protection of its laws or deprive any person of liberty or property without due process of law." While we

adhere to our ruling that we may not interfere with the Election Board's decisions under the authority conferred to it by Article VIII, Section 1 and Title 5, Chapter 2 of the Code, we offer the following commentary on the matter.

As an initial matter, we applaud the Election Board's recent recognition of the Seven Grandfather Teachings – Niizhwaaswi Mishomis Kinoomaagewinawaan – in the 2014 Election Regulations. The Seven Grandfathers are:

Nbwaakaawin – Wisdom

Zaagidwin – Love

Mnaadendimowin – Respect

Aakwade'ewin – Bravery

Gwekwaadiziwin – Honesty

Dbaadendizwin – Humility

Debwewin – Truth

The Seven Grandfathers are general principles of Anishinaabe traditional common law that derive from the even more general principle of Mino-Bimaadziwin, a way of life akin to what legal scholars and practitioners might think of as natural law. We borrow from Eva Petoskey, a former Grand Traverse Band elected official, who described Mino-Bimaadziwin in these terms:

There is a concept that expresses the egalitarian views of our culture. In our language we have a concept, *mino-bimaadziwin*, which essentially means to live a good life and to live in balance. But what you're really saying is much different, much larger than that; it's an articulation of a worldview. Simply said, if you were to be standing in your own center, then out from that, of course, are the circles of your

immediate family. And then out from that your extended family, and out from that your clan. And then out from that other people within your tribe. And out from that people, other human beings within the world, other races of people, all of us here in the room. And out from that, the other living beings . . . the animals, the plants, the water, the stars, the moon and the sun, and out from that, the spirits, or the *manitous*, the various spiritual forces within the world. So when you say that, *mino-bimaadziwin*, you're saying that a person lives a life that has really dependently arisen within the web of life. If you're saying that a person is a good person, that means that they are holding that connection, that connectedness within their family, and within their extended family, within their community.

Eva Petoskey, *40 Years of the Indian Civil Rights Act: Indigenous Women's Reflections*, in *THE INDIAN CIVIL RIGHTS ACT AT FORTY* at 39, 47-48 (2012).

We take seriously our obligation to interpret the meaning of the rights of tribal members under the Grand Traverse Band Constitution, and we know from its pleadings, its able counsel, and its carefully promulgated election regulations that the Election Board does as well. Still, we are troubled by the Election Board's summary rejection of Ms. Raphael's proposed recall petition, and we are further troubled by the import of the Election Board's interpretation of Article VIII, Section 1(a) as applied to future petitioners.

We note that the Election Board's decision to reject Ms. Raphael's proposed petition occurred without notice to her, and without providing her an opportunity to be heard on the legal question at issue. Ms. Raphael submitted her proposed petition on Thursday, May 30, 2013. The Election Board held a regular meeting on Tuesday, June 4, 2013, in which it discussed Ms. Raphael's proposed petition. Ms. Raphael submits she never received notice of that hearing, or notice that the hearing agenda included her proposed recall petition. On Wednesday, June 5, 2013,

the Election Board issued its determination document rejecting Ms. Raphael's petition. As counsel for Ms. Raphael pointed out, this must have come to a great shock to Ms. Raphael, who until receiving the June 5 determination never knew the Election Board was considering whether or not to reject her petition. In fact, the Code suggests that the next step after the submission of a proposed recall petition is the so-called clarity hearing, 5 Grand Traverse Band Code § 202(c), not a summary disposition hearing or the like.

We understand from Board counsel that it is very likely the Election Board had never before addressed the question in this matter – that is, what constitutes a “petition” under Article VIII, Section 1(a). Counsel for the Election Board appears to suggest that the Election Board's determination was equivalent to a ministerial decision outside of the discretion of the Board, but that cannot be the case. The well reasoned arguments on both sides in this matter suggest that Section 1(a)'s meaning was a highly debatable question of first impression. Unfortunately, whether the Election Board intended for this to be the case or not, from the point of view of Ms. Raphael, the decision to reject Ms. Raphael's proposed petition lacks transparency and simple fairness. There was no way for Ms. Raphael, or anyone else for that matter, to know that Ms. Russell's 2011 proposed recall petition legally constituted the one recall petition to which Ms. Rohl could be subjected under the Constitution. Perhaps not even the Election Board or Ms. Rohl knew it either, given that the 2011 clarity determination does not point out that Ms. Russell's proposed recall petition served as the one recall petition immunizing Ms. Rohl from future recalls. For the Election Board to invest its 2011 decision with this import without giving Ms. Raphael notice that it was about to do so may be an abrogation of the principles of due process guaranteed by the Constitution. At the very least, principles of Mino-Bimaadziwin and the Seven Grandfathers compel the Election Board to specifically notify petitioners like Ms. Raphael when a proposed recall petition is to be rejected, and to offer those petitioners a chance to be heard, even if the Due Process Clause does not.

Second, we are troubled that the Election Board's interpretation of Article VIII, Section 1(a) – that a tribal councilor is immunized from future recall petitions as soon as the Election Board makes a clarity determination under 5 Grand Traverse Band Code § 202(c) – will never be tested for legal validity. We continue to adhere to the limitations on our jurisdiction in these matters, but our respect for Mino-Bimaadziwin and the Seven Grandfathers compels us to encourage the Election Board to reconsider its interpretation. We do so not because we think the Election Board's interpretation is wrong,¹ but because the Board never allowed for petitioners like Ms. Raphael to challenge its interpretation, and perhaps persuade the Board to change its views. As the pleadings and the arguments demonstrate, there is more than one reasonable interpretation of Article VIII, Section 1(a). Our concern here is directly linked to the lack of due process and transparency before the Election Board. Due process works both ways – it protects the individual and provides opportunities for the government (or Election Board in this instance) to improve.

In conclusion, the Petitioner's complaint is DISMISSED.


For the Court:


Hon. Matthew L.M. Fletcher

5-21-14
Date

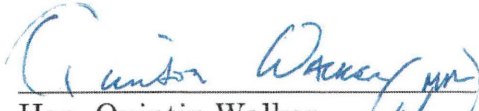
¹ Judge Blanche dissents on this point. In his opinion, the Election Board was clearly wrong in its interpretation. Article VIII, Section 1(a) provides in part, "Any elected official of the Band shall be subject to recall ... upon a petition signed by electors equal in number to twenty-five percent (25%) of the number of persons registered to vote in tribal elections..." Counsel for the Election Board admitted that the 25% signature threshold was not met even though the signatures had yet to be vetted for authenticity as required by Article VIII, Section 1(b).

Concurring:



Hon. Michael Long

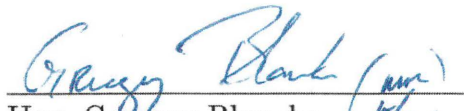
5/21/14
Date



Hon. Quintin Walker

5/21/14
Date

Concurring in Part and Dissenting in Part



Hon. Gregory Blanche

5/21/14
Date

