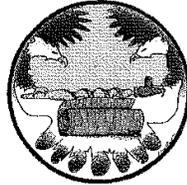


LITTLE TRAVERSE BAY BANDS OF ODAWA INDIANS CIVIL DIVISION OF TRIBAL COURT
7500 Odawa Circle, Harbor Springs, MI 49670 Ph 231-242-1464 Fax 231-242-1470



DEXTER MCNAMARA,
Plaintiff,

v.

CASE NO: C-085-0310
Hon. Chief Judge JoAnne Gasco

LITTLE TRAVERSE BAY BANDS OF
ODAWA INDIANS ELECTION BOARD,
Defendants.

Craig W. Elhart (P26369)
Craig W. Elhart, P.C.
Attorney for Plaintiff
329 South Union
Traverse City, MI 49684
231-946-2420

Carlos Alvarado-Jorquera (P68004)
C. Alvarado-Jorquera, PLLC.
Attorney for Defendant
212 E. Ludington Ave., Suite 1
Ludington, MI 49431
231-425-4444

**ORDER GRANTING MOTION ON PLAINTIFF'S
REQUEST FOR A PRELIMINARY INJUNCTION**

Facts:

1. Plaintiff filed this action on March 24, 2010 with a Motion for a Preliminary Injunction.
2. Plaintiff is the elected Vice-Chairman of the Little Traverse Bay Bands of Odawa Indians.
3. On March 2, 2010, the Little Traverse Bay Bands of Odawa Indians Election Board verified a Recall Petition filed with the Election Board for the purpose of recalling the Vice-Chairman.
4. The Election Board verified the 171 signatures and determined the Recall Petition valid. The Little Traverse Bay Bands of Odawa Indians Constitution provides for a Recall Election once the Election Board verifies the recall petition.

5. Plaintiff objects to the 171 signatures as being the correct number of signatures required under the Constitution for a Recall Election to occur and requests this Court to order a Preliminary Injunction.
6. In the last Tribal general election, 856 registered voters voted. The Plaintiff contends that based on that number, 172 signatures were required for a valid petition.
7. Defendant, through their attorney, filed a response opposing the Preliminary Injunction. The first claim states the Election Board has sovereign immunity as an agency of the Tribe and the second claims states the facts as stated fail to state a claim for which relief can be granted.
8. The Court scheduled a Motion Hearing on April 21, 2010. The parties were present and oral arguments on the issues were heard by the Court.
9. The Court did not render an opinion at the conclusion of the oral argument. However, the Court stated that an order on the Motion for Preliminary Injunction would be released by Friday, April 23, 2010.

Conclusions of Law:

1. This Court's authority is provided for in the Little Traverse Bay Bands of Odawa Indians Constitution.

Article IX, Section C states:

1. Inherent Sovereignty. The judicial power of the Tribal Court shall extend to all civil and criminal cases arising under this Tribal Constitution, statutes, regulations or judicial decisions of the Little Traverse Bay Bands of Odawa Indians. This jurisdiction is based on the Tribe's inherent sovereignty, traditional custom, and Federal Law.
 2. Power of Judicial Review. The Tribal Court shall have the power to interpret the Constitution and laws of the Little Traverse Bay Bands of Odawa Indians.
 3. Court of First Instance. Any such case or controversy arising within the jurisdiction of the Tribal Courts of the Little Traverse Bay Bands of Odawa Indians shall be filed in the Tribal Court before it is filed in any other court.
 4. Sovereign Immunity Not Waived. This jurisdiction shall not be construed to be a waiver of the sovereign immunity of the Little Traverse Bay Bands of Odawa Indians.
 5. Appellate Review. The Tribal Appellate Court shall have jurisdiction over any case on appeal from the Tribal Court. Appeals decisions shall be decided by the full Appellate Court.
 6. Right to Appellate Review...
 7. Finality of Appellate Review...
2. The Little Traverse Bay Bands of Odawa Indians Rules of Civil Procedure (LTBBRCP) apply in this matter before the Court, specifically LTBBRCP XI (f).

An injunction may be granted:

- (1) when it appears by the pleadings on file that a party is entitled to the relief demanded, and as such relief, or any part thereof, consists of restraining the commission or continuance of some act complained of, either for a limited period or perpetually;
- (2) when it appears from the pleadings or by affidavit that the commission or continuance of some act during the litigation would produce irreparable injury to the party seeking injunctive relief;
- (3) when it appears during the litigation that either party is doing or threatens, or is about to do, or is procuring or suffering to be done, some act in violation of the rights of

another party respecting the subject matter of the action, and tending to render the judgment ineffectual;
(4) in all other cases when an injunction would be proper in equity.

WHEREFORE IT IS HEREBY ORDERED THAT:

1. The Court will grant the Motion for a Preliminary Injunction.
2. The Defendant, Little Traverse Bay Bands of Odawa Indians Election Board, its members, agents, servants, attorneys and employees, and any and all persons acting in active concert or participation with them and who receive actual notice of this Order be, and are hereby temporarily restrained from conducting a Recall Election for the office of the Tribal Vice-Chairman during the pendency of this Action and until further Order of the Court.
3. No security for costs is required to be filed prior to the issuance of this Order.
4. The Court will provide a full order of the issues presented at oral argument by April 30, 2010.

04/23/10
Date

JoAnne Gasco
JoAnne Gasco, LTBB Chief Judge

File No: C-085-0310

Certification of Service

I certify that a copy of the Order Granting Motion on Plaintiff's Request for a Preliminary Injunction was served upon the following parties:

-By Electronic Mail:

Plaintiff(s) Attorney

Craig W. Elhart

329 South Union

Traverse City, MI 49684

-By Fax:

Defendant's Attorney

Carlos Alvarado-Jorquera (P68004)

C. Alvarado-Jorquera, PLLC 212 E.

Ludington Ave., Ste. 1

Ludington, MI 49431

On 4/23/2010 1:18:48 PM.



Cynthia Brouckaert, Court Clerk I