

LITTLE TRAVERSE BAY BANDS OF ODAWA INDIANS
TRIBAL COURT

POSTED
6-23-03
EM

ANDREW STICH,
PLAINTIFF,

v.

CASE NO: C-041-0503

ELECTION BOARD,
DEFENDANT.

Andrew Stich
In Pro Per
2437 Del Road
Levering, MI 49755-9377

James A. Bransky
Attorney for Defendant
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Traverse City, MI 49684-7713
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DECISION OF THE COURT

ISSUES PRESENTED:

This matter arises because of the complaint of Plaintiff that the Primary Election conducted by the Tribal Election Board is illegal because the Tribe has never had one before and because there is nothing in the tribal codes that refers to a primary election. Furthermore, Plaintiff complains that rights have been taken away because tribal voters could only cast one (1) vote for Tribal Chairman, instead of two (2), and three (3) votes for members of the Tribal Council, instead of six (6). He argues that there is not a two-party system like in federal and state elections, so tribal voters ought to be able to cast a vote for two (2) candidates for each office.

Defendant answers that Plaintiff is barred from bringing this suit because he failed to follow the procedures for election challenges as set out in the Election Statute. Alternatively, Defendant answers that a primary election is required by tribal law whenever there are more than two (2) candidates per office. Furthermore, Defendant

answers that tribal law was amended since the last tribal elections to mandate primary elections. Additionally, Defendant argues that the decision whether to allow voting for one (1) or more candidates per office to narrow the field down to two (2) per office is properly within the scope of the Election Board's authority.

APPLICABLE LAW:

Article V of the Constitution and Bylaws provides that the Board of Directors shall enact appropriate ordinances to implement nominations and the holding of elections. See WOTC § 1.106.

Title III of the Tribal Code provides the ordinances enacted to provide for tribal elections. See WOTC § 3.101–3.114.

ANALYSIS AND REASONING:

It is clear that tribal law requires a primary election. See WOTC § 3.107 (C). There were more than two (2) candidates for each office. If the law mandates an event, it cannot be illegal. It is also clear that Plaintiff was unaware that the tribal election laws had been amended on April 21, 2002. It seems that he was not aware of the amendment until after he filed his complaint in this action.

As to Plaintiff's argument that rights were taken away because each voter could cast only one (1) vote per office, it is clear that the Election Board is charged with the "handling" of all tribal elections. See WOTC § 3.101 (A). The Election Board has been given the authority to carry out the election mandates as an independent entity. See WOTC § 3.102. It is clear from this delegation that the Election Board has both the authority and discretion to do what is necessary and proper under tribal law to conduct tribal elections. **The decision of the Election Board to allow only one (1) vote per office is a necessary and proper decision.** No tribal law mandates otherwise. Finally, this Court believes that the decision to allow only one (1) vote per office is the only

choice that makes sense. Casting more than one (1) vote per office greatly weakens the strength of a first-choice vote and strengthens the weakness of a distant second-choice vote. In fact, this Court recognizes that it is possible for second-choice candidates to receive enough votes to push the first-choice candidates right off the slate. For that reason alone, it only makes sense to limit each voter to one vote per office.

This Court finds that it doesn't need to decide whether Plaintiff is barred from bringing this action because of the decision against the Plaintiff on the merits.

FOR ALL OF THE FOREGOING, THIS COURT DISMISSES PLAINTIFF'S CLAIMS.

06/20/03

Date

Honorable Michael D. Petoskey
Chief Judge