



THE SUPREME COURT OF THE LUMBEE TRIBE OF NORTH CAROLINA

Justice Mark Brooks
Justice Tona Jacobs

Justice Eric Freeman

Rudy T. Locklear,)	
)	
PETITIONER,)	
v.)	
)	
Dewey McNeill, Speaker of the Lumbee)	
Tribal Council)	Case No.: 2024-006
)	
Pam Hunt, Lumbee Tribal Council)	
Finance Committee Chair)	
)	
Lumbee Tribe of North Carolina)	RULING
Tribal Council)	
RESPONDENT(s),)	
)	

IN THIS MATTER, a Petition was filed on December 16th, 2024, alleging violations of Article III, Sections 1 and 3 and Article XI, Section 2 of the Lumbee Constitution as well as CLLO-2013-1105-03 (conflicts ordinance). Specifically, the Petitioner alleges that Tribal Ordinance CLLO-2024-1121-01 constitutes a violation of well-settled tribal law, in that 1) the Tribal Council lacks enumerated authority to determine or mandate compensation for independent entities like “Lumbee Tribal Holdings, Inc.” and that such exercise of authority violates the separation of powers outlined in Article III Section 3, and 2) the Chairman’s role in signing tribal ordinances along with his dual role as Chairman of the LTH Board creates a conflict of interest directly affecting his own compensation. WE DISAGREE.

Pursuant to Article IX of the Lumbee Constitution, this Supreme Court shall have jurisdiction over "all cases and controversies arising under the Lumbee Constitution and all ordinances of the Lumbee Tribe." The preliminary question for this Supreme Court then is, "does the Petitioner allege acts by the Respondent(s), with enough specificity, that if true would constitute a violation of the Lumbee Constitution or Lumbee Tribal Ordinance? If yes, then a hearing on the matter is warranted.

It appears to be without dispute that the Respondent Tribal Council passed an ordinance in which it was determined that the Tribal Chairman would receive compensation to be paid by Lumbee Tribal Holdings, Inc. It also appears without dispute that the Tribal Chairman signed said ordinance into law. It also appears without dispute that the Lumbee Tribal Council is given no express and explicit authority within the Lumbee Tribal Constitution to establish compensation for any tribal officials, elected or not, including themselves. The question before us then is whether the Respondent(s)' legislative action, though not expressly and explicitly authorized within the constitution, and which directs an independent entity such as "Lumbee Tribal Holdings, Inc" to comply with such action(s), is in fact unconstitutional. The timelier question though is whether the action described above and alleged by the Petitioner, even if true, would violate the constitution? If not, a hearing is not warranted.

To answer this question, the Court relies upon its interpretation of Article III Section 3 and Article VII Section 1 Subsection a. Article III Section 3 states "*the powers delegated to the legislative, executive, and judicial branches, except as expressly provided in the Constitution, shall be separate and distinct and no branch shall exercise the powers delegated herein to another branch, except for the office of vice chairman.*" Article VII Section 1 Subsection a states, "*the legislative power to enact ordinances of the Lumbee Tribe of North Carolina shall*

reside in the Tribal Council. Such legislative power shall include: the enactment of annual tribal budgets, provided that budgets shall be enacted into tribal law following the conduct of tribal hearing(s) on budgets proposed by the Tribal Chairperson;”

The Petitioner alleges that the Respondent(s)' action to determine compensation for the Chairman to be paid by Lumbee Tribal Holdings is a violation of the clear separation of powers outlined in Article III Section 3 of the Constitution. We disagree. Although the Court is vaguely familiar with the origin and construction of Lumbee Tribal Holdings, Inc, we are assuredly certain it is not a branch of the government in which constitutional separation of powers would apply. This is not to suggest that the Lumbee Tribal Council should or may interfere with the day-to-day operations of Lumbee Tribal Holdings, Inc., but this Court concludes it is not precluded from doing so because of Article III Section 3 of the Lumbee Tribal Constitution. The Petitioner has not alleged with enough particularity the extent of Lumbee Tribal Holdings, Inc.'s independence from the Lumbee Tribal Council that would allow this Court to confidently subvert the broad, expansive legislative authority to enact tribal budgets held by the Tribal Council. This Court, without contradictory information, can only presume that Lumbee Tribal Holdings, Inc. is a construct of the Lumbee Tribal Council, is owned by the Lumbee Tribal Government, and acts within the scope of authority granted to it by its construction by the Lumbee Tribal Council.

This Court reiterates its longstanding belief that the legislative power held by the Lumbee Tribal Council, to pass ordinances and enact tribal budgets, is a broad and expansive power. The Tribal Council's authority to do so does not rely on specific enumerations to accomplish specific goals but relies upon the sweeping language of Article VII Section 1 to legislate broadly and expansively, subject only to limitations expressed in the Constitution. This Court also reiterates

its belief that our judicial power of review, although equally broad and expansive, would be abused if used to substitute its own judgment for the Tribal Council's as it relates to the creation of tribal law. Our broad and expansive judicial power of review can only invalidate the creation or execution of tribal law that is prohibited by the Constitution. We are unconvinced that the Tribal Council's determination to set the Tribal Chairman's compensation to be paid by Lumbee Tribal Holdings, Inc., whether such amount is controversial or not, is an overreach of its legislative authority as alleged by the Petitioner.

Lastly, the Petitioner's allegation that the Tribal Chairman's dual role as Tribal Chairman and Chairman of the LTH board, creates an irreparable conflict of interest which precludes him from signing legislation determining his own compensation. We disagree. This Court can only conclude at the present time, that Article XI Section 2's requirement for a tribal official to *"recuse him or herself from any decision or vote affecting his or her pecuniary interest or a family member,"* applies only to those pecuniary interests that are such personal and private in nature, and is beyond any commensurate compensation for the scope of their open and transparent public service to the Lumbee Tribe. Otherwise, no ordinance establishing any compensation or any benefit for Tribal Chairman could ever be signed into law, and no ordinance establishing any compensation or any benefit for the Tribal Council could ever be voted into law. Consequently, any longstanding, legislated compensation paid to members of the executive or legislative branches of government, even if characterized as a "stipend," would fail to pass such a strict view of pecuniary interest. We do not believe this is the realistic intent of Article XI of the Lumbee Constitution. **THEREFORE, the Petitioner's case is DISMISSED.**

Per the decision and on behalf of the Court in Conference.

Signed this the 24 Day of January, 2025



Mark Brooks, Chief Justice