

Tobey-Roderick, et al. v. Weeden, et al.

CV-15-001

This synopsis was prepared following a review of an order by District Court Judge Jeffery Madison, dated August 4, 2015.

Synopsis:

Plaintiffs Roderick, et al, Tribal Members filed a complaint for declaratory relief against Weeden, et al, as Members of the Mashpee Wampanoag Election Committee alleging irregularities in the Tribal election.

Defendants in this case are members of the Mashpee Wampanoag Tribe with positions on the Enrollment and Election committees. The Plaintiffs seek injunctive relief to remove Defendants from their appointed positions and to bar them from involvement in future tribal elections. The Plaintiffs' complaint is based "on information and belief" the Tribal Constitution was violated prior to and during the Tribal election in February 2015. The Plaintiffs allege three violations:

1. Defendants openly and publicly campaigned for candidates;
2. Defendants fraudulently used Tribal property for personal campaign purposes;
3. Defendants violated their official duties as Committee members because of their familial relationship to candidates running for office.

The issue before the court is:

Whether tribal sovereign immunity extends to appointed Tribal Elections officials when acting in their official capacity?

Holding:

Tribal sovereign immunity bars the Plaintiffs' claims unless there is an express or specific waiver by the Tribe. Additionally, Tribal sovereign immunity extends to Tribal officials acting within the scope of their official authority and representative capacity. The Court is without jurisdiction to hear the complaint because it is barred pursuant to the Defendants' sovereign immunity.

The Tribal Court was also not swayed by Plaintiffs' allegations of misconduct based on "information and belief." While the Tribal Court's ultimate decision was based on sovereign immunity, the decision makes clear that allegations on "information and belief" are not sufficient evidence to support a claim for injunctive relief against appointed committee members acting in their official capacity in Tribal Elections.

Plaintiffs' complaint was dismissed with prejudice.

August Martinez v. Mashpee Wampanoag Tribal Council

CV-15-002

This synopsis was prepared following a review of an order by District Court Judge Jeffery Madison, dated May 2, 2016.

Plaintiff Martinez brought suit against the Tribe for negligence for failure to maintain adequate lighting at Pow Wow grounds following events on June 28, 2015. After considering the Tribe's pre-trial motion to dismiss, the court granted the motion to dismiss based on the Tribe's federally recognized sovereign immunity from suit.

Case dismissed with prejudice.

Brad Bacon o/b/o Alexander Bacon v. MWT Enrollment Committee

CV-15-003

This synopsis was prepared following a review of the Defendant's Motion for Reconsideration dated November 10, 2015, the Defendant's Motion to Strike Plaintiff's Submission to the Court dated November 17, 2015, and the Order on Defendant's Motion for Reconsideration and Motion to Strike by District Judge Jeffery Madison, dated December 11, 2015.

The Pro Se Plaintiff Tribal Member filed an appeal on behalf of his two-year-old minor son after the minor was denied enrollment by the Defendant Enrollment Committee. Plaintiff's complaint alleges his son has a right to membership because three generations of Plaintiff's family have been members of the Tribe. The Defendant filed a Motion to Dismiss pursuant to MWDC R. Civ. P. Rules 12(a)(3) and 12(a)(4) for failure to state a claim upon which relief can be granted and MWDC R. Civ. P. Rules 9(b) and 9(c) for improper service of process. Defendant sought dismissal under MWDC R. Civ. P. Rules 12(a)(3) and 12(a)(4) because Plaintiff's complaint, alleging three generations of Tribe membership, failed to meet the requirements of section 4 of the Enrollment Ordinance which identifies enrollment criteria as: (a) direct lineal descent; (b) no public denouncement; (c) live in or near Mashpee; and (d) Tribal Community involvement. Defendant sought dismissal pursuant to MWDC R. Civ. P. Rules 9(b) and 9(c) because the Plaintiff's Affidavit of Service did not identify the person who was alleged to have been personally served and did not include a signed delivery receipt.

The Plaintiff filed an amended complaint and the Tribal Court set a hearing date. The amended complaint was sent to Defendant's council, but did not request a return receipt and was not accompanied by a summons. The Defendant then filed a Motion to Dismiss the amended complaint for improper service of process pursuant to MWDC R. Civ. P. Rules 9 and 10 and for failure to state a claim pursuant to MWDC R. Civ. P. Rules 12(a)(3) and 12(a)(4).

The Defendant then filed a Motion for Clarification to the Tribal Court's scheduled hearing because the timeline to file reply briefs had not expired pursuant to MWDC R. Civ. P. Rule 17. Notwithstanding the Defendant's Motion for Clarification, the scheduled hearing proceeded with Defendant's council participating by teleconference.

Following the scheduled hearing, the Tribal Court: (1) denied Defendant's motion to dismiss; (2) granted the Plaintiff an extension to file additional supporting documents to his amended complaint; and (3) provided additional time for Defendant to reply.

The Defendant filed a Motion for Reconsideration from the Tribal Court's order denying its Motion to Dismiss the amended complaint. The Plaintiff then filed additional documentation to support his claim. The Defendant responded with a Motion to Strike the Plaintiff's submission of new documentation. The Defendant's Motion to Strike sought to remove the Plaintiff's additional supporting documentation because it was extrinsic evidence and not part of the administrative record.

Despite the Plaintiff's pro se status, the Tribal Court must follow its rules. It matters not if the Defendant failed to object to the accommodations offered to the Plaintiff during the hearing. The additional documents submitted by the Plaintiff were not part of the administrative record and therefore cannot be considered with Plaintiff's complaint. Additionally, the Tribal Court could not consider the Plaintiff's complaint because there was no proof of timely service as specified in the Court rules. After reviewing the record and the Defendant's Motion for Reconsideration and Motion to Strike, the Tribal Court ordered:

1. Allowed the Defendant's Motion for Reconsideration;
2. Allowed the Defendant's Motion to Strike Plaintiffs submission dated November 11, 2015; and
3. Granted Defendant's Motion to Dismiss without prejudice and urged the Plaintiff to resubmit a Complaint pursuant to MWDC R. Civ. P. 9(f).

Christian Tobey-Simpkins v. Mashpee Wampanoag Tribal Enrollment Committee

CV-15-004

This synopsis was prepared following a review of an order by District Judge Jeffery Madison dated June 9, 2016.

Plaintiff filed a complaint with the Court following a decision by the Enrollment Committee denying his enrollment application. The Plaintiff was provided with a Summons and Affidavit of Service form pursuant to Rule 9 of the MWDC R. C. P. Rule 9 provides a procedure to serve both the summons and complaint to the Defendant-Organization and instructions to complete the Affidavit of Service form with the District Court. The Clerk of Courts notified the Plaintiff in a letter dated February 2, 2016 that Plaintiff's case would be closed if service was not made within the next thirty (30) days.

The case was dismissed for inactivity on June 9, 2016 pursuant to an Order of Dismissal by District Judge Jeffrey Madison.