

**IN THE DISTRICT COURT
OF THE
CHEROKEE NATION OF OKLAHOMA**

FILED

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CHEROKEE NATION
DISTRICT COURT
MAGGIE HONGCOOYEA
CLERK

ROBIN CARTER MAYES)
CANDIDATE AT-LARGE)
PRO SE,)
)
Petitioner,)
)
v)
)
CNO ELECTION COMMISSION,)
And)
CNO Office of the Attorney General)
Respondents)

Case No. CV 2017-273

PETITION FOR WRIT OF MANDAMUS AND DECLARATORY JUDGEMENT

COMES NOW, Petitioner, Robin Mayes, pro se, ("Mayes") and files this Petition against Respondents, CNO Election Commission ("Commission"), and the CNO Office of the Attorney General, and shows to the Court that he is entitled to a Writ of Mandamus against the Respondents and Declaratory Judgement.

I. JURISDICTION AND PARTIES

The Cherokee Nation Declaratory Judgment Act, LA 06-09, provides: "District courts may, in cases of actual controversy, determine rights, status, or other legal relations ..., whether or not other relief is or could be claimed. . ."
Robin Mayes is a candidate for the office of At-Large Council in the 2017 Election.

The Commission is an independent commission of the Cherokee Nation of Oklahoma.

The Office of the Attorney General was established by the revision of the CNO 1975 constitution in 1999.

II. FACTS

Since April 24, 2017 Petitioner Mayes has attempted to exercise his right to due process through the Election Commission by filing numerous letters and complaints asking the Commission to confirm that certain actions by 2017 election candidates directly or indirectly interfere with the Election Commission.

Petitioner has information and belief the following interference actions have occurred:

A: Incumbent candidates participated in revising election law such that scheduling of the absentee ballot request list was issued almost the same day as the ballots were mailed.

B: Incumbent candidates participated in revising election law such that Citizen voter access to due process is unfairly restricted by the Attorney General Office:

Election Code, LA-12-16 Section 11(c)(12)(f): "Any accusations concerning campaign activities shall be reported to the Cherokee Nation Attorney General for investigation. Should the Cherokee Nation Attorney General find merit, a report to the Cherokee Nation Election Commission will be made for possible assessment of penalties and/or disqualification under procedures found at Title 26 § 38 of the Cherokee Nation Code Annotated."

Petitioner contends that this recent addition to the election law severely and unfairly restricts Cherokee Citizens from their right to due process. The Attorney General is in the executive branch and the incumbent Council members are conflicted as they benefit most from this unconstitutional restriction. The Election Commission is autonomous by constitutional provision.

C: Certain unnamed 2017 candidates have interfered with the Election Commission by manipulating absentee ballot requests to come to the candidate's address and or PO box instead of directly to the voter as is the intent of the absentee ballot process. There is evidence that one At Large candidate mailed out absentee ballot requests packets that included a pre-addressed envelope labeled "CNEC" with the candidate's address instead of the official Election Commission's address. Another District 4 candidate manipulated the mail-to address on absentee ballot requests in great quantity so that unvoted ballots would come to a PO box owned by the candidate. In at least one instance the ballot has never been delivered to the voter and the voter will now not be able to vote.

III. AUTHORITY FOR CAUSE OF ACTION

The Commission is bound by the following constitutional provision:

Article IX. Election

Section 1. There is hereby created a Cherokee Nation Election Commission. **The Commission shall be an autonomous** and permanent entity charged with the administration of all Cherokee Nation elections, in accordance with election laws. The Council shall enact an appropriate law not inconsistent with the provisions of this Constitution that will govern the conduct of all elections.

Section 2. No person who shall have been convicted of a felony charge under the laws of United States, or of any State, Territory, or Possession thereof, or a crime under the laws of the Cherokee Nation that if committed in some other jurisdiction would be a felony, shall be eligible to hold any office or appointment of honor, profit or trust within this Nation unless such person has received a pardon from the appropriate jurisdiction. Any person who holds any office of honor, profit or trust in any other tribe or Nation of American Indians, either elective or appointive shall be ineligible to hold simultaneously any office of honor, profit or trust of the Cherokee Nation unless approved by the Council.

Section 3. All elections shall be determined by secret balloting.

CAUSES OF ACTION

Cause of Action One:

Petitioner seeks a Writ of Mandamus from this Court directing the Commission to provide the Petitioner a hearing as prescribed by law so that he can present his concerns of interference with the Election Commission and have the right to appeal the Commission's decision to the Supreme Court as prescribed by law.

Election Code, see 26 O.S. § 1-101 et seq.

§ 38. Interference with and improper influences of the Election Commission After a hearing held in conformance with the regulations adopted by the Election Commission, any candidate found to be directly or indirectly interfering or attempting to interfere with the Election Commission's performance of its duties, or improperly influencing or attempting to influence the Election Commission while it is performing its duties, shall be disqualified by the Election Commission from running for elected office of Cherokee Nation for the duration of the upcoming election period. Said regulations shall provide the candidate with reasonable notice of the charges and the opportunity to respond at a hearing before the Election Commission, and shall specify the manner in which the charges shall be presented and by whom. Any candidate disqualified from holding office pursuant to this section may appeal the Election Commission's disqualification decision by filing a written appeal with the Cherokee Nation Supreme Court in conformance with the requirements of 26 CNCA § 37(B).

Cause of Action Two: Declaratory Judgment

Petitioner seeks Declaratory Judgment regarding whether it is a violation for the Commission to submit to a recent revision requiring complaints and concerns of the Cherokee Citizens be screened and investigated by an executive branch appointee, the Attorney General.

CONCLUSION

Petitioner prays that this Court:

Enter a Writ of Mandamus against the Commission, ordering it to provide the Petitioner a hearing as prescribed by law.

Find that the Attorney General's interference is outside the scope of constitutional authority.

Find that the Council does not have authority to pass legislation that is in conflict with the constitution and that serves to give themselves unfair advantage in elections.

Set an expedited hearing/response because time is of the essence; and

Any other such relief necessary to enforce this Court's Declaratory Judgment.

Submitted this 1st day of June, 2017.

CERTIFICATION OF JURISDICTION

Pursuant to District Court Rule 1, the undersigned Petitioner, Pro Se, certifies that the foregoing Complaint demonstrates the subject matter jurisdiction.

Communications

All pleading and other communications regarding these proceedings should be sent to the person listed below, and such person should be placed on the official service lists maintained by the Court Clerk for these proceedings

Respectively submitted,



Robin Mayes, Pro Se,
3016 Groveland Terrace
Denton, Texas, 76210
(no fax available)
Dated: 1st day of June 2017

Certificate of service

I the undersigned, do hereby certify that on the 1st day of June 2017, I delivered a true and correct copy of the above and foregoing document to the following:

Connie Parnell
Election Commission Director
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Robin Mayes