

IN THE DISTRICT COURT OF THE CHEROKEE NATION

2017 NOV 16 AM 11:15

Robin Carter Mayes,  
Candidate at Large, Pro Se

Petitioner,

v.

Case No. CV-17-273

Cherokee Nation Election Commission,  
Cherokee Nation Office of the  
Attorney General, TODD HEMBREE, an  
Individual, SHAWNA CALICO, an individual,  
TERESA HART, an individual, MARTHA  
CALICO, an individual, CAROLYN ALLEN,  
An individual, PAMELA SELLERS, an  
Individual, JOHN DOE, unknown individuals.

Respondents.

SECOND AMENDED PETITION

COMES NOW, Robin Carter Mayes, Petitioner, in and for his Amended Petition and in support thereof states as follows:

FACTUAL ALLEGATIONS

1. The parties to this action are the Office of the Attorney General of the Cherokee Nation, an arm of the Executive Branch of the government of the Cherokee Nation, The Cherokee Nation Election Commission, an independent and autonomous commission of the Cherokee Nation pursuant to the Cherokee Nation Constitution, Article IX, section 1, Todd Hembree, Shawna Calico, Teresa Hart, Marth Calico, Carolyn Allen, and Pamela Sellers are individual citizens of the Cherokee Nation, John Doe is an unknown party subject of this action;
2. That this Court has jurisdiction of the subject matter and of the parties to this action;
3. That Petitioner reported irregularities pertaining to election candidates in pursuing absentee votes in the 2017 elections to the Cherokee Nation Election Commission;
4. That the Cherokee Nation Election Commission, Shawna Calico, Teresa Hart, Marth Calico,

Carolyn Allen and Pamela Sellers were aware that candidates were acting to interfere with the Election Commission and the elections of 2017;

5. That said Respondents knowingly permitted such actions of certain candidates for election;
6. That upon complaint by Petitioner, said Respondents referred the complaints to the Office of the Attorney General of the Cherokee Nation for investigation;
7. That the office of the Attorney issued a report finding no interference;
8. That said report, signed by the Attorney General, was investigated, prepared and presented to the Attorney General by John Doe, an unknown person or entity employed with the Cherokee Nation Attorney General's Office;
9. That said John Doe was actively engaged in campaign support activities for certain candidates reported to be acting in a manner to interfere with the Cherokee Nation Election Commission and the elections of 2017 at the time of investigation, preparation and presentation of the report for signature by the Attorney General;
10. That Todd Hembree did knowingly sign said report with full knowledge and information, training and experience that said report was suspect, invalid, unconstitutional and impermissible under the Cherokee Nation Constitution;
11. That the Cherokee Nation Constitution requires the Election Commission be autonomous;
12. That any and all legislation placing investigatory authority for disputes, complaints or other allegations directed to the Election Commission with the Cherokee Nation Attorney General Office is directly contrary to the Cherokee Nation Constitution;
13. That Todd Hembree, by knowledge, training and/or experience, knew, or should have known, that his actions in permitting investigation, investigating and/or reporting upon the complaints of Petitioner to the Election Commission were in contravention of the Cherokee Nation Constitution;
14. That the actions of Todd Hembree, Shawna Calico, Teresa Hart, Marth Calico, Carolyn

Allen and Pamela Sellers, and John Doe were actions of Individuals that interfered with the rights of Petitioner to have his concerns addressed and an open, free and unimpaired election free from interference conducted;

#### FIRST CAUSE OF ACTION

15. That the provisions of the Election Code, LA-12-16Section 11(c)(12)(f) is Contrary to the Constitution of the Cherokee Nation and is therefore, null, void and invalid;
16. That this Court should find, hold and Order that the actions of the Defendants, both individually and as agents and officers of the Cherokee Nation are were outside the scope of their employment and against the rights, duties and obligations of the Petitioner and that therefore, the Petitioner and his campaign were damaged;

#### SECOND CAUSE OF ACTION

17. Petitioner, hereby incorporates and re-alleges the factual allegations contained in Section II of the original Petition filed June 1, 2017 and paragraphs one through sixteen herein;
18. Petitioner is entitled to a Writ of Mandamus, directing the Cherokee Nation Election Commission to conduct a hearing pursuant to 26 CNCA §38 regarding Petitioner's complaints and determination of the issues of whether or not candidates interfered the Cherokee Nation Election Commission and election process and should be disqualified;

#### THIRD CAUSE OF ACTION

19. Petitioner hereby incorporates paragraphs one through eighteen above;
20. Petitioner is entitled to Declaratory Judgment ruling that LA-12-16Section 11(c)(12)(f) is Contrary to the Constitution of the Cherokee Nation and is therefore, null, void and invalid;

#### FOURTH CAUSE OF ACTION


21. Petitioner hereby incorporates paragraphs one through twenty above;
22. That the acts and omissions of the Defendants created a situation wherein an un-qualified candidate, or one that should have been disqualified, was permitted to run in election;

23. That as such, this Court should find, hold and Order that the current elected council representatives that previously engaged in activities interfering in the election were disqualified from election;

24. This Court should further Order the withdrawal of such elected council representatives and install the next qualified candidate at election with the most elected votes, or in the alternative, direct a special election for their seat;

WHEREFORE, above premises considered, the Petitioner moves this Court for judgment declaring LA-12-16Section 11(c)(12)(f) is Contrary to the Constitution of the Cherokee Nation and is therefore, null, void and invalid, and a Writ of Mandamus directing the Cherokee Nation Election Commission to conduct a hearing pertaining to Petitioner's complaints of election interference by candidates for 2017 elections, for the disqualification of elected officials that engaged in acts interfering with the electoral process, and for any and all further relief to which he may be entitled.

Respectfully submitted,

  
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