

IN THE SUPREME COURT OF THE MUSCOGEE (CREEK) NATION

In re: The Constitutionality of NCA 10-173, )  
NCA 10-199 & NCA 10-200 )  
MUSCOGEE (CREEK) NATION )  
NATIONAL COUNCIL, )  
Defendant-Appellant, )  
v. )  
TIGER, George; in his official capacity as )  
Principal Chief of the Muscogee (Creek) Nation, )  
Plaintiff-Respondent.<sup>1</sup> )

SUPREME COURT  
FILED

2014 JUN 12 AM 11 35  
*Connie Dearman*  
COURT CLERK

Case No. **SC 11-09**  
(District Court Case No. CV 11-10)

Appeal from District Court, Okmulgee District, Muscogee (Creek) Nation.

Zeke Fletcher, Fletcher Law, PLLC; Lansing, Michigan; for Defendant-Appellant.

Principal Chief George Tiger, Muscogee (Creek) Nation, *pro se*.

**OPINION AND ORDER GRANTING IN PART AND DENYING IN PART THE PARTIES’  
JOINT STIPULATION TO DISMISS AND REQUEST TO VACATE THE ORDER AND  
JUDGMENT OF THE DISTRICT COURT**

**MVSKOKVLKE FVTCECKV CUKO HVLWAT VKERRICKV HVYAKAT OKETV  
YVNKE VHAKV HAKATEN ACAKKAYEN MOMEN ENTENFVTCETV, HVTVM  
MVSKOKE ETVLWVKE ETEHVLVTKE VHAKV EMPVTAKV.<sup>2</sup>**

Before: ADAMS, *C.J.*; THOMPSON, *V.C.J.*; HARJO-WARE, SUPERNAW, DEER, and LERBLANCE, *JJ.*

ADAMS, *C.J.*, delivered the opinion of the Court, in which THOMPSON, *V.C.J.*, DEER and LERBLANCE, *JJ.*, joined.

Joint request to vacate underlying District Court order denied. Joint stipulation to dismiss granted. Matter dismissed with prejudice as to the underlying action only.

HARJO-WARE, *J.*, filed an opinion concurring in part, dissenting in part, and dissenting in judgment, in which SUPERNAW, *J.*, joined.

<sup>1</sup> The entire underlying trial court action occurred during the second term of Principal Chief A.D. Ellis. The instant appeal was also filed by the National Council during Chief Ellis’ second term; however, Chief Ellis ceased to hold the office of Principal Chief while this appeal remained pending. As successor to the office, Principal Chief George Tiger was automatically substituted as a party because the appeal was filed against the Principal Chief in his official capacity.

<sup>2</sup> “The Muscogee (Creek) Nation Supreme Court, after due deliberation, makes known the following decision based on traditional and modern Mvskoike law.”

**ADAMS, C.J., delivered the opinion of the Court.**

This consolidated appeal involves a dispute between the executive and legislative branches of the Muscogee (Creek) Nation (the “Nation”) regarding the constitutional authority to appoint executive officers in the Nation’s Office of Attorney General, Lighthorse Police, and Division of Health. The instant final order appeal is taken from a separation of powers dispute decided by the District Court under Muscogee (Creek) Nation Constitution Art. VII, § 6. The underlying judgment resolved the parties’ dispute over whether certain legislative acts amounted to unconstitutional encroachments on constitutional authority vested solely in the executive branch; however, the parties now seek voluntary dismissal of the instant appeal with prejudice via joint stipulation and request this Court vacate the final order and judgment entered by the Muscogee (Creek) Nation District Court in the underlying case. No longer adverse, the parties now assert the District Court’s final order and judgment was “legally deficient” and “incorrectly decided”. For the reasons discussed herein, we must dismiss the instant consolidated appeal as non-justiciably moot.

**BACKGROUND**

The instant Opinion and Order consolidates for disposition two separate actions filed with this Court from February 2011 to April 2011: SC 11-01, *Muscogee (Creek) Nation National Council v. Moore*; and SC 11-09, *Muscogee (Creek) Nation National Council v. Tiger*. Both actions arise from a single underlying District Court case, CV 11-10, which involved a separation of powers dispute between the Principal Chief and the National Council. The Principal Chief (Plaintiff-Principal Chief) sought declaratory and injunctive relief and a citation for contempt against the National Council (Defendant-National Council) for alleged unconstitutional and contemptuous usurpation of executive authority. Plaintiff-Principal Chief alleged that Defendant-National Council infringed on constitutionally vested executive authority by using veto-overrides to enact NCA 10-

173,<sup>3</sup> NCA 10-199,<sup>4</sup> and NCA 10-200.<sup>5</sup> Defendant-National Council failed to file a written response to Plaintiff-Principal Chief's allegations and failed to appear for a hearing on the matter set by the District Court.<sup>6</sup> One day prior to the scheduled lower court hearing, Defendant-National Council filed with this Court a petition for writ of prohibition.<sup>7</sup>

Pursuant to Defendant-National Council's failure to file a responsive pleading and failure to appear for hearing, the District Court deemed Plaintiff-Principal Chief's allegations against Defendant-National Council confessed, declared NCA 10-173, NCA 10-199 and NCA 10-200 unconstitutional, and enjoined all three legislative acts from enforcement.<sup>8</sup> The District Court also held the National Council, collectively, in indirect contempt for its "deliberate attempt to seize the Principal Chief's constitutional authority to appoint [e]xecutive [b]ranch personnel and also to administer [e]xecutive [b]ranch departmental funds, disguised as NCA's, contrary to Supreme Court direction in *Ellis v. Muscogee (Creek) Nation National Council*, SC 05-03/05-05, 9-10, 14 (2006)."<sup>9</sup> The lower court declined to sanction members of the National Council individually for contempt; however, because "it [would be] impossible to ascertain, without substantial further expense in time and resources, precisely who among the membership of the National Council [were] individually culpable."<sup>10</sup> Lastly, the District Court kept the case open to supervise enactment of the order and

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<sup>3</sup> NCA 10-179 (empowering the National Council to nominate an Attorney General if the Principal Chief failed to do so within sixty days from the Attorney General position becoming vacant) (enacted by veto-override on November 1, 2010; repealed by NCA 12-126 on July 5, 2012).

<sup>4</sup> NCA 10-199 (removing Lighthorse from direct executive branch oversight; creating a new, five-member "Lighthorse Commission" with only two Commission members nominated by the Principal Chief; and empowering the National Council to nominate Lighthorse Commission members to fill Commission vacancies if the Principal Chief allowed a Lighthorse Commission seat to remain vacant for more than sixty days) (enacted by veto-override on January 11, 2011; repealed by NCA 12-126 on July 5, 2012).

<sup>5</sup> NCA 10-200 (removing control of Department of Health Administration finances and personnel from the direct authority of the Office of Principal Chief and the Nation's Controller) (enacted by veto-override on January 11, 2011; repealed by NCA 12-126 on July 5, 2012).

<sup>6</sup> *Order and Judgment 1* (March 4, 2011).

<sup>7</sup> *Petition for Writ of Prohibition* (February 22, 2011), SC 11-01, *Muscogee (Creek) National Council v. Moore* (filed February 22, 2011; consolidated with SC 11-09, *Muscogee (Creek) National Council v. Tiger* on January 17, 2014).

<sup>8</sup> CV 11-10, *Order and Judgment 6* (March 4, 2011).

<sup>9</sup> *Id.* at 7.

<sup>10</sup> *Id.* at 8.

judgment and expressly retained jurisdictional authority to punish future conduct of individual National Council members found to be in indirect contempt amounting to legislative usurpation of constitutionally vested executive authority.<sup>11</sup> Defendant-National Council initially sought final order appeal from the underlying order and judgment;<sup>12</sup> however, the parties subsequently repealed NCA 10-173, NCA 10-199, and NCA 10-200, and now cooperatively seek voluntary dismissal of the instant appeal with prejudice via joint stipulation and request this Court vacate the lower court's final order and judgment.<sup>13</sup>

### **JURISDICTION, SCOPE AND STANDARD OF REVIEW**

Jurisdiction is proper under Muscogee Creek Nation Code Title 27, § 1-101.C.<sup>14</sup> On appeal, we *sua sponte* review justiciability as a threshold issue and dismiss claims determined to be non-justiciable.<sup>15</sup> Based on the procedural history of both separate actions consolidated here for disposition, our review must be limited solely to the assertions posited in the parties' joint stipulation and the resulting effect on this Court's jurisdiction.

### **ISSUE PRESENTED**

Under Muscogee (Creek) Nation Constitution Article VII, § 1, does an appeal pending disposition remain justiciable once the case no longer presents an actual, ongoing dispute and subsequent intervening events have rendered the parties non-adversarial?

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<sup>11</sup> *Id.*

<sup>12</sup> *Notice of Intent to Appeal*, SC 11-09 (April 4, 2011).

<sup>13</sup> *Joint Stipulation to Dismiss and Request to Vacate District Court Orders*, SC 11-09 (August 17, 2012).

<sup>14</sup> M(C)NCA Title 27, § 1-101.C, vests this Court with exclusive jurisdiction to review final orders of the Muscogee (Creek) Nation District Court.

<sup>15</sup> SC 11-06, *Muscogee (Creek) Nation National Council v. Tiger* 9, 13 (February 14, 2014).

## DISCUSSION AND ANALYSIS

We decline to adopt the conclusions of law provided in the parties' joint stipulation. We deem the joint stipulation wholly insufficient to address the originally disputed issues.<sup>16</sup> Additionally, we specifically reject the suggestion inherent to the parties' joint stipulation that the National Council's constitutional authority to ordain inferior courts under Article VII, § 1, also creates the ability for the National Council to avoid or quash legal or equitable actions by legislatively restructuring the court in which an adverse action against the Council is pending. Regardless of the parties' erroneous conclusions of law, the joint stipulation clearly demonstrates the instant appeal is moot because it no longer presents an actual, ongoing dispute between adverse parties.

It is well settled in modern Mvskoke jurisprudence that our Nation's Constitution divides authority between the three co-equal branches of Muscogee (Creek) government.<sup>17</sup> Article VII vests this Court with the Nation's judicial power, but that authority is not limitless.<sup>18</sup> Only "justiciable" matters may be properly adjudicated by our Nation's courts.<sup>19</sup> Absent a justiciable claim, our Nation's courts must decline to adjudicate non-justiciable disputes that are merely

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<sup>16</sup> This Court has previously rejected similar settlement agreements filed jointly by the same parties in previous separation of powers disputes between the legislative and executive branches of Muscogee (Creek) government. *Ellis v. Muscogee (Creek) Nation National Council (Ellis I)*, 4 Mvs. L. R. 265, 271 (February 20, 2006); and SC 11-06, *Muscogee (Creek) Nation National Council v. Tiger 7* (February 14, 2014).

<sup>17</sup> *Beaver v. National Council*, 4 Mvs. L. R. 19, 23 (January 18, 1985); *Cox v. Childers*, 4 Mvs. L. R. 71, 74 (June 19, 1991); *Cox v. Kamp*, 4 Mvs. L. R. 75, 79 (June 27, 1991); *Oliver v. National Council*, 4 Mvs. L. R. 281, 291 (September 22, 2006).

<sup>18</sup> M(C)NCA Const. Art. VII, § 1 ("The judicial power of the Muscogee (Creek) Nation shall be vested in one Supreme Court limited to matters of the Muscogee (Creek) Nation's jurisdiction and in such inferior courts as the National Council may from time to time ordain."). Article III, Sect. 1, of the 1867 Muscogee (Creek) Nation Constitution referred to this authority as the "supreme law defining power." *Constitution and Laws of the Muscogee (Creek) Nation 5* (Scholarly Resources, Inc. 1975). See also *Beaver v. National Council*, 4 Mvs. L. R. 19, 23 (January 18, 1985); *Cox v. Childers*, 4 Mvs. L. R. 71, 74 (June 19, 1991); *Cox v. Kamp*, 4 Mvs. L. R. 75, 79 (June 27, 1991); *Oliver v. National Council*, 4 Mvs. L. R. 281, 291 (September 22, 2006).

<sup>19</sup> SC 11-06, *Muscogee (Creek) Nation National Council v. Tiger 8* (February 14, 2014). "Justiciability" refers to a group of legal concepts used as criteria to assess whether adjudication may adequately resolve any given cause of action. These judicially-imposed criteria include ripeness, mootness, standing, and a general restriction against judicial intervention in purely political questions or requests for advisory opinions.

academic, advisory or collusive in nature.<sup>20</sup> Although this Court is not restricted by jurisdictional limitations and doctrines of justiciability identical to those imposed on federal courts by Article III of the U.S. Constitution, we have previously recognized certain justiciability concepts related to the timing of judicial review, such as ripeness and mootness, as threshold considerations which may limit the proper exercise of judicial authority.<sup>21</sup>

The justiciability concepts of “mootness” and “ripeness” relate to the timing of judicial review. Whereas “ripeness” considers whether a suit is ready for adjudication, “mootness” addresses whether a once justiciable claim has disappeared. A moot question is one that existed at the commencement of litigation, but has ceased to exist and no longer presents an actual controversy over the interest or rights of a party due to intervening events. The inquiry to test for mootness asks whether the relief sought would, if granted, have any practical legal effect on the interests of the parties. Our Nation’s courts are obligated to *sua sponte* review justiciability as a threshold issue and dismiss claims determined to be non-justiciably moot.<sup>22</sup> Justiciability cannot be conferred by consent or stipulation of the parties.<sup>23</sup>

In evaluating the parties’ joint stipulation and request, we find that as a matter of law, the instant appeal no longer presents a justiciable dispute. Plaintiff-Principal Chief originally sought and obtained an injunction in the District Court against legislation enacted by Defendant-National Council by veto-override. After the lower court’s entry of judgment in favor of Plaintiff-Principal Chief and while the instant appeal from the lower court’s final order remained pending, the parties

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<sup>20</sup> A “collusive” dispute involves parties that are not actually in disagreement, but are cooperating to steer the court towards some agreed-upon conclusion.

<sup>21</sup> SC 11-06, *Muscogee (Creek) Nation National Council v. Tiger* 12 (February 14, 2014) (holding Plaintiff-Principal Chief’s underlying petition and application for contempt citation unripe during entirety of the underlying proceedings); and SC 09-09, *Speir v. Creek Nation Casino* (Nov. 28, 2011) (holding appellant’s workers compensation claim unripe for adjudication prior to arbitration under MCNCA Title 48, §9-101.A.). *But see Oliver v. National Council*, 4 Mvs. L. R. 281, 286 (September 22, 2006) (holding that a seemingly moot case remains justiciable when the underlying harm is capable repetition while evading judicial review via voluntary, temporary cessation of the harm).

<sup>22</sup> SC 11-06, *Muscogee (Creek) Nation National Council v. Tiger* 9 (February 14, 2014).

<sup>23</sup> *See generally Id.* at 8, 9 and n. 29.

jointly repealed the three legislative acts previously enjoined by the District Court. The parties now jointly stipulate, *inter alia*, that “authority to appoint the Attorney General, executive officers of the Lighthouse Police, and the Department of Health rests with the Principal Chief subject to the [advice and] consent of the Nation Council” as required in the Nation’s Constitution.<sup>24</sup>

By repealing NCA 10-173, NCA 10-199 and NCA 10-200, the parties effectively mooted the underlying dispute over constitutionality of the legislation. We lack subject matter jurisdiction to consider the parties’ joint assertion that the lower court’s final order and judgment was “legally deficient”<sup>25</sup> and “incorrectly decided”<sup>26</sup> because the instant appeal no longer presents a justiciable dispute proper for judicial resolution. The vacatur sought jointly by the parties, even if granted, would have no practical effect on the interests or rights of either party. Rather than allow us to reach the sufficiency of the underlying judgment, the instant procedural history necessarily limits our review to justiciability alone. Here, subsequent joint repeal of previously enjoined legislation coupled with lack of adversity between the parties prevents further appellate inquiry.

**IT IS HEREBY ORDERED** that the parties’ joint request to vacate the *Order and Judgment* entered in Case No. CV 11-10 by the District Court on March 4, 2011, is **DENIED**.

**IT IS FURTHER ORDERED** that, pursuant only to this Court’s lack of subject matter jurisdiction to reach the merits of the instant appeal due to non-justiciability, the parties’ joint stipulation to dismiss this action with prejudice is **GRANTED**.

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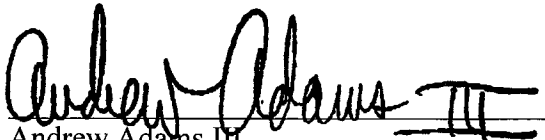
<sup>24</sup> *Joint Stipulation to Di[s]miss and Request to Vacate District Court Orders 2*, SC 11-09 (August 17, 2012). Article V, Section 2, of the Muscogee (Creek) Nation Constitution provides “(a) The Principal Chief shall create and organize the Executive Office of the Principal Chief; and (b) With the advice and consent of the Muscogee (Creek) National Council appoint offices of the Executive Office. The National Council may, by ordinance, vest the appointment of such inferior offices as they think proper in the Principal Chief alone on in the officers. (c) The Principal Chief shall have the power to fill vacancies by granting commissions which shall expire at the beginning of the next National Council meeting.”

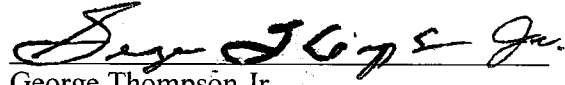
<sup>25</sup> *Id.*


<sup>26</sup> *Id.*

Opinion and Order of the Court

**FILED AND ENTERED:** June 12, 2014.

  
\_\_\_\_\_  
Andrew Adams III  
Chief Justice

  
\_\_\_\_\_  
George Thompson Jr.  
Vice-Chief Justice

  
\_\_\_\_\_  
Montie R. Deer  
Associate Justice

  
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Richard C. Lertman  
Associate Justice



**HARJO-WARE, J., with whom SUPERNAW, J., joins, concurring in part, dissenting in part, and dissenting in judgment.**

We concur with the majority that the parties' repeal of NCA 10-173, NCA 10-199 and NCA 10-200 eliminated the controversy over the issue of their validity. As such, we concur with the majority's dismissal of that part of the appeal that is non-justiciable on the basis of mootness. However, dismissal of the instant appeal does not address that portion of the underlying order that retains jurisdiction over prospective contemptuous conduct. Escaping judicial review of this open retention of jurisdiction is a judicial harm based upon erroneous interpretations of *Ellis v. Muscogee (Creek) Nation National Council (Ellis I)*<sup>27</sup> and *Ellis v. Muscogee (Creek) Nation National Council (Ellis II)*.<sup>28</sup> Specifically, *Ellis I* is used as the legal authority in every instance of perceived legislative encroachment into executive authority.<sup>29</sup>

With regard to the reliance on *Ellis II* cited in the underlying order, it states:

THE COURT FURTHER FINDS AND ORDERS, that **future conduct on the part of individual National Council members in violation of the law of this Nation and** contrary to today's Order and Judgment, shall subject them to summary punishment of indirect contempt as this Court deems just and equitable at this Court's discretion **pursuant to** its inherent authority, [and] **[Ellis II]** . . . [.] . . . This Court further cautions it will not abide payments to tribal officers who go forward and engage in breaking the law as set forth by our Constitution, the Supreme Court of this Nation or this Court. **The Court will hear cases involving prospective contemptuous conduct on filing of a sworn Affidavit with the Court in this case stating probable cause exists** for such an allegation by: the Office of Attorney General; an officer of the Lighthorse Police; the Principal Chief in his capacity as the Nation's Chief Law Enforcement Officer; or any elected official including, but not limited to, a National Council member. If the Court finds the alleged contemnors in fact committed indirect contempt as sworn in the aforementioned Affidavit at a Show Cause proceeding convened for the purpose, they shall be summarily punished **pursuant to Ellis [II]**, this court's inherent authority to punish contemnors and M(C)NCA Tit. 14 § 2-104.<sup>30</sup>

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<sup>27</sup> *Ellis v. National Council (Ellis I)*, 4 Mvs. L. R. 265 (Feb. 20, 2006).

<sup>28</sup> SC 06-07, *Ellis v. National Council (Ellis II)* (August 30, 2007).

<sup>29</sup> See CV 10-157, *Ellis v. National Council* (Order and Judgment at 7, Feb. 25, 2011), *vacated*, SC 11-06, *Muscogee Nation National Council v. Tiger* (Feb. 15, 2014); and CV 11-10, *In Re: The Constitutionality of NCA 10-173, NCA 10-199 & NCA 10-200*, CV 11-10 (Order and Judgment at 7, March 4, 2011).

<sup>30</sup> This separate opinion does not address any other contempt authority cited other than reliance on *Ellis I* and *II*.

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THIS COURT FURTHER FINDS AND ORDERS this case remains Open and the Court retains jurisdictional authority to supervise the enactment of today's Order pending further orders of this Court.

IT IS SO ORDERED.

*In Re: The Constitutionality of NCA 10-173, NCA 10-199 & NCA 10-200*, CV 11-10 (Order and Judgment at 8-9, March 4, 2011) (internal citations omitted) (emphasis added).

In the instant case, *Ellis I* was inappropriately relied upon as the authority to hold the National Council in contempt for usurping the Principal Chief's appointment authority. Despite the parties' stipulation to the contrary, this Court long ago directly addressed the appointment authority of the Principal Chief, to wit:

The appointment powers of the Principal Chief are specifically enumerated in the Constitution of the Muscogee (Creek Nation. Article III, §1, grants the Principal Chief the power to appoint the five members of the Citizenship Board. Article IV, §1, grants the Principal Chief the power to appoint the five members of the Election Board. Article V, §2(b), grants the Principal Chief the power to appoint the officers of the executive office. It further authorizes the National Council to vest the appointment of "such inferior offices as they think proper" in the Principal Chief. Article V, § 2(c) grants the Principal Chief the power to fill vacancies by granting commissions. Article VII, §2, grants the Principal Chief the power to appoint the members of the Supreme Court. **No further appointment power is conferred upon the Principal Chief by the Muscogee (Creek) Constitution.**

As we have previously stated, "the Hospital and Clinics Board, and other like boards, are not purely executive in nature . . . ."

*Fife v. Muscogee (Creek) Nation Health Systems Board & Muscogee (Creek) National Council*,<sup>31</sup> 4 Mvs. L. R. 144, 146 (June 26, 1995) (emphasis added) citing *Cox v. Moore*, 4 Mvs. L. R. 38, 40 (July 17, 1989).

*Ellis I* neither repealed nor modified this Court's holding in *Fife*. *Ellis I* is completely inapplicable to the executive appointment authority.

This Court recently addressed the meaning of *Ellis II* in SC 11-06, an appeal between the parties over their roles in the annual budget process. There, we stated that:

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<sup>31</sup> Justice Harjo-Ware was a party defendant in the underlying District Court case.

*Ellis II* also appropriately declined to specify a timeframe in which the two political branches must agree on and enact a comprehensive annual budget each year. Any such prospective requirement delivered via judicial decree would unmistakably encroach on a domain constitutionally vested in the two political branches.

SC 11-06, *Muscogee Nation National Council v. Tiger* at 12 (Feb. 15, 2014).

In the instant case, *Ellis II* was cited as authority for holding the National Council in contempt; however, *Ellis II* had nothing to do with the Principal Chief's appointment authority. Simply because this Court held the National Council in contempt in *Ellis II*, it did not create additional contempt authority outside of the statutes.

Continuing to retain jurisdiction and threaten summary punishment for indirect contempt through the filing of a mere affidavit also calls into question the violation of the constitutional amendment which deprives both the District Courts and this Court of fact-finding capability in political disputes.<sup>32</sup> The constitutional amendment now provides that only a jury of Muscogee citizens can determine the facts that would lead to findings of whether either the Principal Chief or National Council should be held in contempt for violations of their respective constitutional duties during disputes between the two political branches. *Ellis II*, which predated the constitutional amendment, grants no additional contempt authority. As such, there is no legal authority to hold a case open for any prospective contempt.

The underlying order relied on an erroneous interpretation of this Court's opinions in *Ellis I* and *Ellis II* that these cases serve as independent legal authority to hold the National Council in contempt. The order in the instant case is not based on NCA 10-173, NCA 10-199 and NCA 10-200. The repealed statutes do not address the propriety of using these misconstructions of law to

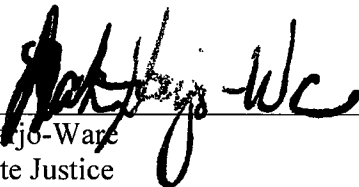
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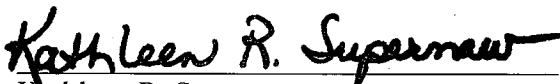
<sup>32</sup> M(C)NCA Const. Art. VII, § 6. Section 6 provides: “[Litigation between Tribal Officers] All litigation between tribal officers shall originate in the District Court of the Muscogee (Creek) Nation, with the right of appeal to the Supreme Court. All questions of fact shall be determined by jury trial. [Added by 2009, [A114].]”

HARJO-WARE and SUPERNAW, JJ., concurring in part, dissenting in part and dissenting in judgment

resolve any dispute between our sister branches of government and summarily hold the National Council in contempt.

The Supreme Court retains jurisdiction pursuant to Title 27 § 1-101C to adjudicate all remaining issues on appeal. The misconstructions of law in the underlying order resulted in an open retention of jurisdiction amounting to a harm that evades judicial review. Moreover, the continuing order in this case is the second such order based on the misconstruction of *Ellis I* and *Ellis II*.<sup>33</sup> These issues cannot be allowed to continue to evade judicial review.<sup>34</sup> In our opinion, we are obligated in this instance to exercise limited jurisdiction to review and vacate the continuing jurisdiction orders and correct the erroneous interpretations of *Ellis I* and *Ellis II*.

  
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Leah Harjo-Ware  
Associate Justice

  
\_\_\_\_\_  
Kathleen R. Supernaw  
Associate Justice

#### CERTIFICATE OF MAILING

I hereby certify that on June 12, 2014, a true and correct copy of the foregoing Opinion and Order was served on the parties listed below by placing it in the United States mail, proper postage prepaid, and addressed to the following: George Tiger, Principal Chief, Muscogee (Creek) Nation, P.O. Box 580, Okmulgee, OK 74447; Zeke Fletcher, Fletcher Law, PLLC, Boji Tower, 124 West Allegan Street, Suite 1400, Lansing MI 48933; Patrick Moore, 206 W. 7<sup>th</sup> Street, Okmulgee, OK 74447; and Roger Wiley, Attorney General, Muscogee (Creek) Nation, P.O. Box 580, Okmulgee, OK 74447. A true and correct copy was also hand-delivered to: Donna Beaver, Clerk of the Muscogee (Creek) Nation District Court.

  
\_\_\_\_\_  
Connie Dearman, Court Clerk

<sup>33</sup> See *supra* n. 3, CV 10-157 (Order and Judgment, Feb. 25, 2011); CV 11-10 (Order and Judgment, March 4, 2011).

<sup>34</sup> See generally *Oliver v. National Council*, 4 Mvs. L. R. 281, 286 (September 22, 2006).