

IN THE MUSCOGEE (CREEK) NATION SUPREME COURT

SUPREME COURT
FILED

MAR 01 2011

IN THE MATTER OF THE)
EXTENDED TERM OF OFFICE OF)
DISTRICT COURT JUDGE)
PATRICK MOORE)
_____)

Supreme Court Case
No. SC 10-05

ROSANNA L. FACTOR, COURT CLERK
MUSCOGEE (CREEK) NATION

MVSKOKVLKE FVTCECKV CUKO HVLWAT VKERRICKV HVYAKAT OKETV
YVNKE VHAKV HAKATEN ACAKKAYEN MOMEN ENTENFVTCETV, HVTVM
MVSKOKE ETVLWVKE ETEHVLVTKE VHAKV EMPVTAKV

Opinion and Order by Chief Justice Chaudhuri, Vice Chief Justice Shirley, Justice McNac.
Justices Mouser, Harjo-Ware, and Supernaw not participating.

OPINION AND ORDER

Upon consideration of the pleadings and record in this matter, for the reasons set forth below, Petitioners' requested relief is denied and this matter is dismissed.

JURISDICTION

This Court has jurisdiction over this matter as 1.) Petitioners have raised issues requiring Constitutional interpretation, 2.) the resolution of these issues would benefit the pursuit of justice, and 3.) lower court review is not necessary or appropriate as this matter evokes purely legal questions regarding the administrative authority of the Supreme Court over inferior courts.¹

STANDING

As set forth in this Court's precedent, the general authority to bring suit is not one of the National Council's powers. As this case does not represent one of the rare and minor exceptions to

¹ This is an action for declaratory relief, and thus not a suit between tribal officers *per se*. The requirements of Amendment A114 as duly enacted by Myskoke voters on November 7, 2009, are therefore not applicable. It is generally the policy of this Court to avoid entertaining actions for declaratory relief, however, this Court has always maintained the discretion to do so in unique and compelling circumstances. Given the impact of the Constitutional issues raised by Petitioners on the entire Judiciary and the Citizens of the Nation, this Court finds it necessary, limited to the present circumstance, to exercise jurisdiction over the present matter.

the general rule that the National Council may not bring suit, the National Council does not have standing to proceed as a Petitioner, and its requested relief is dismissed outright.²

Petitioner Roger Wiley, as the Nation's Attorney General at the time of Petitioner's filing, however, did have the Constitutional authority to represent the Nation's interests in bringing suit, and his standing as Petitioner survives an initial analysis. The fact that Mr. Wiley no longer serves the Nation as Attorney General is of little consequence. The current Attorney General has neither withdrawn the former Attorney General's Petition in this matter, nor formally renounced the arguments made in that Petition. As former Attorney General Wiley and the National Council were joint Petitioners in this matter, their arguments are identical and are addressed by this Court notwithstanding the dismissal of the National Council.

ISSUES PRESENTED

Though framed by Petitioners in different terms, this case raises the following questions of law:

- 1.) What duty does the Judicial Branch have in ensuring a functioning trial court system?
- 2.) If such a duty exists, what authority does the Supreme Court have to carry out that duty?
- 3.) As administrative head of the Supreme Court and, by extension the Judicial Branch, what authority does the Chief Justice have to ensure a functioning trial court system?
- 4.) What force does a legislatively-created restriction on a judicial officer's term of office have on the judiciary in the face of an imminent void in judicial services?

² As discussed in *Muscogee (Creek) Nation National Council et al v. Muscogee Creek Election Board*, Case SC 2009-10 ___ Mvs. L. Rep. ____, (2010) ("*Council v. Election Board*"), the Council may only exercise Constitutionally-enumerated powers – generally those consistent with its legislative function. Legislative powers are limited to those powers necessary to effectively legislate. As presciently noted by Supreme Court Justice Howe in 1990, allowing the National Council to bring actions "invites chaos."

BACKGROUND

Since the adoption of the current Muscogee (Creek) Nation (this “Nation” or “MCN”) Constitution in 1979, this Nation has operated as a tripartite government with three separate branches. These branches – the Executive, Legislative, and Judicial – are each vested with enumerated powers and operate within their own spheres of Constitutional duty.

The Judicial Branch of this Nation operates as a two-tiered judiciary. Pursuant to Article VII, Section 1 of the Constitution, the Supreme Court is vested with the judicial power of the Nation. In addition to serving as the supreme appellate authority, the Supreme Court is vested with supreme administrative authority over the judiciary. The lower court of this Nation, the MCN District Court, operates as the Nation’s trial court.³ Presided over by the Nation’s District Court Judge, the District Court handles several hundred cases per year, ranging from criminal matters, family law matters including adoptions and guardianships, and a wide array of civil suits. The formal appointment process for the position of District Court Judge requires a candidate to be nominated by the Nation’s Principal Chief (“Principal Chief” or “Chief”) and confirmed by the MCN National Council (“National Council” or “Council”).

On June 30, 2010, the Muscogee people faced a crisis – the Nation was on the eve of being without a functioning court system for the foreseeable future. The sitting District Court Judge’s term was set to expire on that date. Despite the critical role that the office of District Court Judge

³ There are instances, however, when it is appropriate for this Court to exercise original jurisdiction over certain matters. Additionally, notwithstanding recent legislative attempts to divest the District Court from certain duties, recently amended constitutional language specifically references the office of the District Court, thus acknowledging the institution in constitutional terms. See, duly adopted Constitutional Amendments as approved by MCN voters on November 7, 2009; *see also*, *Muscogee (Creek) Nation National Council, et al. v. Muscogee (Creek) Election Board et al.*, ___ Mvs. L. Rep. ___; SC 9-10, Dec. 3, 2010, at 4-5 (“*Council v. Election Bd.*”).

serves in affording citizens access to justice, neither the sitting District Judge nor a replacement had been duly appointed to preside over the District Court after June 30.⁴

Prior to June 30, the Supreme Court recognized that without intervention, the Nation would be without a functioning trial court and the Judiciary would be crippled. This Court, in an attempt to avert the upcoming crisis, reached out to the other branches and called a meeting⁵ which was held on June 25, 2010. Despite this meeting, no solution was reached.

Due to the lack of any proposed constitutional solution by the other two branches, the Chief Justice caucused with the other Justices of the Court. No clear consensus as to the best manner to address the problem arose from the discussions. However, at least three of the Justices, including the Chief Justice and Vice-Chief Justice, were inclined to exercise the Court's inherent authority to maintain the District Court Judge's service pending a formal replacement, and one additional Justice was willing to support a seven-day extension of the District Judge's service.

⁴ Although the Principal Chief had nominated the sitting District Court Judge for a new term, the National Council had voted against confirming his nomination. Additionally, the National Council had voted against confirming two other candidates nominated by the Principal Chief.

⁵ The body of the invitation letter stated:

Dear Chief and Speaker:

As you may be aware, the current term of District Court Judge Patrick Moore is scheduled to expire on June 30th, 2010. To date, no replacement for this important position has been made pursuant to our Nation's Constitutional process. As such, the Supreme Court is greatly concerned about the continuing function of the Judicial Branch and ensuring that the Nation's citizens have uninterrupted access to the judicial system. The Muscogee (Creek) Nation Bar Association has raised these concerns as well, due to the numerous ongoing cases affecting the health, safety, and welfare of the Nation's citizens.

The Supreme Court has a constitutional obligation to exercise general supervisory control over the courts pursuant to Article VII, Section 1, of the Muscogee (Creek) Nation Constitution. As part of our exercise of this responsibility, we would like to invite you to discuss and provide input as to the direction of the District Court upon Judge Moore's separation. Please join us for an informational sharing meeting at 3:00 pm tomorrow at the Supreme Court's chambers, to be attended by yourselves, the Justices, and the President of the MCN Bar Association.

With no other reasonable option, on June 30, 2010, Chief Justice Chaudhuri issued an Administrative Order affirming the current District Court Judge's continued temporary service pending his formal replacement ("June 30, 2010 Order"). The stated purpose and practical effect of this Order was to ensure the continuity of judicial services and the uninterrupted access of the Nation's citizens to the judicial system. The June 30, 2010 Order noted that no replacement had been appointed through the formal nomination and confirmation process.⁶

On July 2, 2010, the National Council submitted to the Court a "Request for *En Banc* Reconsideration of Administrative Order Dated June 30, 2010." On July 10, 2010, this Court held an *en banc* conference to consider this request. After a discussion and a vote on the matter, the National Council was advised on July 12, 2010 that "no majority exists to rescind the June 30, 2010 Administrative Order through *en banc* action" and, "therefore, the Administrative Order remains unchanged."

The June 30, 2010 Order was, by its own terms, set to expire on July 30, 2010. By July 30, 2010, a new District Court Judge still had not been nominated and confirmed. On that date, a second Administrative Order was issued to clarify and extend the current Judge's term in the District Court until a formal replacement is duly appointed and confirmed (the June 30 and July 30, 2010 Orders collectively referred herein as the "Administrative Orders").⁷

⁶ The order was titled: "Administrative Order Affirming Current District Judge's Continued Service For a Limited Period Pending Formal Replacement."

⁷ The July 30, 2010 Order incorporated the reasoning and support of the June 30, 2010 Order and provided:

The current District Court Judge of the Muscogee (Creek) Nation, Judge Patrick Moore, a duly qualified citizen of the Muscogee (Creek), shall continue service until a formal replacement is made pursuant to the Muscogee (Creek) Nation's nomination and confirmation process.

On July 30, 2010 this action was initiated by Petitioners Roger Wiley, then-Attorney General (“Attorney General”), and the National Council. Petitioners requested that this Court issue a Declaratory Order upholding Muscogee (Creek) Nation Code Title 26 § 3-204 as a lawful exercise of legislative authority regarding the expired term of the District Court Judge Patrick Moore.^{8,9}

District Court Judge Patrick Moore, filed an Answer *pro se* in this case on August 31, 2010 citing case law describing setting forth the Supreme Court’s judicial power over inferior courts. Principal Chief A. D. Ellis filed an Answer on September 1, 2010, in his official capacity as Respondent, denying the arguments of the Petitioners.

⁸ That statute states “A . . . judge whose term of office has expired and who has not been reconfirmed . . . shall not be permitted to sit as a . . . judge”

⁹ It should be noted that on June 30, 2010, the then-Attorney General, who now serves as counsel for the National Council, issued his plan for how to proceed without a Muscogee trial court. Focusing only on child protective services and not addressing the numerous other important matters that the District Court presides over, the then-Attorney General stated his office would proceed as follows:

1. When it is necessary to seek an emergency order, our office will contact a Supreme Court Justice for issuance of the emergency order and also request a setting for a show cause hearing.
2. In the event that no Supreme Court Justice will consider the request for emergency order, I have directed our attorneys to contact the State of Oklahoma Department of Human Services and ask the State to proceed in State District Court.

We note that not only was this proffered approach without any grounding in Mvskoke law, but it was repugnant to all notions of tribal sovereignty, self-governance, and the duty of our Nation to safeguard our children’s welfare. Having a sole Justice hear a trial court matter, especially one chosen by the AG’s office without selection by this Court or its Administrative head, is not a mechanism provided in any Court rules or procedures and amounts to the creation of internal judicial policies and procedures by an Executive Branch officer – an act that is clearly violative of the Doctrine of Separation of Powers. Furthermore, the act of sending tribal cases to State Court, a forum that is not necessarily attuned to all of the cultural and sociological concerns of Mvskoke children, is an unnecessary divestment of sovereignty and jurisdiction. Instead, given the legitimate concern over continued judicial services for children’s matters, the AG’s office could have worked with the Judicial Branch to ensure continued trial court operations. No such overture was ever made. This is especially puzzling given that the Judiciary was actively reaching out to the other branches to address the matter, and the fact that, as evidenced by the June 30, 2010 administrative order, other more viable options were available. Given the AG’s position in this present case, it appears that the willingness to send matters to State Court were born less out of a concern for judicial oversight of children’s matters and more out of an interest to circumvent the present District Judge.

On September 2, 2010, Supreme Court Justices Leah Harjo-Ware, Denette Mouser, and Kathleen Supernaw recused themselves from this case. The remaining Justices of this Court have the authority and obligation to consider and decide this case under this Court's judicial power as set out in Article VII of the Constitution of the Muscogee (Creek) Nation.¹⁰

DISCUSSION

For the reasons set forth below, the Chief Justice, as the administrative head of the Supreme Court, had the authority to act in the present situation to satisfy the duty of the Judiciary in ensuring that a functioning trial court system exist at all times. Likewise, a legislatively-created restriction on a necessary judicial officer's terms of office has no effect on the Judiciary in the face of an imminent void in judicial services.

A. The Judicial Branch Had a Duty to Ensure Continued Judicial Services.

As we have repeatedly noted, the Constitution vests all judicial powers of the Nation in the Judicial Branch.¹¹ The Judiciary is an undisputed separate and equal branch of the Nation's government, constitutionally tasked with affording Muscogee citizens access to justice. A functioning Judiciary is an integral part of our Nation's sovereignty. To halt the functioning of the Courts would severely damage the Nation's Judiciary, which has developed and evolved since the reformulation of Muscogee government after *Harjo v. Kleppe*.¹² As such, the Judiciary possesses an inherent constitutional responsibility to provide the citizens of this Nation a fully-functioning judicial system. The Judiciary is therefore compelled to continue to function regardless of external

¹⁰ The non-recusing Justices believe it is their duty, per their Oath Office, to protect the Constitution of the Nation. It is their responsibility to assure a functioning court system, a keystone of our sovereign government. Protection of judicial institutions is paramount to this end.

¹¹ See, e.g., *Muscogee (Creek) Nation National Council et al v. Muscogee (Creek) Election Board et al*, SC 09-10 Mvs. L. Rep. ____ (2010).

¹² 420 F. Supp. 1110 (D.C. D.C. 1976)

political factors, and it has the prerogative to do so without unnecessary and unwarranted interruption.

The enumerated powers of our Constitution leave the appointment and confirmation process of judges and justices to the Executive and Legislative branches, respectively. When these two co-equal branches of government cannot agree upon a duly qualified candidate to serve as necessary judicial officer, the Judiciary has the duty to preserve and protect the judicial system.

It is not the Judicial Branch's responsibility to question why a new judicial nominee has not been appointed and confirmed. However, the Judicial Branch must monitor the courts for uninterrupted access to judicial services and expeditiously remedy any impairment to that access. The constitutional authority of the Judicial Branch requires nothing less.

B. Because a Duty Existed, the Supreme Court Had the Authority to Fulfill That Duty.

As established above, the Judiciary has a constitutional duty to ensure the judicial system is fully functioning at all times. The Supreme Court oversees the Judiciary and has supreme, inherent judicial authority over inferior courts.¹³ The Supreme Court, as the head of the Judiciary, has the authority and the obligation to satisfy that duty utilizing all practical and constitutional solutions available.

In the present situation, several nominations for a new District Court Judge were submitted by the Principal Chief to the National Council. All nominations were denied. This Court met with the Speaker of the National Council and the Principal Chief to explain this Court's obligation to ensure a continually functioning trial court. The Court stressed that in excess of 100 cases are

¹³ *Council v. Election Bd.* at 6.

docketed per month, with emergency hearings and criminal arraignments handled on a weekly basis. Many of these cases involve serious child custody matters and important criminal and civil matters. These cases required a Mvskoke judicial forum.

Despite this meeting, no qualified candidate was confirmed to serve as District Judge. As the Nation's highest Court, we have held that the Court is free to function as the framers of our Constitution intended.¹⁴ This Court, as the supreme judicial authority, had no alternative but to fulfill the duty of the Judiciary and remedy the situation before a crisis ensued.¹⁵

¹⁴ See, *Ellis v. Muscogee (Creek) National Council*, SC 06-07, Muscogee (Creek) 2007) ("*Ellis II*").

¹⁵ After the failed attempt to resolve the matter with the other branches, this Court internally considered various temporary resolutions. None of the proposed ideas were in any way practical or served the interests of continued judicial services, and some of them necessarily meant a great disruption in the midst of numerous current District Court cases. For example, one approach discussed was the appointment of a special judge. That approach was far more problematic than the approach taken as, first and foremost, appointment of a special judge for more than one case at a time was prohibited by National Council legislation. Of course, we hold here, and shall continue to hold, that any legislation that unduly infringes on the internal operations of the Judiciary is patently unconstitutional. Nonetheless, creation of a special judge position would have required us to evaluate the applicability of NCA 10-050. In the event that we determined that NCA 10-050 did not apply to the present situation, we still would have had to confront another, even more important constitutional issue.

Historically, all judicial officers have been *initially* appointed through the nomination and confirmation process that ensures Executive and Legislative checks and balances on the Judiciary. This initial appointment allows for vetting of potential candidates to ensure they are qualified for office. This must be distinguished from re-confirmation or affirmation of the extended service of sitting judges that have already undergone the initial vetting process. To forego the nomination and confirmation checks and balances in lieu of appointing our own special judge would have amounted to judicial usurpation of constitutional authority. Furthermore, it must be noted that at no point was the sitting judge ever removed. He simply had not been reconfirmed for office by the National Council, despite his re-nomination. There is a vast difference between this situation and keeping a removed judicial officer in office.

Another approach discussed among the Court was appointing a series of special judges to hear one case at a time. Given the case load of the District Court, the limited resources of the Judiciary, and a finite candidate pool, this approach was ridiculously impractical.

Yet another option discussed was sending a Justice to serve as a temporary District Court judge. This proposal was unworkable mostly because the skill sets for an appellate judge and a trial judge are markedly different, especially so given our judicial framework. Appellate courts are largely involved in providing decisions on matters of law, while trial judges serve as finders of fact while interpreting the law. Nomination and confirmation to serve as an appellate judge and the attendant vetting that corresponds with that process does not automatically satisfy the qualifications to serve as a trial judge.

Other approaches were discussed, weighed, and discarded. In the end, no other approach but the one chosen by this Court and the Chief Justice ensured that continuing judicial services would not be unduly disrupted. We note that had a formal replacement been confirmed, there certainly would have been a slight disruption in the court system during the transition. However, trading one full-time, duly appointed judge for another is not uncommon, and such a change-over would have been presumably accompanied by a dignified and smooth transition period.

C. The Administrative Orders Were Necessary and Appropriate Exercises of the Chief Justice's Authority to Ensure a Functioning Trial Court System.

The Chief Justice presides over the Supreme Court and is, by extension, the administrative head of the Judicial Branch. As the Supreme Court's chief administrative officer, the Chief Justice is vested with inherent administrative authority to ensure the operation of the Judiciary. Furthermore, the Chief Justice has inherent administrative authority to take necessary steps to maintain the power of the Judiciary under the Constitution.

While the Chief Justice should aspire to achieve consensus among all Justices on critical matters of judicial operations, this Court recognizes such consensus is not always possible. Indeed, in a constitutionally-mandated six-member Court, situations will inevitably arise in which no majority sentiment exists as to how the Court should address a specific problem. This is especially true as Justices are expected to exercise their independent judgment, and reasonable minds often differ on important issues.

Nonetheless, the Judiciary must continue to function, even when the Court is of two minds. Therefore, it is absolutely essential to clarify that, in the absence of a majority position among Supreme Court Justices on issues of internal operations, the Chief Justice is empowered to create all necessary and appropriate mechanisms to ensure the continued functioning of the Judicial Branch. More importantly, the Chief Justice may take all reasonable steps to ensure that *Citizens* have continued access to the Nation's courts. This administrative authority of the Supreme Court and of the Chief Justice as its administrative head, must not be frustrated by interference from either the Legislative or Executive branches.

The current stalemate between the Principal Chief and the National Council in appointing and approving a new District Court Judge necessitated the Chief Justice to take the action necessary to ensure the District Court Judge position was not left vacant for the foreseeable future. Leaving the District Court Judge position vacant would have been a neglect of the Court's duties and responsibilities, and would have left this Nation without a functioning constitutional branch of government.

This Court reviewed the cases docketed before the District Court at the time the sitting District Court Judge's term was to expire. Over sixty cases were set for review or adjudication in the weeks immediately following the expiration of the Judge's term. Tribal citizens that have been waiting for their day in the District Court would be denied justice or their cases seriously hindered and delayed by an indefinite lack of appointment due to failure of confirmation of a new judge to the District Court.

This situation was almost identical to that which the Court faced 25 years ago. In the case of *Done in Conference October 31, 1986*, ___ Mvs. L. Rep. ___ (1986), the Court then declared that Justices "should retain their position and continue to perform [their] duties of Justice . . . until their successors [are] appointed and confirmed" While this precedent addressed the position of Justices, the recognition for the need for an uninterrupted judicial system applied directly to the situation at hand as the Nation was faced with losing trial court services because of the lack of a duly appointed successor to the District Court Judge position.

Based on constitutional duty of the Judiciary to meet the judicial needs of the Citizens, and the authority of the Supreme Court as the head of the Judiciary to satisfy constitutional judicial duties, the Chief Justice was required to prevent the approaching loss of trial court services. The

Administrative Orders issued by the Chief Justice were within the Chief Justice's authority as the administrative head of the Supreme Court to ensure the continued and uninterrupted access to Judicial Branch services.

D. A Legislatively-Created Restriction on a Judicial Officer's Term of Office Has No Force on the Judiciary in The Face of an Imminent Void in Judicial Services.

The National Council cannot continually substitute their will by passing new legislation to overturn the Court's authority to operate unobstructed. Any legislative attempt to do so is beyond the powers of the Legislative Branch.

The Muscogee government is comprised of three, equal branches of government. This Court has continually reminded the litigants in a number of cases and again most recently in *National Council v. Election Board*, that this Nation must follow the Constitution with its inherent separation of powers. We have said numerous times that our Constitution must be respected and that the proper roles for each branch are quite clear: the National Council legislates, the Executive Branch enforces constitutionally valid laws, and the Judiciary interprets the Constitution.¹⁶

Implied in the Petitioners' arguments is that the National Council can establish laws that manipulate the functions of the Judiciary any way they desire. Again, this Court has stated that all branches have limitations on their power.¹⁷ This Court should not have to reiterate our numerous prior decisions interpreting actions of one branch as infringing on the rights of another.

Because of the issues presented in this case, it is critical to reiterate the findings in *Ellis II, supra*. In that case, this Court deliberately and meticulously stated, at length, that there are three

¹⁶ In *Oliver v. Muscogee (Creek) Nation National Council*, Case SC 2006-04, ___ Mvs. L. Rep. ___ (2006), we said, at 8, "Each (branch) share(s) a co-equal status and no one branch stands above another. Yet, this Court finds itself repeatedly reviewing facts . . . purporting to prove that the National Council is attempting to do just that – stand above all other branches."

¹⁷ See *Election Board, supra*.

branches of the Nation's government, and each cannot encroach upon the other in performing their governmental responsibilities.¹⁸

Petitioners argue that the Chief Justice lacks the power to independently and individually set aside a law of this Nation absent a case or controversy presented to the Court. First, it must be said that the Chief Justice in no way acted independently or individually. As stated above, the Administrative Orders were issued after numerous discussions among the Justices. At least three Justices, including the Chief Justice, were in full support of the Orders, and one Justice was amenable to a short extension of the District Court Judge's service. Furthermore, the Chief Justice's characterization that NCA 26 §3-204 represented an undue interference with internal judicial operations was entirely accurate. Under the circumstances, 3-204 had to give way to the Judiciary's inherent authority to ensure continued operations.

E. Application of the Above Principles

This Opinion is issued in the interest of minimizing future disputes within the Nation. Nonetheless, its issuance simply reaffirms principles of separation of powers, inherent judicial authority, and the prohibition against undue legislative interference with internal judicial operations that we have expressed numerous times and numerous ways in the past.

All of the principles reiterated in this Opinion have been apparent and self explanatory to any interested parties all along. Certainly, Petitioners were fully aware of these principles when the Administrative Orders were issued. Furthermore, they were provided additional gratuitous

¹⁸ "We think that the highest court of a sovereign government, when created by the Constitution of that government which recognizes the principle of separation of powers entitled to be free to function as the framers of that Constitution intended, and it should guard its prerogatives zealously to preserve its powers as an independent co-equal branch of government." *Ellis II, Supra.*

notice when they were advised, in response to Petitioner National Council's request for *en banc* reconsideration, that no majority existed to rescind the June 30, 2010 Order.

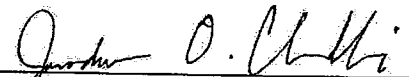
Thus, it is clear that Petitioners have had full notice of the self-executing force of the Administrative Orders, as well as the validity of the present District Court Judge's continued service, for quite some time. This Opinion simply reaffirms the Administrative Orders that have been in full force and effect since their issue dates.

This Court will continue to ensure that the Citizens of this Nation have access to both the trial and appellate tiers of the Judiciary. All reasonable and necessary steps will be taken so that the the Nation's courts are adequately staffed with qualified judicial officers, notwithstanding any political disputes affecting other branches. The Judiciary will not be held hostage by political disputes, nor will it be intimidated by legislative attempts to manage its internal affairs.


The Constitution mandates that this Nation have a District Court, as referenced in Amendment A114, just as it does a six-member Supreme Court, as referenced in Article VII, § 2. These Constitutional mandates will be preserved, regardless of whether the Executive and Legislative branches are able to cooperate to nominate and confirm candidates. Of course, all duly-appointed judicial officers will be embraced by the Judiciary, but justice will not wait for such Executive and Legislative cooperation.

CONCLUSION


For the above reasons, Petitioners' requested relief is denied and this matter is dismissed.



Jonodev O. Chaudhuri, Chief Justice



Houston Shirley, Vice-Chief Justice



Justice Amos McNac

Justices Denette Mouser, Leah Harjo-Ware, and Kathleen Supernaw not participating.