

**SUPREME COURT
FILED**

IN THE MUSCOGEE (CREEK) NATION SUPREME COURT

OCT 07 2024 JWA

**IN THE MATTER OF
THE CONSTITUTIONALITY
OF NCA 24-077**

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Case No.: SC-2024-05

**CONNIE DEARMAN
MUSCOGEE (CREEK) NATION
COURT CLERK**

(District Court Case No.: CV-2024-122)

**MUSCOGEE (CREEK) NATIONAL COUNCIL
BRIEF IN CHIEF**

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October 7, 2024

MUSCOGEE (CREEK) NATIONAL COUNCIL

The Muscogee (Creek) National Council (hereinafter, "National Council"), by and through General Counsel Kyle B. Haskins, and pursuant to this Honorable Court's *Order Assuming Original Jurisdiction, Docketing Case, and Setting Briefing Schedule*, submits the National Council's *Brief in Chief*.

The National Council respectfully requests that this Honorable Court i). *affirm* the constitutionality of NCA 24-077; ii). find it applicable to all pending appeals; and iii). determine that TR-24-073 and TR-24-074 are consistent with Article VII, § 2 of the Constitution of the Muscogee (Creek) Nation ("M(C)N"), and find them valid.

SUMMARY OF ARGUMENT

It is well settled in modern Mvskoke jurisprudence that the Constitution divides authority between the three (3) co-equal branches of government.¹ It is the right of the executive branch to propose legislation to protect the rights of litigants, and the constitutionally protected duty of the National Council to enact legislation that benefits citizens of the M(C)N. This Honorable Court's authority, except where expressly specified by Article VII, is provided by M(C)N law, which may be amended by the National Council as approved by the executive branch. Thereafter, the Court is free to manage its internal decision-making process, consistent with the constitution and laws of the M(C)N.

¹ *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).

NCA 82-30² had been the law of the M(C)N for forty-two (42) years. NCA 24-077, which repealed and replaced Section 200 of NCA 82-30, reflects a long-overdue modernizing of appellate review in the M(C)N, *i.e.*, a legislative upgrade that values due process, transparency, and procedural clarity. Most significant, NCA 24-077 ensures that litigants receive due process of law that will survive intense Federal scrutiny. Finally, NCA 24-077, TR 24-073, and TR 24-074 (collectively referred to herein as, the “Special Justice laws”), ensure the existence of a full appellate panel and parallel the process given to select justices in Article VII, § 2 of the Constitution.

STANDARD OF REVIEW

This Honorable Court has long reviewed issues of law *de novo*.³ Following the grant of original jurisdiction herein on a constitutionality challenge to public law, the National Council respectfully urges that the Court apply the ‘rational basis test.’ There was a rational basis for enactment of NCA 24-077 by the National Council, *i.e.*, to serve legitimate tribal interests.⁴ As NCA 24-077 is necessary for the public welfare, it is entitled to a strong presumption of validity.⁵ Should this Honorable Court conclude that the ‘strict scrutiny test’ should be applied, the National Council will conclusively establish that NCA

² *An Ordinance of the Muscogee (Creek) Nation Adopting the Judicial Code of 1982*; NCA 82-30, enacted on August 28, 1982, and amended by NCA 24-077, Section 3-103(A-C).

³ *Muscogee (Creek) Nation National Council v. Travis Scott*, SC-2021-10 at 6, ___ Mvs. L. R. ___ (July 20, 2022)(internal citations omitted); *A.D. Ellis v. Checotah Muscogee Creek Indian Community, et al.*, SC-10-01 at 3, ___ Mvs. L. R. ___ (May 22, 2013).

⁴ See *Heller v. Doe*, 509 U.S. 312, 320 (1993).

⁵ See MCNRAP Rule 1.F (limited use of Federal law permitted); *United States v. Caroline Products*, 304 U.S. 144 (1938) (These standards are applied to statutes and government action at all levels of government within the United States).

24-077 is necessary to achieve a narrowly tailored compelling interest.⁶ Irrespective of the test applied, the National Council respectfully urges that NCA 24-077 is constitutional.

APPELLANTS' CLAIMS

Petitioners' (hereinafter "Appellants") arguments rest upon claims that the National Council is "handpicking [special justices] on a case-by-case basis", to stack the deck in SC-23-10.⁷ *Pet'rs' Br.3,9*. Appellants presume special justices cannot honor their oaths of office and set aside pre-confirmation partialities when hearing cases or controversies.

Appellants cloud the relevant issues by asserting that the Special Justice laws create a constitutional crisis - accusing the legislative and executive branches of violating separation of powers and trespassing into the judicial branch's authority. This case dispute is between the M(C)N, as a Nation, and Appellants. Appellants ignore M(C)N laws which empower the National Council to enact legislation that affects the functions of the judiciary. Appellants also overlook the processes defined in Article VII, § 2 of the Constitution that were echoed in enactment of the Special Justice laws.⁸

Appellants suggest that the Special Justice laws were enacted upon racially motivated grounds, *ergo*, it must be assumed that their presence will alter the outcome of SC-23-10. Appellants' claims contain false conjecture, assert hypothetical results, and are not supported by law.⁹ Appellants' claims are non-justiciable.¹⁰ Appellants next

⁶ *U.S. v. Caroline Products*, 304 U.S. 144, fn. 4.

⁷ *Ronda K. Grayson and Jeffrey D. Kennedy v. Citizenship Board of the Muscogee (Creek) Nation*, SC-23-10.

⁸ The same process and qualification used to pick all current Supreme Court Justices.

⁹ See *Appendix to Motion to Dismiss Petitioners' Application to Assume Original Jurisdiction and Petition for Declaratory Relief*, filed Aug. 9, 2024, *App'x. A, B, C* .

¹⁰ *Muscogee (Creek) National Council v. Tiger*, SC 11-06, at 8, ___ Mvs. L. R. ___ (February 14, 2014)("[o]nly "justiciable" matters maybe be properly adjudicated by the Nation's courts[.]").

suggest that the M(C)N government can only function when each branch is hermetically sealed - each from the other. This position too is erroneous as a matter of law. Appellants then assert “the Nation explicitly waived sovereign immunity for just the type of relief Petitioners [Appellants] seek.” *Pet’rs’ Br.10*. Yet Appellants erroneously named the National Council as the party opponent, not the Nation. The National Council does not consent Appellants claim to relief. Finally, Appellants assert that the National Council’s procedural rules were ignored during enactment of the Special Justice laws, thus, the laws must be constitutionally invalid. Such argument is factually and legally in error. No National Council policies or procedures were violated, and Appellants cite no authority suggesting that legislative procedural errors, even should they occur, equate to constitutional infirmity. Appellants’ claims should be denied and the case dismissed.¹¹

ARGUMENT AND AUTHORITIES

I. THE SPECIAL JUSTICE LAWS WERE PROPERLY ENACTED.

The National Council Rules of Procedures, which permit use of emergency sessions, are passed into law following each inauguration.¹² Beginning on May 29, 2024, Principal Chief Hill requested that the National Council call an emergency session to discuss a total of seven (7) pieces of legislation, all of which were ‘time sensitive’ and involved the ‘best interests’ of the M(C)N.¹³ Four (4) additional pieces of time sensitive emergency legislation were added at the request of the bill’s sponsors. Contrary to

¹¹National Council *Motion to Dismiss Petitioners’ Application to Assume Original Jurisdiction and Petition for Declaratory Relief*, filed Aug. 9, 2024, (*Fed.R.Civ.P.*, Rule (12(b)(5)(6)(7, Rule 19) 56(a)) (motion to dismiss for lack of standing, failure to sue the real party in interest, no waiver of sovereign immunity, and want of justiciable claims).

¹² NCR 22-010 (most recent law approving the National Council Rules of Procedure).

¹³ Emails dated: May 29, 2024, May 29, 2024, June 3, 2024, June 4, 2024, June 5, 2024.

Appellants' assertions, there are no laws or procedural rules which limit emergency sessions to a single bill. Emergencies are determined by time sensitivity.¹⁴ Speaker Hicks polled National Council members upon all eleven (11) legislative bills and received a majority vote. The agenda, which listed the polled items, was posted and published.¹⁵

On June 10, 2024, the Emergency Session was conducted in compliance with the Constitution and National Council Rules of Procedures.¹⁶ During emergency session, certain discussions were held in executive session; however, no votes or action were taken. No agenda items were considered out of proper sequence. The *Minutes* from the Emergency Session reveal no violations of law or procedure. The meeting was open to the public, broadcasted, recorded, and is available to view.¹⁷

II. NCA 82-30 REQUIRED A LEGISLATIVE FIX.

The failures of NCA 82-30, embodied in MCNCA Title 27, App. 1, Rule 15A, were examined in detail by this Honorable Court in *A.D. Ellis v. Checotah Muscogee Creek Indian Community, et al.*¹⁸ In *Ellis*, the appellants moved to vacate a decision of the court, asserting, *inter alia* that “under M(C)NCA Title 27, § 3-101, an insufficient number of justices joined in the Order’s majority opinion”. The *Ellis* Court, examining the impact of vacancies and recusals, acknowledged the hurdle raised by the appellants and discussed the historical reality existing since 1985 that “[t]he Muscogee (Creek) Nation Supreme

¹⁴ Assuming, *arguendo*, that some bills are not perceived as emergencies by detractors, that opinion would not affect the validity of the Special Justice laws.

¹⁵ The agenda was mass emailed to all M(C)N employees; the agenda, with voting results, was posted on the National Council’s Facebook page; and the National Council website contains the agenda and a video recording of the emergency session.

¹⁶ 1979 Constitution, Article VI, § 4(b); *Muscogee (Creek) National Council Rules of Procedures*, Sections 116(L),(O) & 119.

¹⁷ <https://www.mcnc.com/2024-council-sessions/>.

¹⁸ SC-10-01 (May 22, 2013).

Court is required to decide most cases with fewer than six justices.” The *Ellis* Court further expressed, “[a]lthough the Constitution specifies the Court ‘shall be composed of six (6) members appointed by the Principal Chief, subject to approval by the ... National Council’, [M(C)NCA Const. Art. VII, § 2] vacancies and recusals routinely prevent full constitutional compliment of six justices from participating in most decisions.”

The *Ellis* Court, concluding that M(C)NCA Title 27, § 3-101 was contextually ambiguous, resolved that ambiguity by use of canons of statutory construction.¹⁹ The *Ellis* Court adopted the “Quorum Rule” (necessary to hear any action or appeal) and the “Four-In-Agreement Rule” (to render a decision). Applying these rules, the *Ellis* Court denied the defendant-appellants’ motion to vacate “[b]ased upon our conclusion that M(C)NCA Title 27, § 3-101, requires Supreme Court decisions to be delivered by the simple majority of participating quorum...”.²⁰

The *Ellis* Court correctly identified that the National Council had the opportunity in NCA 99-85 to legislatively fix the issue, but “failed to correct the contradictions [contextual ambiguity] within the 1982 Judicial Code”. In summary, the National Council neglected to offer clear legislative intent for forty-two (42) years and yet this Honorable Court demonstrated its ability to function unimpeded under the burdens of the old law. However, historical functioning of this Honorable Court should not overshadow foreseeable Federal

¹⁹ See *Foster v. Indian Country USA, et al.*, 4 Mvs. L. R. 35, 37 (May 1 1987); *Oliver v. National Council*, 4 Mvs. L. R. 281, 297 (September 22, 2006).

²⁰ Justice Harjo-Ware, dissenting in judgement, wrote “I further concur that when less than six justices are available to deliberate and decide a cases, Title 27, § 3-101 becomes constitutionally problematic.”

scrutiny of pending cases and the possible conclusion that appellants are being denied due process of law under the *Indian Civil Rights Act of 1968*.²¹

III. NCA 24-077 ENSURES DUE PROCESS OF LAW.

NCA 24-077, when presented by the executive branch, was not undertaken by the National Council with the intent of seeking to influence the functions or decisions of this Honorable Court. While the timing of NCA 24-077 may raise eyebrows and the persons nominated by the executive branch to serve as special justices cause concern due to pre-nomination comments, those apprehensions do not impair the constitutionality of the Special Justice laws. It would be disingenuous to suggest that the Special Justice laws would have been deliberated in emergency session by the National Council in the absence of recusal by two (2) justices in SC-2023-10. The National Council was faced with the immediate and unenviable decision to either: 1). Enact NCA 24-077 and face criticism, or 2). Continue to do nothing, ignoring a clear legislative need, and hope for the best should there be federal review upon this issue.

Ultimately, NCA 24-077 was enacted out of concern of federal scrutiny over final orders and mandates issued by less than a simple majority of all six (6) members of this Honorable Court, not only in SC-2023-10, but also in other critically important cases coming before the Court that may proceed into the Federal system.²² NCA 24-077 mitigates against due process challenges to the finality of mandates issued by a simple majority of less than all six (6) seated justices comprising this Honorable Court and against the possibility of an equally divided court. NCA 24-077 ensures the seating of a

²¹ 25 U.S.C. § 1301, *et seq.*

²² NCA 24-077 does not contain language limiting its applicability to non-pending or prospective, cases or controversies; therefore, it applies to pending cases.

full appellate panel for deliberation of cases or controversies before this Honorable Court, and provides litigants with appellate review consistent with Art. VII, §1 of the Constitution.

NCA 24-077 removes the contextual ambiguity decried in *Ellis*, establishes clear legislative guidance, and protects a litigant's right to due process of law. In NCA 24-077, the National Council adopted the identical processes and qualifications to select special justices that are constitutionally mandated in Article VII, § 2 for appointment of Supreme Court Justices. Consequently, TR 24-073 and TR 24-074 are valid.

IV. M(C)N JURISPRUDENCE

The Fundamental Questions before the Court are: 1. *What legislation is the National Council permitted to pass that impacts the judiciary without violating the Constitution?* 2. *What is the role of the Supreme Court in evaluating such legislation while interpreting the Constitution?*

Article VII, § 1 of the Constitution grants courts jurisdiction to resolve disputes under the Constitution.²³ Neither the M(C)N courts, nor any other court, has the jurisdiction or power to order what the citizens of the M(C)N set forth in their most organic document - the 1979 Constitution of the M(C)N.

The National Council is mindful that separation of powers is fundamental to M(C)N governance, and that the National Council is both *empowered and limited* by the Constitution. This Honorable Court must begin its review by examining the source of authority for the National Council's actions in passage of the Special Justice laws. Article VI, §§ 6,7 expressly reserves to the National Council the powers to promulgate laws. The Court has also held that the National Council has broad legislative powers to amend laws

²³ *Harjo v. Muscogee (Creek) Nation Election Board*, SC 07-50 (Muscogee (Creek) 2007), ___ Mvs. L. R. ___; *Ellis v. Muscogee (Creek) National Council*, "Ellis II", SC 06-07 (Muscogee (Creek) 2006), ___ Mvs. L. R. ___.

and procedures, provided that legislative amendments are express.²⁴ The Special Justice laws are clear and specific, *i.e.*, express and facially valid.

The National Council respectfully suggests that Article VI, §§6,7 must be strictly interpreted as it speaks in plain language with reference to the authority of the National Council. Although passage of the Special Justice laws understandably give rise to criticism, this Honorable Court must not place a different meaning upon the words contained in Article VI to overturn a constitutionally valid law. The powers reserved for the National Council in Article VI are plain and unambiguous.

The National Council has many times exercised its authority to legislate regarding the Supreme Court.²⁵ This statement of law is consistent with this Honorable Court's previous decisions finding that the National Council has authority to legislate in the realm of other branches of government - within constitutional boundaries.²⁶ It is significant that the National Council, in NCA 24-077, adopted the identical processes and qualifications to select special justices that are constitutionally mandated in Article VII for appointment of Supreme Court Justices. TR 24-073 and TR 24-074 are therefore proper.

Next, this Honorable Court must examine its role in interpreting the Constitution as applied to the Special Justice laws.²⁷ The M(C)N is a juristic entity separate from both

²⁴ *A.D. Ellis v. Checotah Muscogee Creek Indian Community, et al.*, SC-10-01 at 3, ___ Mvs. L. R. ___ (May 22, 2013).

²⁵ See M(C)NCA Title 26, §§ 1-101, 3-201 *et seq.*, 4-101 *et seq.*, 5-101 *et seq.*, 5-201 & 5-301 *et seq.*, and Title 27, §§ 1-101, 1-106, 3-101 *et seq.*, 7-101, Appendix 1 and 2.

²⁶ See *e.g.*, *Cox v. Kamp* (National Council has authority to legislate as to inferior offices of the Executive Branch and to require approval of Executive nominations).

²⁷ *Muscogee (Creek) Nation National Council v. Travis Scott*, SC-2021-10 at 7, ___ Mvs. L. R. ___ (July 20, 2022).

the Federal government and the State of Oklahoma.²⁸ As stated by Chief Justice John Marshall (United States Supreme Court) in *Marbury v. Madison*²⁹, “[i]t is emphatically the province and duty of the judicial department to say what the law is.” Along these same lines, this Honorable Court has previously found that “[t]he written Constitution of the Muscogee (Creek) Nation is the highest expression of the sovereign will of the people. The very life and spirit of the government centers around this written Constitution. It is the deliberate and affirmative utterance of the sovereign majority.”³⁰

“The Constitution must be strictly interpreted and where the Constitution speaks in plain language with reference to a particular matter, the Court must not place a different meaning on the words.”³¹ “It is very probable that there will be inconveniences from following the Muscogee (Creek) Nation Constitution as it is written. If the Courts, Legislature or Principal Chief add to the plain language under the color of construction, then boundaries to governmental power have been distorted. To allow such to happen would inflict a wound upon the Constitution that nothing can heal. One step taken to enlarge the powers of government opens the door to another until all respect for the fundamental law is lost and the powers of government are just what those in authority please to call them.”³²

²⁸ See, e.g., *Cotton Petroleum Corp. v. New Mexico*, 490 U.S. 163, 191-92, 109 S. Ct. 1698, 104 L. Ed. 2d 209 (1989); *White Mountain Apache Tribe v. Bracker*, 4438 U.S. 136, 143, 100 S. Ct. 2578, 65n L. Ed. 2d 665 (1980) (“Tribal reservations are not states.”).

²⁹ *Marbury v. Madison*, 5 U.S. 137, at 177 (February 1, 1803).

³⁰ *Burden v. Cox*, 1 Mvs. L. R. 140 (M(C)N District Court, Nov.18, 1988).

³¹ *Cox v. Childers*, SC-1991-04 at 3, 4 Mvs. L. R. 74 (June 27, 1991).

³² *Cox v. National Council & Childers*, 1 Mvs. L. R. 150 (Muscogee (Creek) Nation District Court, January 6, 1989).

There have been instances where this Honorable Court properly exercised jurisdiction over the National Council and found certain legislative action to be unconstitutional.³³ However, the National Council respectfully urges that it has not exceeded its constitutionally derived authority by enactment of the Special Justice laws. “A Constitution, by its very nature, serves as a limitation on the power of the government. Without judicial interpretation, however, it may be construed to have as many different meanings as is has readers. Once a case or controversy concerning the meaning of a constitutional provision reaches the courts, then the courts become the final arbiter as to the constitutionality of government actions as they relate to the constitution which empowers them. In other words, if the legislature does not provide for firm constraints on official action, then the courts must do so.”³⁴ In the present case, NCA 24-077 provides firm constraints upon official action. Finally, this Honorable Court must give an interpretation to NCA 24-077 that upholds its legislative intent.³⁵

Article VII vests the Supreme Court with the Nation’s judicial power, but that authority is not without limitation.³⁶ This Honorable Court exercises the judicial authority

³³ *Oliver v. National Council*, SC 2006-04, 4 Mvs. L. R. 281 (September 22, 2006); and *Ellis v. National Council*, SC 2006-07, WL 9191524 (August 30, 2007).

³⁴ *Courtwright v. July, et al.*, SC-1993-01, at 7, 4 Mvs. L. R. 106 (June 28, 1993).

³⁵ *Marbury v. Madison*, 5 U.S. 137 (February 1, 1803).

³⁶ *In re: the Constitutionality of NCA 10-173, NCA 10-199 & NCA 10-200*, (National Council v. Tiger), SC 11-09 at 5 (2014), citing *18 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) 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);

of the M(C)N and maintains broad, largely unreviewable powers over internal tribal matters;³⁷ however, that judicial authority must be harmoniously applied with the other two (2) branches of government. The Court has previously held:

[The Constitution] allows for a true separation of powers between the branches of government and permits a system of check and balances. The “checks” of this system refers to the abilities, rights, and responsibilities of each branch of government to monitor the activities of the other two branches. ‘Balances’ refers to the ability of each branch of government in the Creek nation to use its authority to limit the powers of the other two branches, whether in general scope or in a particular case, so that one branch does not attain power greater than that of either of the other two branches.

Oliver v. National Council, 9 Okla. Trib. at 475.

Irrespective of Appellants’ challenges to NCA 24-077, it is constitutionally valid. If NCA 24-077 were to be found unconstitutional, NCA 82-30, under which this Honorable Court has been acting for forty-two (42) years and was criticized in *Ellis*, is subject to similar legal challenge. The M(C)N would be returned to the contextual ambiguities of NCA 82-30 that are suspect and untested in Federal court.

In summary, the Special Justice laws are proper actions of the National Council, acting within the framework of checks and balances created by the Constitution, designed to ensure the legitimacy of the decisions of this Honorable Court by effectively requiring a full-compliment of justices in every case under review. The National Council acted

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).
³⁷ See, e.g., *Santa Clara Pueblo*, 436 U.S. at 52-53 (determination of tribal membership criteria); *U.S. v. Wheeler*, 435 U.S. 313, 98 S. Ct. 1079, 55 L. Ed. 2d 303 (1978); *U.S. v. Quiver*, 241 U.S. 602, 605-06, 36 S. Ct. 699, 60 L. Ed. 1196 (1916)(“[T]he relations of the Indians, among themselves – the conduct of one toward the other – is to be controlled by the customs and laws of the tribe, save when Congress expressly or clearly directs otherwise.”).

within its constitutionally granted authority in repealing and replacing M(C)NCA Title 27 App. 1, Rule 15A, and by enactment of NCA 24-077. The National Council also properly enacted TR 24-073 and TR 24-074. The National Council respectfully urges that Appellants have no substantive due process right to challenge the number of justices, or which justices, preside over the appeal in SC 23-10.³⁸

Appellants trespass upon the basic functions of separate, but workable branches of M(C)N government. Appellants' efforts to interfere with the National Council's constitutionally protected duties are a violation of M(C)N sovereignty, which is an injury to the National Council that is protected by federal law.³⁹ Appellants' legal challenges are contrary to the comments of the U.S. Supreme Court related to separation of powers.⁴⁰

This Honorable Court should not be tempted to depart from the Constitution's plain text regarding legislative powers or the process to appoint Special Justices that is consistent with Article VII, § 2. The Court has previously recognized, departing from the Constitution's checks and balances "no doubt will lead to a weakened government and a

³⁸ NCA 24-077 must be followed. See e.g., *Carpenter v Wabash Ry Co*, 309 US 23, 27 (1940) (The United States Supreme Court has recognized that "if, subsequent to the judgment, and before the decision of the appellate court, a law intervenes and positively changes the rule which governs, the law must be obeyed, or its obligation denied In such a case the court must decide according to existing laws, and if it be necessary to set aside a judgment, rightful when rendered, but which cannot be affirmed but in violation of law, the judgment must be set aside."). (*citation omitted*).

³⁹ *Prairie Band of Potawatomi Indians v. Pierce*, 253 F.3d 1234 (10th Cir. 2001).

⁴⁰ *Buckley v. Valeo*, 424 U.S. 1, 121 (1976) (*per curiam*) ([A] hermetic sealing off of the three branches of Government from one another would preclude the establishment of a Nation capable of governing itself effectively.); *Youngtown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579, 635 (1952) (Jackson, J., concurring) ([W]hile the Constitution diffuses power the better to secure liberty, *it also contemplates that practice will integrate the dispersed powers into a workable government. It enjoins upon its branches separateness but interdependence, autonomy but reciprocity.*) (*emphasis added*).

true crisis for citizens of this Nation.”⁴¹ The National Council urges the Court to remember its own admonition that each branch “act with a great sense of responsibility and recognition of its rightful authority and its concomitant limitations.”

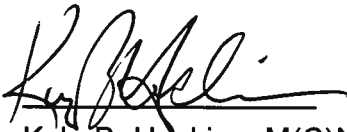
PRAYER FOR RELIEF

The National Council prays that this Honorable Court i). *affirm* the constitutionality of NCA 24-077; ii). find it applicable to all pending appeals; iii). determine that TR-24-073 and TR-24-074 are consistent with Article VII, § 2 of the Constitution, *i.e.*, find them valid; and iv). deny Appellants’ claims and dismiss the case.

ORAL HEARING

The National Council waives oral argument. There are no factual issues in dispute and, therefore, oral argument would not materially assist the Court.⁴²

Respectfully submitted,



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⁴¹ *Oliver v. National Council*, SC-2006-04 at *6, 2006 WL 6122767, (Muscogee (Creek) 2006).

⁴² MCNRAP Title 27, App. 2, Rules 19 and 28(H), as amended by Supreme Court Administrative Order 2023-08.

CERTIFICATE OF SERVICE

I hereby certify that on the 7th day of October, 2024, I caused to be placed into the U.S. Mail, with postage fully pre-paid and affixed thereto, a true and correct file-stamped copy of the above-entitled document to the following:

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