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Sault Ste. Marie
Chippewa Tribal Court of Appeals

**SAULT STE. MARIE CHIPPEWA TRIBE OF CHIPPEWA INDIANS
COURT OF APPEALS**

**MICHAEL JAY LUMSDEN,
Appellant,**

-vs-

Case No. APP-16-03

**SAULT STE. MARIE TRIBE
OF CHIPPEWA INDIANS'
ELECTION COMMITTEE,
Appellee.**

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Wichtman, Appellate Judge who is joined by Chief Judge WARNER, and Appellate Judges CAUSLEY, DIETZ, and Judge FINCH.

AMENDED OPINION AND ORDER ON RESPONDENT'S MOTION TO DISMISS

For the reasons explained below, the Respondent's Motion for Summary Disposition ("Motion") is granted and the Appellant's Notice of Appeal is dismissed without prejudice. In granting the Respondent's Motion, this Court finds that the Appellant's claim is not yet ripe for review by this Court and that the Appellant has failed to avail himself of remedies allowable under Tribal law before seeking redress with this Court.

RELEVANT FACTS & PROCEDURAL HISTORY

The Constitution and Bylaws of the Sault Ste. Marie Tribe of Chippewa Indians ("Constitution") establishes the criteria to hold office as a member of the governing body of the Tribe. Art. IV, § 3. The Constitution further provides that "[t]he board of directors shall enact appropriate ordinances to implement nominations and the holding of elections." Art. V, § 6. Pursuant to its Constitutional Authority, the board of directors enacted Chapter 10 of the Sault Tribe Code "to establish authority for holding tribal elections." STC § 10.101, Election Ordinance. The Election Ordinance establishes the Election Committee; and, generally, the framework for conducting tribal elections including requirements for candidacy, nomination procedures, and the circumstances under which contests and complaints may be filed. STC §§10.108, 10.110-11, 10.118-120. Section 10.120(7) allows for appeal in limited circumstances under 10.120 (2)(c) in which decisions of the Election Committee "may be appealed to the Sault Tribe Chippewa Tribal Court of Appeals pursuant to Chapter 82. Chapter 82 "established the procedures by which appeals are taken...." STC § 82.101. Chapter 82 establishes when this Court can hear appeals generally. STC § 82.111. Section 82.201 establishes who may

appeal the decision of the Election Committee, the limitations of such an appeal (1) challenging the decision of the Election Committee alleging the Election Committee acted in a manner not consistent with Tribal law; and (2) the challenge must be personal to Appellant and not a generalized grievance. Section 82.202 sets forth that an appeal is proper before this Court if it “concerns a final decision of the Election Committee”.

The 2016 Notice of Election was posted by the Election Committee establishing the timeline of the election on January 29, 2016. On or about February 19, 2016 Appellant Lumsden filed a Letter of Intent to run for office pursuant to § 10.111. On or about February 26, 2016, the Respondent sent a letter (“Election Committee Letter”) to the Appellant informing him that the Election Committee was statutorily prohibited from certifying him as a candidate. The Appellant filed the instant matter with this Court on March 7, 2016 challenging, for the most part, the constitutionality of § 10.110(1)(j) of the Election Ordinance.

DISCUSSION

While this Court is not wholly convinced by the Respondent’s argument that it would never possess jurisdiction to hear the issues raised by the Appellant or the ability to grant the Appellant’s requested form of relief, it does agree that it is procedurally barred from doing so in the instant matter. Pursuant to Section 10.108(7), the Election Committee transacts business with a quorum present as often as necessary. The Election Committee Letter does not indicate that a meeting was held or that a quorum was present. Given the absence of date or signature on the communication, the Election Committee Letter seems more like a courtesy regarding its capacity to determine the Appellant’s eligibility rather than a final decision. In fact, the Election Committee Letter does not prohibit the Appellant from receiving and completing his nomination petition in accordance with Tribal law. The nomination petition will not be available until March 24, 2016 and are not due back to the Election Committee until April 14, 2016. The Election Committee is bound by Tribal law to post a List of Eligible Candidates Available on April 19, 2016. It is clear that the Appellant is looking to this Court to predetermine an outcome before it has even occurred. Thus, raising the question of ripeness of the Appellants issues in the instant matter. “Ripeness is a justiciability doctrine designed to prevent the courts, through premature adjudication, from entangling themselves in abstract disagreements. ‘Ripeness becomes an issue when a case is based in future events that may not occur as anticipated or at all.’” *Ky. Press Ass’n Inc. v. Ky.*, 454 F. 3d 505, 509 (6th Cir. 2006). In other words, the ripeness doctrine directly addresses limits on judicial power. In this matter STC § 10.118 (2) read together with the limitation placed on this Court by STC § 82.201 leaves no other choice but to find that this matter is not ripe for judicial review. The Appellant has not completed the nomination packet and the Election Committee has not issued a final decision on his eligibility. Moreover, even if the Election Letter could constitute a final decision of the Election Committee, the Appellant has not availed himself of the process defined in Election Ordinance to contest such a decision, so this matter would still not be ripe for this Court’s review.

ORDER

IT IS ORDERED and ADJUDGED that the Respondent’s Motion to Dismiss is GRANTED.

IT IS further ORDERED and ADJUDGED that Oral Argument scheduled for Monday, March 14, 2016 at 9:00 a.m. is CANCELLED.