

IN THE SUPREME COURT OF THE CHEROKEE NATION

TIFFANY MERRELL,  
Appellant,

v.

CHEROKEE NATION  
BUSINESSES, LLC.  
Appellees.

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Case No. SC-2017-05

2018 APR 17 AM 9:05  
CHEROKEE NATION  
SUPREME COURT  
CHADALL BIRD, COURT CLERK

FILED

OPINION

Appeal from the District Court of the Cherokee Nation  
Case No. CV-2014-499  
Honorable Crystal R. Jackson, Trial Judge

Affirmed

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**Appellant:**

Chad Smith for Tiffany Merrell  
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Tahlequah, Ok 74464  
ph (918) 453-1707  
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**Appellee:**

Tim K. Baker for Cherokee Nation Businesses, LLC.  
Tralynna Scott  
Cherokee Nation Businesses, LLC.  
777 W. Cherokee St.  
Catoosa, Ok 74015  
[tim.baker@cn-bus.com](mailto:tim.baker@cn-bus.com)  
[tralynna.scott@cn-bus.com](mailto:tralynna.scott@cn-bus.com)

**Before:**

John C. Garrett, Chief Justice  
Angela Jones, Justice  
Lynn Burris, Justice  
Mark L. Dobbins, Justice

**IN THE SUPREME COURT OF THE CHEROKEE NATION**

|                         |   |                            |
|-------------------------|---|----------------------------|
| <b>TIFFANY MERRELL,</b> | ) |                            |
| <b>Appellant,</b>       | ) |                            |
|                         | ) |                            |
| <b>v.</b>               | ) | <b>Case No. SC-2017-05</b> |
|                         | ) |                            |
| <b>CHEROKEE NATION</b>  | ) |                            |
| <b>BUSINESSES, LLC.</b> | ) |                            |
| <b>Appellees.</b>       | ) |                            |

**OPINION**

**THIS MATTER** comes on before the Court on appeal from the district court. The district court sustained Merrell's termination below for the reason that Merrell was a temporary seasonal employee and therefore not entitled to benefits and protection of the Cherokee Constitution, and Employee Administrative Procedures Act or Cherokee Nation Businesses policy. Merrell presents an argument that she has not been afforded equal protection because she is deaf and her termination therefore was in violation of the Cherokee Constitution Article III. Merrell also asserts that she was a tenured employee protected by Cherokee Nation Constitution Article XII and therefore entitled to a pre-termination hearing.

Notwithstanding, it appears from the record that Merrell was in fact not a tenured employee. The evidence supports the finding that she was a seasonal employee who worked on a temporary basis periodically on and off at a day rate and as such was not the kind of full time employee covered by Article XII.

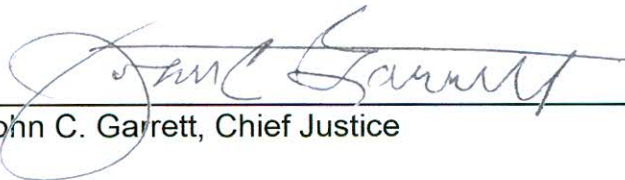
Article III of the Constitution addresses requirements for membership within the Tribe. This Article says nothing about affording members equal protections protection

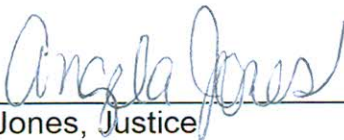
because of an existing physical handicap. To the contrary, as a seasonal employee, Merrell had no property interest in her job and could be terminated at will.

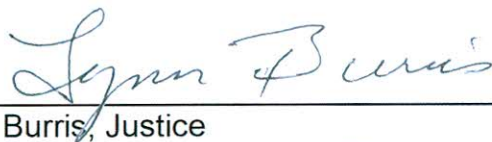
For the above reasons, the decision by the District Court below is hereby *affirmed*.

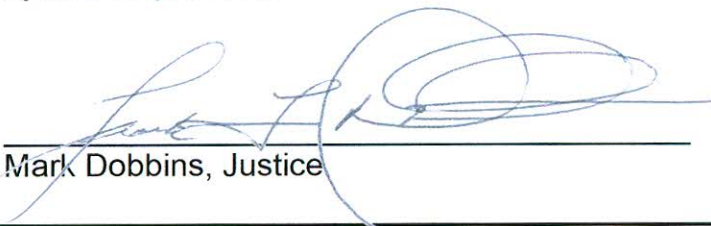
**IT IS THEREFORD ORDERED.**

Dated this 17<sup>th</sup> day of April, 2018.

  
John C. Garrett, Chief Justice

  
Angela Jones, Justice

  
Lynn Burris, Justice

  
Mark Dobbins, Justice

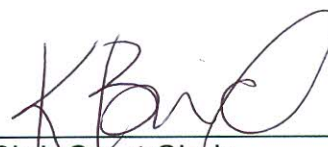
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**Certificate of Mailing**

I, Kendall Bird, certify that on the 17<sup>th</sup> day of March, 2018, I mailed, emailed and/or faxed a true copy of the above and foregoing to the following:

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Judge Jackson, via email  
Kristi Moncooyea, via email

  
Kendall Bird, Court Clerk