

IN THE SUPREME COURT OF THE CHEROKEE NATION

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CHEROKEE NATION
SUPREME COURT
KENDALL BIRD, COURT CLERK

In re: Challenge to the Eligibility
of Randy Junior White, Candidate
for Council, District 11 for the 2017
General Election.

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CASE No. SC-2017-01

For the Appellant
Randy J. White

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For the Cherokee Nation
Election Commission

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Before:

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

OPINION

THIS MATTER comes before the Court from a decision of the Cherokee Nation
Election Commission.

On February 9, 2017, Randy White filed his Declaration of Candidacy for District 11 of the Cherokee Nation Tribal Council. On February 15, 2017, Chance Hayes, a tribal member, registered to vote in District 11 filed a challenge to White's candidacy for the reason that he was not Cherokee by blood. The next day, the Election Commission, issued formal notice of the challenge to White and ultimately determined him ineligible to run for office as he has no Cherokee blood. Records of the Department of the Interior show White is a Cherokee (A.S.). The A.S. refers to his citizenship status as Adopted Shawnee.

The dispute here centers on the distinction between eligibility for citizenship and eligibility for elected office. The March 3, 2007, amendment to the 1999 Constitution, Article IV, Section 1, recognizes three separate groups as citizens of the tribe:

Notwithstanding any provisions of the Cherokee Nation Constitution approved on October 2, 1975, and the Cherokee Nation Constitution ratified by the people on July 26, 2003, upon passage of this Amendment, thereafter citizenship of the Cherokee Nation shall be limited to those originally enrolled on, or descendants of those enrolled on, the Final Rolls of the Cherokee Nation, commonly referred to as the Dawes Rolls, for those listed as Cherokees by blood, Delaware Cherokees pursuant to Article II of the Delaware Agreements dated the 8th day of May, 1867, and the Shawnee Cherokees pursuant to Article III of the Shawnee Agreement dated the 9th day of June, 1869.

It is evident that Cherokee Shawnees and Cherokee Delawares are citizens by virtue of historical agreements – not by Cherokee blood. In Allen v. Cherokee Nation Tribal Council, et al., JAT-04-09 (2006), this Court held that Cherokee Delawares and Cherokee Shawnees are citizens by adoption not Cherokee blood, "The Delaware and Shawnee, like the Freedmen, are citizens of the Cherokee Nation by adoption only." p.

8.

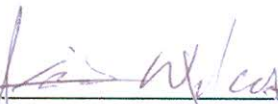
The ultimate issue of eligibility for office was also determined in Allen:

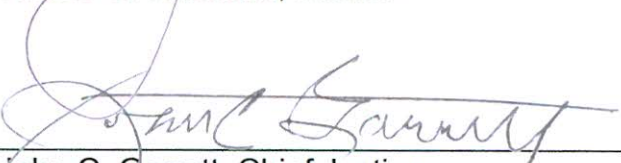
The only time a legal right, under Cherokee law, depends on Cherokee blood, is when a person decides to run for elected office. In that instance, we rely on the blood degree findings of the Dawes Commission to make sure our Principal Chief and Council members are Cherokee citizens by blood. This guarantees Cherokee control of government, but that government is ultimately elected by a larger and more diverse constituency of citizens. p. 9

While various amendments to Cherokee law have been passed over the years since the adoption and ratification of the present Constitution – no changes have been made to Article IV, Section 3 requiring that council members be “citizen(s) by blood of the Cherokee Nation . . .” That constitutional requirement has remained the same since ratification of the new Constitution in 2003 as confirmed by this Court’s decision in Allen.

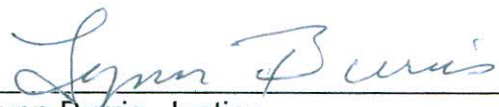
The decision of the Cherokee Nation Election Commission’s decision of February 23, 2017, is **HEREBY AFFIRMED**.

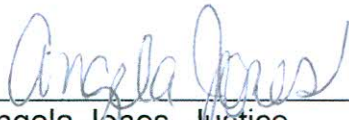
Dated this 24th day of March, 2017.


James G. Wilcoxon, Justice

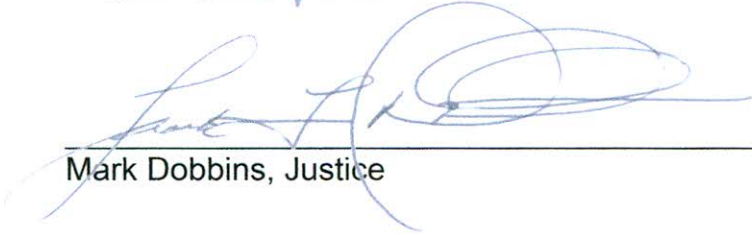

John C. Garrett, Chief Justice

Concurring:


Lynn Burris, Justice



Angela Jones, Justice



Mark Dobbins, Justice

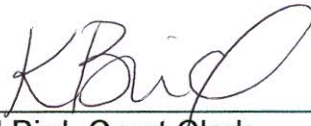
Certificate of Mailing

I, Kendall Bird, certify that on the 24th day of March, 2017, I mailed, emailed and/or faxed a true copy of the above and foregoing to the following:

Deb Reed, deborah@readlegalok.com

Curtis Bruehl, curtbrue@gmail.com

Harvey Chaffin, h1chaffin@greencountryabstract.com



Kendall Bird, Court Clerk