

LOWER BRULE SIOUX TRIBAL COURT )  
 LOWER BRULE SIOUX TRIBE ) : SS IN TRIBAL COURT  
 LOWER BRULE SIOUX JURISDICTION )

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In re Removal Petitions filed regarding: )  
 )  
 KEVIN WRIGHT, ) Civ.# 15-10-0120  
 DESIREE LAROCHE, )  
 SONNY Y. ZIEGLER, )  
 Tribal Councilpersons )

**NOTICE OF ENTRY OF  
 JUDGMENT AND/OR  
 ORDER**

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**TO:** Pearl Colombe & Vance Jandreau vs. Kevin Wright, Desiree LaRoche and Sonny Y. Ziegler, Chase Iron Eyes, Attorney for Councilpersons.

**PLEASE TAKE NOTICE THAT** the Lower Brule Sioux Tribal Court has entered a (n **ORDER FOR DISMISSAL** in the above-entitled matter on the **28<sup>th</sup> day of October 2015**, by **B.J. Jones**, Lower Brule Sioux Tribe Special Court Judge, A copy of which is attached hereto.

Dated this 28<sup>th</sup> day of October 2015

  
 Clerk of Courts

*Pearl Colombe*  
*P.O. Box 31*  
*Lower Brule, SD 57548*

*Vance Jandreau*  
*P.O. Box 53 401*  
*Lower Brule, SD 57548*

*Chase Iron Eyes*  
*chaseironeyes@gmail.com*

**CERTIFICATE OF SERVICE**

I, Clerk of Courts for the Lower Brule Sioux Tribal Court, do hereby certify that a true and correct copy of the Judgment and the Notice of Entry of **ORDER FOR DISMISSAL** were served upon the following persons, by first class mail with postage prepaid, on the dated shown below.

Dated this 28<sup>th</sup> day of October 2015.

  
 Clerk of Courts

LOWER BRULE SIOUX TRIBAL COURT            )  
LOWER BRULE SIOUX TRIBE                    )SS  
LOWER BRULE SIOUX TRIBE JURISDICTION )        IN TRIBAL COURT  
CIVIL DIVISION

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In re Removal Petitions filed regarding:                                   CIV #15-10-0120

KEVIN WRIGHT,  
DESIREE LAROCHE,  
SONNY Y. ZIEGLER,  
Tribal Councilpersons

ORDER FOR DISMISSAL

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A petition was presented to this Court under the provisions of the amended Lower Brule Sioux Tribal Constitution, Article V, Section 4, seeking a recall of the above-referenced elected Tribal Councilpersons. Said petition asserts that the recall petitions had been presented to the Council on September 2, 2015, but does not indicate what action, if any, was taken by the Council on the recall petition. Article V, Section 4 provides that a party shall have 30 days to file an action in the Tribal Court after the Tribal Council decides not to order a recall election.

Based upon the filing the Court entered a scheduling order on October 5, 2015 directing the elected leaders to respond to the recall petition. Their response was filed and they asserted that this Court lacks jurisdiction over the recall petition and that the recall petition is constitutionally inadequate. A hearing was held in this action on October 23, 2015 with two of the tribal members who signed the recall petitions, Ms. Colombe and Mr. Jandreau, appearing for the Plaintiffs. The three Councilpersons appeared in person and through their attorney, Chase Iron Eyes. The Court took some limited testimony from Ms. Colombe, Mr. Jandreau, Councilpersons Wright and Ziegler, Roquel Gourneau, Scott Jones, and also heard arguments from counsel and the signatories to the recall petitions.

This Court concludes that it lacks jurisdiction to entertain this action because the Lower Brule Sioux Tribal Council, with a quorum present, never decided “not to call” a recall election on the three challenged Councilmembers. The only time this Court can hear recall actions is when the Council has rejected a recall petition and the matter is brought to this Court within 30 days. In this case the two non-challenged Councilpersons, McCauley and Langdeau, opted not to approve of the recall petitions or reject them, but instead to refer the matters on to this Court. Although this Court can certainly understand why they took this action- they are after all involved in litigation in this Court against the three challenged Councilpersons in which they are arguing that lawful actions can only be taken by the Lower Brule Sioux Tribal Council upon the votes of four Councilpersons- their inaction does not vest this Court with jurisdiction.

The Honorable Frank Pommersheim in a very similar case authored an opinion on October 15, 2003 in Case No 03-2-0019 ruling that the Council must affirmatively reject a recall petition in order to vest this Court with jurisdiction to hear recall petitions. He also points out the almost impossibility of the right of recall if a petition is filed against more than two sitting Councilpersons at one time because a vote of 4 councilmembers must be achieved to accomplish lawful action and since the Chairman of the Tribe, whose position is currently vacant, would not be permitted to vote unless there is a tie and the challenged councilpersons would probably be disqualified from voting, it is difficult to imagine a situation when a 2/3's majority of the entire Council can vote to either accept or reject a recall petition.


This Court's job is not to rewrite the Constitution, however, even when it seems to in essence deny tribal members their constitutional right of recall. The Court cannot

hear the matter until the Tribal Council at a meeting with a quorum present votes to reject the recall petitions. If that occurs the Court would have jurisdiction to decide whether the Council's rejection of the petitions was in error.

WHEREFORE IT IS HEREBY

ORDERED, ADJUDGED, AND DECREED that this Court dismisses this complaint until the Lower Brule Sioux Tribal Council votes to reject the petition or petitions.

So ordered this 28th day of October 2015.



B.J. Jones  
Lower Brule Sioux Tribe  
Special Judge

ATTEST:



LOWER BRULE SIOUX TRIBAL COURT }  
LOWER BRULE, SD } ss.  
COUNTY OF LYMAN

I hereby certify that I have carefully examined this within instrument and compared the same with the original now on file and of record in this office and that it is a true and correct copy of the same and the above is a correct copy of the filing thereon.

  
Clerk of Court

By \_\_\_\_\_ Deputy