

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

ORVILLE LANDEAU JR.,
JOHN MCCAULEY,
Plaintiffs-Intervenors

CIV-14-12-0119

vs.

ADJOURNMENT ORDER

KEVIN WRIGHT, SONNY ZIEGLER,
AND DESIREE LAROCHE,
Defendants.

Hearing was scheduled in this case for the 11th day of June 2015 at 9 AM on the Plaintiffs' motion for preliminary relief on its amended complaint against the Defendants. The Plaintiffs appeared in person and through their attorney, Terry Pechota. The Defendants retained counsel Gary Montana immediately preceding the hearing and the hearing was delayed to permit counsel Montana to be admitted into the Lower Brule Sioux Tribal bar, which he was. The Court notes that several motions were filed by the Defendants including a motion to recuse this Judge and a motion for stay of proceedings pending appeal. The Defendants withdrew their recusal motion and this Court contacted the Chief Justice of the Appellate Court who indicated the Court was not inclined to grant a stay.

Counsel for the Defendants then asked for an adjournment to permit him to become familiar with the case. The Plaintiffs did not oppose the continuance provided all previous orders of the Court remained in effect. The Court then engaged in a dialogue with counsel and the parties about the constitutional requirement that the Council meet and the apparent difference of opinion on what constitutes a quorum to conduct business

when the Chairman has died and his position has not been filled. The Plaintiffs are asserting that the Lower Brule Constitution defines the quorum necessary to approve tribal business as 2/3's of the officers called for under the Constitution (6), while the Defendants seem to be of the opinion that in the absence of the Chairman, who died, a quorum would be 3 officers of the 5 remaining officers. This issue seems critical to the resolution of the current impasse because the Defendants seem intent upon proceeding with tribal business, including declaring the Chairman's position vacant and filling it, based on its theory of the quorum while the Plaintiffs are resisting meeting with the Defendants based on their belief that the Constitution still requires a quorum of 4 even when one position is vacant due to death and that they do not want to participate in Council meetings under the Defendants' theory of the quorum.

The Court indicated that the previous order of the Court, dated February 13, 2015, enjoined any unconstitutional actions by all parties in this case and that the death of the Chairman had not negated that order. Thus, the issue of what is a quorum under the Constitution when the Chairman has died and the position has allegedly not yet been declared vacant and filled needs to be resolved for the benefit of all parties and the Tribe itself. The Court therefore directed the Parties to file briefs on that issue on or before June 24, 2015 so the Court could possibly provide some guidance on the issue prior to the next Council meeting scheduled for July 1, 2015.

The Court has reviewed the prior order dated February 13, 2015 and finds that the order continues to enjoin any action by the Parties to this case in violation of the Lower Brule Constitution, including any action taken in violation of the quorum requirement. However, the Court also finds that the February 13, 2015 ordered all parties to have

regular Council meetings and that this order shall remain in effect also because not meeting is equally as ultra vires to meeting without a quorum.

WHEREFORE it is hereby

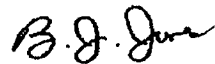
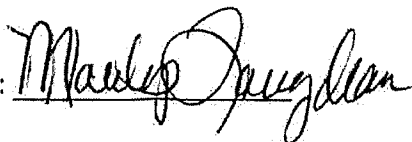
ORDERED, ADJUDGED, AND DECREED that this Court's order of February 13, 2015 shall remain in effect including those parts of that order preventing the parties from taking any action in violation of the Lower Brule Sioux Tribal Constitution and mandating that the Parties meet for regular Tribal Council meetings in compliance with the Lower Brule Sioux Tribal Constitution, and it is further

ORDERED, ADJUDGED, AND DECREED that the parties shall brief the issue of what constitutes a quorum of the Council when the Chairman has died and the Council has allegedly not declared the position vacant and filled the position on or before June 24, 2015 to permit the Court to provide any guidance on the issue prior to the July 1, 2015 Council meeting. All parties shall participate in the July 1, 2015 Tribal Council meeting unless an emergency arises such as major illness or family emergency. They may have their respective attorneys present if so desired, and it is further

ORDERED, ADJUDGED, AND DECREED that hearing on the request for preliminary injunctive relief shall be continued to July 9, 2015 at 9 AM at which time the parties shall be prepared to present their respective cases and defenses.

So ordered this 11^h day of June 2015.

ATTEST:



B.J. Jones
Lower Brule Sioux Tribe
Special Judge