

ROUND VALLEY INDIAN TRIBES

A Sovereign Nation of Confederated Tribes



FILED

NOV 21 2014

CLERK OF THE COURT
ROUND VALLEY TRIBAL COURT

A handwritten signature in blue ink, likely belonging to the Clerk of the Court.

Round Valley Tribal Court

Administrative Office: Tribal Court, 77826 Covelo Road, Covelo, California 95428

Phone: 707-983-8227 | Fax: 707-983-6590

CASE NO: CV-14-00016-LC	
<p>Caroline Card-Want Petitioner</p> <p>V.</p> <p>ROUND VALLEY TRIBAL COUNCIL ELECTION BOARD, ROUND VALLEY TRIBAL COUNCIL AND MR. LAURENCE JOAQUIN Interested Parties/Respondents.</p>	<p>ORDER</p>

This matter came before the Court on the 20th day of November 2014, on an Election Challenge filed by Petitioner Caroline Card-Want. Present in the Court were the Petitioner Card-Want, Election Board Inspector Ron Lincoln, Judge Lois Whipple and Clerk 2 Cheryl Bettega, Tribal Council members, Joe Dukepoo, Rebecca Duncan, Eric Hoaglen, and Carlino Bettega. Candidate elect Laurence Joaquin, who's candidacy is the primary subject of this challenge, was also present. Petitioner Card-Want filed documents and a witness list prior to the hearing, as ordered by the Court and introduced said evidence at the hearing. The Election Board (Board) filed documents prior to the hearing as ordered by the Court, however the Board did not file a witness list or present any witness testimony. The Board did however make a statement. The Tribal Council (Council) filed documents and a witness list prior to the hearing, however they failed to provide their witness list to the Board and the Board objected to the witness testimony and the Court did not allow said testimony. Mr. Joaquin neither filed documents nor a witness list prior to hearing and he did not request to present evidence at the hearing. The Court did allow him to make a statement. Based on the record and proceedings, the Court finds and Orders as follows:

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FINDINGS

1. Election Board members Inspector Lincoln and Judge Whipple failed to uphold and adhere to the terms of the Election Ordinance to the best of their abilities under Section 4.02 b)(4). Specifically, they failed to ensure that four (4) election Board members were present for the election held on November 4th, 2014. In fact, testimony indicated that they contributed to there being only three (3) members present, by indicating to April James that she and not Lauren Whipple, was a Board member. As such, Ms. James, through no fault of her own, mistakenly sat in Ms. Whipple's stead improperly, thinking she was a Board member. All testimony from the Tribal Council confirmed that Lauren Whipple had never been removed from the Board by the Tribal Council, nor had Ms. James ever been appointed to the Board prior to the November 4th election.
2. Election Board members Inspector Lincoln and Judge Whipple failed to conduct the election in a fair and impartial manner in violation of their Duties and Responsibilities under the Election Ordinance Section 4.02 a)(1). Specifically, in light of the fact that Inspector Lincoln's son was running for office, special care should have been taken on the part of Inspector Lincoln and Judge Whipple to avoid even the appearance of impropriety. Instead, testimony by witnesses as well as Inspector Lincoln and Judge Whipple, themselves indicate that few, if any, safeguards were put in place. For example, Inspector Lincoln admitted and witnesses observed him often handling election documents on his own, outside the presence of other Board members. Judge Whipple voiced no concern throughout the election process regarding this issue and provided testimony that she had full knowledge of it.
3. Election Board members Inspector Lincoln and Judge Whipple failed to reject Laurence Joaquin's nomination forms when he filed them incomplete and then filed the Live Scan document on September 16th, 2014, the day after the deadline for submissions in violation of Section 5.01c)(4). Judge Whipple testified that somehow Mr. Joaquin's nomination packet was missing the code mandated Live Scan. Mr. Joaquin testified that he intended to withdraw his packet, however, the Board accepted it past the deadline. Each candidate is responsible for knowing and understanding the code requirements for nominations, however, the Court does not find that Mr. Joaquin intended to deceive the voters. He believed the Board had the authority to accept his document past the deadline.

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It in fact did not. Had the Board properly rejected Mr. Joaquin's incomplete nomination packet at the time he submitted it, he likely could have timely resubmitted.

4. Election Board members Inspector Lincoln and Judge Whipple failed to adhere to mandated election procedures under Section 11.05 a),b),c) and d). Specifically, witnesses testified to and Judge Whipple admitted that she called a thirty minute break after the close of the polling. Evidence was presented that the Ballot Box was not unlocked by an election board member. Witnesses testified and Inspector Lincoln admitted that ballots were being counted by non-Board members.

ORDER

Based on the above findings, this Court must, and does hereby Invalidate the Election of the Round Valley Tribe held on November 4, 2014.

It is further Ordered that a Special Election shall be held on December 23, 2014 and the attached and incorporated Notice of Special Election shall be posted by Election Board member, Clerk 2, Cheryl Bettega at the Round Valley Tribal Administration Offices and at least three other public locations on or near the Round Valley Reservation. Said notice shall be posted no later than midnight on November 23, 2014. Board member Bettega may delegate her notice posting responsibility to the Round Valley Tribal Police Department should she so wish and may do so upon the Police Department's Service of this Order and the Notice upon her.

It is further Ordered that any qualified voter shall be entitled to make a written request to vote by absentee, however, voters who received their absentee ballot for the November 4th election, shall not be required to request an additional absentee ballot. A ballot shall automatically be sent to them.

It is further Ordered that, Cheryl Bettega shall collect all of the requests for absentee ballots that were sent in for the November 4th 2014 election and accept all requests for absentee ballots for the December 23rd Special Election, and she and the Election Board shall mail out Absentee Ballot Packets to each voter who has requested an absentee Ballot. The absentee packets shall be sent out no later than December 5th for requests on hand and no later than three days following requests for absentees received after December 5th. The deadline for requesting an absentee ballot is December 12th. Section 10.01 of the Ordinance is conflicting as to whether a deadline may be set for

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absentee ballots. Section b) indicates that absentees may be requested *at any time before the day of the election*, which makes no sense, read in conjunction with the extensive ballot packet mail out procedures of Section 10.02 and the mandate that all ballots be returned the day before the election. The last sentence is section d) indicates that the Election Board shall not be held responsible for Absentee Ballots which *are received beyond the deadline set for the receipt of the Absentee Ballots*. This section appears to authorize the setting of a deadline. Nothing in the Constitution prohibits the setting of a deadline, the issue of absentee ballots was raised in this challenge and a deadline will make this issue clear to both the voters and the Election Board and can only assist in the absentee process. As such this Court set the above deadline.

It is finally Ordered that Laurence Joaquin's name shall be stricken from the list of Eligible Candidates, as he is lawfully ineligible to run for Office in the December 23rd 2014 Election, as his nomination packet was received incomplete and then improperly received after the deadline.

CONCLUSION

This Court recognizes how this decision will impact Mr. Joaquin, and those Tribal members who cast their vote for him. Fortunately every Tribal member has the important right to vote and run for office every year. These circumstances highlight the importance of holding the election process to a high ethical standard that will yield an unquestionably fair and just election result. Every tribal member running for office has the right to be held to the same Constitutional and legal standards as every other member running for office and every member voting has the right to have their vote properly counted in every election. Neither was the case on November 4th, 2014 and therefore that election must be set aside.

Dated this 21st day of November 2014.



Judge Leona Colegrove

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TRIBAL COUNCIL OFFICE
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COVELO, CALIFORNIA 95428
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LOCATION: ON STATE HWY 162
ONE MILE NORTH OF COVELO
IN ROUND VALLEY
TRIBAL TERRITORY SINCE TIME BEGAN

ROUND VALLEY RESERVATION ESTABLISHED 1856

NOTICE OF SPECIAL ELECTION

DATE OF SPECIAL ELECTION: DECEMBER 23RD, 2014

TIME OF SPECIAL ELECTION: 8:00 A.M. TO 8:00 P.M

POLLING PLACE: ROUND VALLEY TRIBAL COUNCIL BUILDING

ABSENTEE VOTING: Request an Absentee Ballot from Cheryl Bettega

Deadline to Request Absentee DEC. 12th, 2014

Election Board Round Valley Indian Tribes
77826 Covelo Road
Covelo, California 95428

(707) 983-6128 Fax

electionboard@rvit.org

RVIT D-2 (01/2011)