

ROUND VALLEY INDIAN TRIBES

A Sovereign Nation of Confederated Tribes

FILED

NOV 21 2014

CLERK OF THE COURT
ROUND VALLEY TRIBAL 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-14-00015-LC	CASE NO: CV-14-00015-LC
<p>Zerlinda Hoaglen-Card Petitioner</p> <p>V.</p> <p>ROUND VALLEY TRIBAL COUNCIL ELECTION BOARD, ROUND VALLEY TRIBAL COUNCIL AND MR. LEWIS LINCOLN Interested Parties/Respondents.</p>	<p>ORDER</p>

This matter came before the Court on the 20th day of November 2014, on an Election Dispute filed by Petitioner Zerlinda Hoaglen-Card. Petitioner appeared telephonically and present in the Court were Election Board Inspector Ron Lincoln, Judge Lois Whipple and Clerk 2 Cheryl Bettega, Tribal Council members Eugene Jamison Jr., Joe Dukepoo, Rebecca Duncan , Eric Hoaglen, and Carlino Bettega. Candidate elect Lewis Lincoln, who’s candidacy is the primary subject of this dispute, was also present. Petitioner Hoaglen-Card 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) and Mr. Lincoln both filed documents prior to the hearing as ordered by the Court, however, both failed to provide witness lists to the Court, Petitioner or the Tribal Council as Ordered. The Court however allowed the Board and Mr. Lincoln to present witness testimony despite not having provided their respective lists of witnesses prior to hearing. The Tribal Council did not introduce evidence in any form, however, certain Tribal Council members were called to provide testimonial evidence. Based on the record and proceedings, the Court finds and Orders as follows:

FINDINGS

1. 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, the Board in pleadings filed prior to hearing indicated that in “All decision regarding final list of candidates for 2014 tribal election, Mr. Lincoln abstained”, and at hearing Ron Lincoln testified contrary to that and indicated that not only did he not abstain from making a

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decision about the final list, he participated in the decision related to whether his son's name should be included on the list in light of the residency issue that the Board was determining.

2. Election Board members Inspector Lincoln and Judge Whipple failed to ensure all candidates met the qualifications of office in violation of their Duties and Responsibilities under the Election Ordinance, Section 4.02 a)(3) and the Constitution, Article VIII, Section 5(a). Specifically, Ron Lincoln testified that the Board, in interpreting the residency provision of the Section 5(a) of the Constitution, interpreted it and applied it to mean, one year *ever*. Lois Whipple testified that the Board utilized Lewis Lincoln's self-drafted resume to establish residency. Neither method adheres to the code mandated method, of written proof of reinstatement of residency with the Executive Secretary of the Tribe. See Section 6.01, Qualifications of Office. When this matter was brought to Inspector Lincoln and Judge Whipple's attention after the October 23rd forum, in writing, the matter was never addressed by either member of the Board.

3. Lewis Lincoln was not a resident of the reservation for at least one (1) year, nor has he resided in the Round Valley area for at least one (1) year. Bernadine Whipple conducted a background check in conjunction with the nomination materials supplied by Lewis Lincoln and that information was provided to the Court in advance of the hearing. The background check confirmed the testimony of several witnesses who indicated that at the candidates forum held on October 23, 2014, Lewis Lincoln told the public that he had just move back in September.

4. This Court has lacks the authority to remove Election 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

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to each Voter who has requested an absentee Ballot. The Absentee Packets shall be sent out not later than December 5th for requests on hand and no later than three days following requests for requests received after December 5th. The deadline for requesting an absentee ballot is December 12th.

It is further Ordered that, because under the Constitution and Election Ordinance the Tribal Council and only the Council has the authority to remove Election Board members, Petitioner Hoaglen-Card's request to remove the Election Board is hereby denied.

It is finally Ordered that Lewis Lincoln's name shall be stricken from the list of Eligible Candidates, as he is Constitutionally ineligible to run for Office.

CONCLUSION

This Court recognizes the importance of this decision. It is unfortunate that the errors of a few have effected so many, particularly when this matter was brought to the attention of the Election Board well before the election. The Round Valley Constitution and Election Ordinance lay out the framework for a fair and just election process. The Indian right to vote in democratic tribal governmental process is sacrosanct; it is too important to be interfered with. A new election is required to make sure that every Round Valley Indian voter's voice is properly heard.

Dated this 20th day of November 2014.



Judge Leona Colegrove

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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

Election Board Round Valley Indian Tribes
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