

Attachment 1

Oglala Sioux Tribe Election Court of Appeals
(Order issued October 22, 2006)

OGLALA SIOUX ELECTION APPEALS COURT
OGLALA SIOUX TRIBE SS IN ELECTION COURT OF APPEALS
PINE RIDGE INDIAN RESERVATION

In the matter of:

Case No. 06-005, thru 010EA

OST PRIMARY ELECTION

**DECISION OF THE
ELECTION COURT OF
APPEALS**

Having heard this matter before the OST Election Court of Appeals on October 18th and 19th 2006 at the hour of 10:50 a.m. at the OST Courthouse located in Pine Ridge, South Dakota. These matters were heard before the Honorable Election Chief Judge Javan Tony Ten Fingers, Honorable Election Judge Cornell Conroy, and Honorable Election Judge Francis Pumpkinseed.

The Courts having heard the testimony on the above docket cases 06-005EA thru 06-010EA the Court now finds the following;

FACTS AND FINDINGS

The Courts having spent (2) two trying days of hearings pertaining to the numerous challenges that were filed. In reference to the OST Primary Election that was held on October 3rd 2006 on the Pine Ridge Indian Reservation. This Election is held every (2) two years as stated in the Oglala Sioux Tribe Constitution. These elections are held to decide the peoples choice as to the President, Vice-President, Chief Judge, and all (9) District Council. This is the only form that the people have to voice their opinion.

Through testimony that was heard before this Court by a number of individuals whose major concerns were the misprint on the ballots that were used on the day of the OST Primary Election. Some challenges were in concern of counting, decisions that were made by the OST Election Board, and federal background checks.

In reference to these matters the Courts did research these matters did find in the OST Election Ordinance 04-06 which states in Section 8. Ballots;

The Board shall prepare and supervise the printing and distribution of the Primary, General and Special Election ballots. A record shall be kept by the board of the number of all such official ballots so printed and the Board in it's report of the election results shall account for all official ballots. The counting of all election results shall be open to the public. The Primary Election ballot shall be in the form specified herein.

The Court at this time is unable to find in Ordinance 04-06 that the OST Election Board does not have the right to submit misprinted ballots, nor can we find that any teller or judges may mark on any ballots.

In reference to posting signs that clearly state that there is an error on the ballots; The Court can not find in the OST Election Ordinance 04-06 any instruction to post signs warning people of misprint ballots. The Ordinance only states that sample ballots and dates are to be posted.

In reference to background checks that were to be conducted by the OST Election Board, in which the individuals did pay for with money Orders the Court did find in the OST Election Ordinance 04-06 Section 6. Sub-Section A-2 which reads;

Candidates for Tribal, District, and Community offices or any other elective office on the Reservation shall not have been convicted of a felony or any dishonest act (Ordinance 99-16) in FEDERAL, State, or Tribal Court. Candidates for Tribal offices shall consent to a background check by the Oglala Sioux Public Safety Commission for any felony convictions.

The Court having spoken with the OST Election Board Chairperson Ms. Charlene Black Horse on the phone on October 22nd 2006 at the hour of 8:35 p.m. did in fact state that NO federal background checks were done on any of the candidates for this election.

In reference to the Election in the LaCreek District the Court having researched the issue in the OST Election Ordinance 04-06 did find in Section 13 Sub-Section (B) which reads;

If in any district, not more than twice the number of candidates for Representative to which that district is entitled should filed valid nominating petitions for such office, there shall be no Primary Election for Representative in that district, but the names of all persons filing valid nominating petitions for Representative shall be placed by the Board on the General Election Ballot.

The Court having read this in the OST Election Ordinance 04-06 does feel that the ballots that were printed in LaCreek District should have only the names of Candidates running for President, Vice President, and Chief Judge.

CONCLUSION

The Courts having heard these matters in hearings and days of research and meetings pertaining to the challenges that were filed by Duly Enrolled members of the Oglala Sioux Tribe. We as the Court of Election Appeals do have great concerns in reference to the OST Primary Election that was held on October 3, 2006 on the Pine Ridge Indian Reservation.

Any Election that is conducted any where in the United States are a very delicate matter, the people entrust the Election Board to make NO mistakes. Making mistakes on any of the election process is a clear violation of a person's right. Voting is a privilege and should not be violated in any form. The Court having spoken with the OST Election Board Chairperson Ms. Charlene Black Horse she stated that it was the decisions of the entire OST Election Board to go forward with the OST Primary Election.

The OST Board should have pushed the date back for the OST Primary Election because of misprint ballots. The people on the Pine Ridge Indian Reservation do deserve nothing but perfect ballots to cast their votes on. The Court could over look a misprint memo or misspelled name. The Courts can not over look this matter or ignore it any way.

This matter can only be looked at as gross negligence conducted by the OST Election Board. It is their job to make sure that the ballots are in proper form.

Ms. Black Horse did state also the ballot boxes went out without the ballots; the Courts are concerned with this issue also. The boxes and the ballots are to be sealed. The safety of the boxes and ballots as stated in the OST Election Ordinance 04-06 are too held in the highest form to insure a fair election. It clearly states in the OST Election Ordinance 04-06 that the Board is to uphold the rules and regulations of this Ordinance. Was this done this Court finds that OST Election Board in its entirety failed to do so. The OST Election Board is found in gross negligence of their duties.

As far as Federal background checks the OST Election Board have a duty to run Federal Background checks as stated in Ordinance 04-06. One of the Board members did state that she did the Federal background checks. When fact this statement was not true, the chairperson Ms. Black Horse stated that no Federal background checks were conducted on any of the candidates. The Courts finds the OST Election Board negligent in their duties.

LaCreek District, did have gross misprint ballots, the ballots should have had only names for the candidates running for President, Vice-President and the Chief Judge all of the District Representatives should gone forward as stated in the OST Election Ordinance 04-06. Again the Court finds the OST Election Board in gross negligence in their duties.

The evidence that was presented to the Court was overwhelming. This Court does feel that if the Oglala Sioux Tribe had enforced this Courts Order previous to this Order the Oglala Sioux Tribe may have saved thousands of dollars. It is hereby;

ORDERED, ADJUDGED and DECREED, the OST Primary Election that was held on October 3rd 2006 on the Pine Ridge Indian Reservation be null and void due to gross negligence by the OST Election Board, by allowing misprint ballots to be used in the election. It is further;

ORDERED, that a new Oglala Sioux Tribal Primary Election be conducted immediately. It is further;

ORDERED, that all candidates running for any office acquire a Federal background check as stated in the OST Election Ordinance 04-06. It is further;

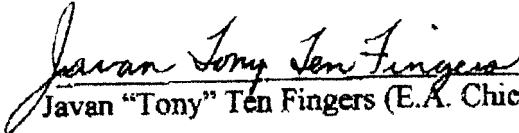
ORDERED, that all candidates (4) running for the LaCreek District Representative go forward to the General Election as stated in the OST Election Ordinance 04-06. It is further;


ORDERED, that the Oglala Sioux Tribe uphold and enforce any and all Orders that are handed down by this Court. It is further;

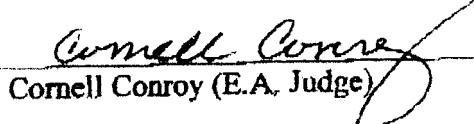
ORDERED, that the OST Election Ordinance 04-06 Section 16, Sub-section (G) which reads; The decisions of the Court of Election Appeals on all issues under its jurisdiction shall be final and binding upon the parties. No further appeals to the Tribal Court or the Supreme Court are available. Shall be upheld.

Dated this 22nd day of October 2007.

BY THE OGLALA SIOUX TRIBE ELECTION APPEALS COURT:


Javan "Tony" Ten Fingers (E.A. Chief Judge)


Francis Pumpkinseed (E.A. Judge)


Cornell Conroy (E.A. Judge)