

IN THE WINNEMUCCA INDIAN COLONY TRIBAL COURT
 IN AND FOR THE WINNEMUCCA INDIAN COLONY
 HUMBOLDT COUNTY, NEVADA

AMELIA AYER, CAROLYN AYER,
 DAVID AYER, JIM J. AYER, BELINDA L.
 SHANLE, TIMNA LEWIS, JUSTIN
 SHANLE, EUGENE D. THOMAS, L.
 MICHELLE THOMAS-COCHRANE,
 LAURA LEE HALLOCK, LINDA AYER,
 ROSEMARIE THOMAS, and TONIA
 THOMAS

Case Nos.: WIC-CV-14-001
 WIC-CV-14-002

ORDER of DISMISSAL

Plaintiffs,

v.

INTERIM COUNCIL, *et al.*

Defendants.

ON JANUARY 16, 2015, this Court took up the matters of Tribal enrollment and the 2013 Tribal election. Present for the hearing were Allen Ambler, Tribal Advocate, representing the above-named Plaintiffs, and Treva Hearne, Attorney for Defendants. Specifically, Plaintiffs had moved the Court for a declaratory order that they are enrolled members of the Tribe, and to determine the 2013 Tribal election invalid. Defendant's moved to dismiss both actions. The parties had previously represented to the Court that neither wished to present evidence at hearing.

BASED UPON the arguments of the representatives at hearing, upon all the files and records herein, this Court CANNOT find jurisdiction is appropriate in this matter. Although the Court has subject matter jurisdiction by virtue of the US District Court for the District of Nevada's Order in 3:11-cv-00622-RCJ-VPC, issued March 4, 2014. Plaintiffs have supplied no evidence that the Court may exercise personal jurisdiction on their behalf, nor against Defendants.

Specifically, there has been no showing that any of the parties are "Indians" as defined by the U.S. Code. This is a Tribal Court. Without a threshold showing of the proper heritage, this Court cannot, and more importantly will not, exercise jurisdiction.

HOWEVER, should a reviewing Court determine that sufficient evidence exists to support a finding of jurisdiction in this matter, this Court finds that Plaintiffs have failed to establish standing to pursue the action. No evidence was presented to show that the Plaintiffs named above were either enrolled as members or eligible for enrollment.¹

HOWEVER, should a reviewing Court determine that sufficient evidence exists to support a finding of standing on the part of Plaintiffs, this Court finds that Plaintiffs have failed to provide any evidence upon which to support a ruling in their favor. Although numerous documents have been filed with the Court, very few of them are sworn statements under oath. Those few documents that are sworn statements under oath either fail to support Plaintiffs' position, or are directly contrary to the position.

THEREFORE, BASED UPON the above findings, and for the foregoing reasons, Plaintiffs' actions regarding enrollment and the 2013 election ARE HEREBY DISMISSED.

FINALLY, UPON the Court's own motion, costs and attorney's fees are awarded to Defendants. Costs shall include all costs reasonably related to defending this action, including but not limited to costs of filing fees, copying, printing, travel, and lodging. Defendant's Attorney shall provide a Memorandum of Fees and Costs to the Court on or before January 26, 2015,

¹ Certainly the question of whether they are enrolled is a central issue in the matters. However, without at least a showing that Plaintiffs are eligible for enrollment, they have no basis to petition this Court. For example, no nexus exists in the record between Plaintiffs and those individuals listed in the Minnesota Court ruling, nor has it been alleged that the individuals live within the exterior boundaries of the Reservation.

together with a proposed order. The awarded fees and costs shall be paid as follows: one-half paid by Plaintiffs, one-half paid by Allen Ambler.

CONSISTENT WITH the US District Court's Order, *supra*, any appeal from this Order shall be made to the Intertribal Court of Appeals of Nevada, to the extent that Tribunal will accept jurisdiction. Any appeal shall comply with all ordinances, laws, and rules of this Tribe as well as the rules and guidelines of the Intertribal Court of Appeals of Nevada.

DATED: This 16th day of January, 2015.



T. SHANE DARRINGTON
Tribal Judge