



THE NAVAJO NATION

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CONTACT: GEORGE HARDEEN
COMMUNICATIONS DIRECTOR
OFFICE – 928-871-7917
CELL – 928-309-8532
pressoffice@opvp.org

Navajo President Joe Shirley, Jr., says vote now goes to people following Navajo Supreme Court order to deny reconsideration

WINDOW ROCK, Ariz. – Navajo Nation President Joe Shirley, Jr., said Wednesday that he is pleased the Navajo Nation Supreme Court has cleared the way for an initiative election on Navajo Nation Council reduction and line item veto authority.

The Supreme Court today issued an order to deny reconsideration of its July 30 opinion. That opinion upheld the order of Hearing Office Carol Perry that an election on the two initiative ballot questions should occur within six months of June 25.

“Of course, it makes the heart glad that the Supreme Court stood by its earlier decision,” President Shirley said. “This is the people’s government and the people need to be involved. The election needs to happen, and the two initiatives need to be given to the people to vote on.”

The Court also admonished the parties to talk in order to prepare for the election that it said should occur within three-and-a-half-months. The election will allow Navajo voters to decide whether to reduce the Navajo Nation Council from 88 to 24 members and whether to give the President line item veto authority.

“The exercise of the right of the Navajo People to make laws should be facilitated by the government,” the two-page order states. “To avoid undue delay, the Navajo Election Administration, the Navajo Board of Election Supervisors, and the Initiative Petition Committee should talk and agree as to how to accomplish the election without resort to lengthy and costly court actions.”

The Navajo Election Administration had challenged Judge Perry’s June 25 order but the Supreme Court ruled in its reconsideration order Wednesday that the NEA failed to present specific points or matters of law to

support its claim that the Court had erred in its July 30 opinion.

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It said the Election Administration repeated its previous arguments that were not accepted. The only new matter, it said, was an assertion that stipulations made during an Office of Hearings and Appeals hearing about the number of petition signatures were a mistake.

“This new consideration of their counsel’s stipulation does not suffice for this Court to reconsider its decision,” Chief Justice Herb Yazzie, and Associate Justices Louise Grant and Eleanor Shirley wrote. “In this matter, the appropriateness of legal counsel’s stipulation is a matter between attorney and client.”

The justices said that “the supposed ‘mistake’ was repeatedly made throughout the proceeding and at least twice after the offer of proof was made by appellant (Navajo Election Administration) counsel, Navajo Nation Legislative Counsel Frank Seanez.

In the Supreme Court’s July 30 opinion, it found that despite the NEA’s contention that the petition committee failed to collect enough valid petition signatures, Mr. Seanez, stipulated – or agreed – several times at a

March 30 final hearing that more than enough valid signatures – 16,891 – had been collected.

Given that stipulation, Hearing Officer Judge Perry issued a summary judgment in favor of the petition committee, thus reversing the NEA's determination of insufficiency for both initiatives.

"The numbers were agreed to by both parties," the Supreme Court's July 30 opinion states. "The Hearing Office determined in her final judgment that there was no dispute as to the figures. Hearing Officer Perry, in her discretion, determined there is no need to engage in further hearing when there is a stipulation in the proceeding. That decision is not an abuse of discretion."

The Supreme Court noted that although six months had passed from the time of the Election Administration's determination of insufficiency of the petitions to the OHA hearing, it did nothing to re-confirm its tally of valid signatures.

"To ensure the confidence of the People in their government, the presumption is that NEA's staff have duly performed their duties and that the reported results are correct," the Court found. "It would be absurd to allow the NEA to now attack its own results and present new figures at the eleventh hour, especially when no effort was made to amend the results in the intervening six months."

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