



Contact: Karen Francis, Judicial Liaison Officer
Administrative Office of the Courts
Navajo Nation Judicial Branch
928-871-7018 (office)
928-871-6761 (fax)
Email: karenfrancis@navajo.org
<http://www.navajocourts.org>

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NAVAJO NATION SUPREME COURT DISMISSES APPEAL FOR PROCEDURAL REASONS; ORDERS EXPEDITED HEARING IN JUDGE ELECTION REFERENDUM MATTER

WINDOW ROCK – The Navajo Nation Supreme Court has dismissed, for procedural reasons, an application for an injunction filed by the Office of the President concerning the referendum measure on election of judges which is presently pending before the Window Rock District Court.

Instead, the Court ordered Judge Allen Sloan, the presiding judge in the district court case, to immediately hold an evidentiary hearing on the matter and issue a final decision before the November 2 election.

The Court stated that so long as the case remains pending in the district court, no appeal may be properly filed to the Supreme Court. Until a final order is entered by Judge Sloan, the Court may not address the question raised, which is whether or not the referendum measure was legally referred to the People for a vote.

The Window Rock case and the referendum measure itself have been subject to delays at many levels. After the Council voted on it in July, the Navajo Nation Board of Election Supervisors tabled its vote several times because of legal concerns raised by some of its members that included questions about the ballot language, the lack of presidential approval or veto which the Attorney General had stated made the referral invalid, and the lack of independent counsel for the Board to assist in resolving the questions. The Board finally voted, without debate and without the participation of the Attorney General, to certify the measure on September 15. The President filed his complaint on September 27 seeking declaratory judgment and permanent injunction. Court hearings were initially delayed due to the recusal of Window Rock district court judges. Finally, Judge Sloan from the Tuba City district agreed to take on this case.

The President seeks to enjoin placement of the referendum measure on the general election ballot. Judge Sloan denied preliminary injunction following a hearing on October 8, but has not yet held a final hearing nor issued a final decision.

In its order to Judge Sloan, the Supreme Court recognized the responsibility that is placed on Judge Sloan in a highly charged and political situation. The Court stated that this is "a situation of immense tension for our judges that cannot be over-stated" which "will directly impact the Judicial Branch and our courts." However, the Court emphasized that the courts have a duty to protect the due process rights of the parties and "render impartial decisions no matter what political implications may arise."

The district court will need to confront the Navajo Nation's dual systems of laws in rendering a decision--a system of written laws of precedents and statutes, which government relies on, and Dine bi beenahaz'aanii, which Judge Sloan had emphasized in his October 14 order denying preliminary injunction.

The order requires Judge Sloan to hold a final hearing and render a written decision no later than October 28 since it is an election matter and the Navajo Nation General Election is scheduled for November 2.

A copy of the order is available on the www.navajocourts.org website.

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