

**IN THE DISTRICT COURT OF THE  
CHOCTAW NATION OF OKLAHOMA**

NELLIE MEASHINTUBBY,  
Petitioner,

Vs.

ROBERT KARR and CHOCTAW NATION  
ELECTION COMMISSION and TRIBAL  
COUNCIL OF THE CHOCTAW NATION ex  
rel CHOCTAW NATION OF OKLAHOMA,  
Respondent,

FILED  
CHOCTAW NATION OF OKLAHOMA  
CONSTITUTIONAL COURT CLERK

JUL 24 2019

BY Cara Schumann COURT CLERK Deputy

No.: CC-19-1

**PETITION FOR CONTESTING A TRIBAL ELECTION RESULT/APPEAL FROM  
ELECTION BOARD DECISION**

Comes now the Petitioner, Nellie Meashintubby, by and through her counsel, Blake E. Lynch, and for her Petition for Contesting a Tribal Election Result/Appeal from Election Board Result would state as follows:

**Statement of Undisputed Facts**

1. The Choctaw Nation has exclusive jurisdiction over elections of its officials
2. The candidates for the District 11 Tribal Council seat are all undoubtedly qualified to hold the position.
3. Candidate Karr, with whom the Petitioner has no personal or professional issues, has yet to receive 50% plus 1 votes in any election.
4. Petitioner is a candidate, having properly filed for the seat, for the District 11 tribal council seat.
5. Petitioner was the second runner up in the general election – having missed the runner up position by forty (40) votes or approximately 3.4% of the total vote.

6. Runner up, Bob Patc, withdrew from the election – to the best knowledge of the Petitioner.
7. Candidate Karr was named to the District 11 seat without runoff and without having ever achieved the 50%, plus 1 vote majority necessary to be declared the winner. See attached Exhibits "1" and "2".

## STATEMENT OF RELEVANT LAW AND ARGUMENT

### Declaratory Judgment

Election Law provides a clear mechanism to determine the “winner” of an election

8. CB 88-19 is the most recent version of the Election Ordinances of the Choctaw Nation for Chief and Tribal Council, having been passed unanimously in March of 2019.
9. Article XIX, Section 9, of the Choctaw Nation Tribal Election Code states, in relevant part, "Any Candidate aggrieved by the decision of the Election Board may file an appeal of the Election Board's decision with the Tribal Court within five (5) calendar days of the date of the decision of the Election Board."
10. Article XXII, Section 2, of the Choctaw Nation Tribal Election Code states, in relevant part, "The Candidate for an office of the Tribal Council receiving more than fifty percent (50%) of the total votes cast, defined as **fifty percent (50%) plus one (1) or more votes, in the election shall be declared the winner** for their respective district..." **emphasis added**
11. Article XXII, Section 3, of the Choctaw Nation Tribal Election Code states, "If a candidate does not receive more than fifty percent (50%) of the total votes cast...then a run-off election between the two (2) Candidates receiving the most votes in the general election **shall** be conducted...The person receiving more than fifty percent

(50%) of votes cast, as defined herein...shall be declared the winner..." **emphasis added**

12. Article XIX, Section 8, of the Choctaw Nation Tribal Election Code states, "In the event of the death of one or more of the candidates after the close of the candidate filing period, the **Tribal Council** shall have the authority to (1) proceed with the remaining candidates if more than one candidate remains, (2) declare the remaining candidate the uncontested winner of the election, **if only one remains**, or (3) order a new candidate filing period and new election." **Emphasis added**

13. There is no section that addresses the instant circumstance directly, specifically, if one of the parties to a run-off, for which there is no new filing period, withdraws – what do we do.

14. There is no section that eludes to any circumstance where a Candidate, in a contested election, fails to receive 50% plus 1 vote (with the exception of when there is a tie in a run-off election)

**WHEREFORE**, Petitioner prays the District Court enter an Order declaring that the proper procedure to determine a winner of an election is that the Election Commission will conduct a run-off between the two, remaining, candidates with the highest vote totals: Nellie Meashintubby and Robert Karr.

#### **Application for Temporary Injunction**

14. Choctaw Nation Civil Code, Section 738, allows for an injunction when it appears that the Petitioner is entitled to relief and that commission of an act, during the litigation, would render any judgment ineffectual.

15. Petitioner is not aware of a procedure to "un-seat" a Tribal Council member for a procedural violation by the Election Commission.

16. It is clear that the declaration of Candidate Karr as the "winner" in in violation of the plain reading of the Tribal Election Code and contrary to the clear intent to vote until such time that someone gets a literal majority. There are contingencies for death, and the death of Bob Pate's candidacy is analogous enough to provide a clear path to an "actual" winner of this election.

**WHEREFORE**, Petitioner prays this Court enjoin the Defendant(s) from either taking office or swearing Candidate Karr into office, prior to a ruling in this matter.

Respectfully Submitted,



Blake E. Lynch, OBA #22634, CBA#76  
Wagner & lynch, PLLC  
109 East Washington  
McAlester, OK 74502  
Blake.E.Lynch@gmail.com  
918-421-8843 Telephone  
918-421-8853 Facsimile

**CERTIFICATE OF MAILING**

I, Blake E. Lynch, do hereby certify that on the 23 day of July, 2019, I mailed a true and correct copy of the above and foregoing Petition for Contesting Election Board Results/Appeal from Election Board Decision to:

Choctaw Tribal Council Secretary  
302 Church Street  
Talihina, OK

Choctaw Election Board Secretary  
1802 Chukka Hina Drive  
Durant, OK 74701



---

Blake E. Lynch

VERIFICATION

STATE OF OKLAHOMA                     )  
  ) SS  
COUNTY OF PITTSBURG                )

Nellie Meashintubby, being first duly sworn upon her oath, states:

That she is the Petitioner above named; that she has read the above and foregoing document and knows the contents thereof; and that the answers, statements, allegations and facts therein set forth are true and correct to the best of her information, knowledge and belief.

Nellie Meashintubby  
Nellie Meashintubby

Subscribed and sworn before me this 19 day of July, 2019, by  
Nellie Meashintubby.

Tonya Turner  
Notary Public

My commission expires: 1/26/23  
My commission number: 07000942

