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The 21st Navajo Nation Council

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Navajo Council members unhappy with extension of TRO

Navajo people being disenfranchised with delay of the election process

WINDOW ROCK, Ariz. – Navajo Nation Council Delegates Kee Allen Begay and Young Jeff Tom are disappointed with Window Rock District Court Judge Carol Perry for extending a temporary restraining order on the Navajo Election Administration, which prevents them from disseminating or accepting candidate packets for an 88-member Navajo Nation Council.

On April 13, Judge Perry granted the temporary restraining order (TRO) and scheduled a hearing for May 7 to hear arguments related to a preliminary injunction to stop the election process. The May 7 hearing was regarding the preliminary injunction, but she extended the TRO until the Navajo Nation Supreme Court renders their decision on a case challenging the Dec. 15 special election to reduce the Navajo Nation Council to 24 members.

As a result, the TRO has seriously delayed the upcoming election process. The normal candidate filing deadline was May 5, but Navajo Council candidate packets were not accepted for the period between April 14 and May 5. The primary election, according to the Navajo Nation Code, is set for Aug. 3, 2010, and the general election on Nov. 2, 2010.

"Each judge is given the authority to interpret the law as in individual judge and not base their judgment merely on what the Supreme Court is going to say," Kee Allen Begay said. "It bothers me."

Young Jeff Tom agreed.

"The lower court should be ruling first and then it goes to the Supreme Court if appealed," Tom said. "Why is Judge Perry waiting? We have candidates waiting, candidates are being urged by their constituents to run for office and they are standing in line, but are told to continue waiting. Some have already picked up their petitions for candidacy and some have already filed – she is discriminating."

Begay asked, "Where is justice? If our court is denying people to freely apply or exercise their duty to file an application as a candidate for their people, they need to let the people know."

"As the chairman of the Judiciary Committee, the oversight committee of the Judicial Branch, it bothers me and it concerns me," Begay said. "We have and I have advocated on behalf of our Navajo people that we should have quality justice for our Navajo people based on our Navajo laws, but that is being violated. I believe our court system is being abused and our judges are being persuaded to be on one side -- this is not justice for the Navajo people."

Begay said the TRO hearing was simply to either permanently place the injunction or to lift it. But he said the judge is not doing her job and he questioned her ability to render a decision.

"Maybe the judge does not have the ability to make a ruling or interpret the law," he said. "Maybe it is time we reevaluate our judges. She is given the authority to make fair judgments on cases before her. If she is saying,

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'Let us see what the Supreme Court says,' she is clearly relying on others to do her job and she is displaying doubt in her decision-making abilities, and we must seriously question her ability to interpret what the law says."

"She took an oath to uphold the law, she presented before our Judiciary Committee and even before the Council saying she will uphold the laws, but she is being timid." Begay added. "She did not come before us and say she would wait for other court cases to be heard before she makes her decision."

Tom suggested if the judge cannot make a decision, she should consider disqualifying herself from this case.

Begay and Tom's intent is to bring attention to the matter in hopes the Navajo people will question the judge and the judicial system. Both mentioned the Navajo people are being disenfranchised right now with the delay of the election process.

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