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IN THE NOOKSACK TRIBAL COURT OF APPEALS
NOOKSACK INDIAN TRIBE
DEMING, WASHINGTON

ELEANOR J. BELMONT et al.,

2016-CI-APL- 001

Plaintiff/Counterclaim Defendant-
Respondents,

ORDER DENYING PERMISSION FOR
INTERLOCUTORY APPEAL

v.

ROBERT KELLY, Chairman of the
Nooksack Tribal Council, et al.,

Defendant/Counterclaimant-Petitioners.

This matter comes before us pursuant to the Notice for Permission to File an Interlocutory Appeal filed by Defendants/Petitioners¹, on March 14, 2016. Petitioners seek permission to file an interlocutory appeal of the trial court's decision and Order Denying Defendants' Motion for Preliminary Injunction entered on January 26, 2016 and Order Denying Defendants' Motion for Reconsideration of the January 26 Order, entered on February 29, 2016.

This lawsuit is one of many involving the parties regarding Respondents' enrollment in the Tribe. The trial court's orders denying the motion for preliminary injunction and motion for reconsideration fairly summarizes the history of those suits. *See e.g.* Order Denying Defendants' Motion for Preliminary Injunction at 1-5. That history is familiar to the parties and this Court and will not be repeated here.

This particular dispute centers on the Tribe's 2016 elections. The Petitioners sought to enjoin Respondents from voting in the election on the basis they were not properly enrolled members and therefore not entitled to vote in the elections. The trial court found that to date the Respondents are enrolled members of the Tribe. Order Denying Defendants' Motion for Reconsideration at 16. Under the Nooksack Constitution, an enrolled member of the Tribe is eligible to vote in elections. Const. Art. IV, Sec. 1.² Although Respondents may eventually face disenrollment proceedings--they are currently enrolled members. Neither the Constitution nor the Nooksack election code prohibits an enrolled member from voting even where the member is the target of disenrollment proceedings.

"Permission to file an interlocutory appeal shall be granted only if the Nooksack Tribal Court has committed an obvious error which: a): would render further proceedings useless; or b) substantially limits the freedom of a party to act." NTC 80.03.020 (emphasis added).

¹ The parties are referred to as Petitioners and Respondents for the purpose of this request.

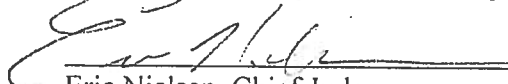
² There is an age restriction.

Interlocutory and piecemeal appeals are disfavored, and the party seeking an interlocutory appeal has a heavy burden of persuasion. *See, Adams v. Kelly*. (Court of Appeals No. 2014-CI-APL-02) (citing, *Chehalis Tribe v. Hillstrom and Hillstrom*, 9 NICS App. 94, 94-95 (Chehalis Tribal Ct. App. 2010)); *see also, Belmont v. Kelly*, (Court of Appeals No. 2014-CI-APL-003) (same).

Under NTC 80.03.020, this Court must make a threshold determination that the trial court has committed an “obvious” error in order to grant permission to file an interlocutory appeal. Based on the record before us we are not persuaded that the trial court committed “obvious” error. Accordingly, the request for permission to file an interlocutory appeal is denied.³

It is so ordered, this 22nd day of March, for the panel,

Douglas Nash, Associate Judge
Gregory Silverman, Associate Judge


Eric Nielsen, Chief Judge

³ Respondents have moved for a stay of all proceedings in the case pending the trial court’s decision on counsel for Respondents disbarment. We decline Respondents’ invitation. This matter concerns only Petitioners’ request for permission to file an interlocutory appeal.