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Galanda Broadman PLLC

IN THE SUPREME COURT OF THE NOOKSACK TRIBE OF INDIANS

In re: Orders Entered by Nooksack Tribal
Court of Appeals After May 30, 2015

NOOKSACK INDIAN TRIBE,

Petitioner.

No.

PLAINTIFF NOOKSACK
INDIAN TRIBE'S PETITION
FOR REVIEW

COPY

I. PETITION FOR REVIEW

The Petitioner, the Nooksack Indian Tribe, by and through the Office of Tribal Attorney,
submits this Petition for Review, in compliance with Titles 10 and 80 of the Nooksack Tribal
Code.

A. Name of Parties.

- | | |
|---|--|
| 1. Nooksack Indian Tribe
c/o Office of Tribal Attorney
P.O. Box 63
Deming, WA 98244
(360) 592-4158
(360) 592-2227
<u>ramstrong@nooksack-nsn.gov</u> | 2. Gabriel Galanda, pro se
Anthony Broadman, pro se
Ryan Drevaskratch, pro se
8606 35 th Avenue NE, Ste. L1
P.O. Box 15146
Seattle, WA 98115 |
| | 3. Michelle Roberts, pro se and
as representative for parties to the
named decisions
4732 False Creek Rd.
Deming, WA 98244 |

B. Date and Nature of Decision Appealed, including Case Number.

Petitioner, the Nooksack Indian Tribe (the "Tribe"), by and through Rickie W. Armstrong, Office of Tribal Attorney, seeks review of the following orders issued by the Court of Appeals, in their entirety:

	Case Number	Date of Decision	Nature of Decision
1.	2016-CI-APL-002 <i>Belmont v. Kelly</i> (Judges Nash, Nielsen, and Silverman)	3/22/2016	Order Denying NIT's Permission for Interlocutory Appeal
2.	2016-CI-CL-001 & 002 <i>In re Galanda</i> (Judges Nash, Nielsen, and Silverman)	4/25/2016	Order re: Petition for Writ of Mandamus

	Case Number	Date of Decision	Nature of Decision
3.	2016-CI-APL-002 <i>Belmont v. Kelly</i> (Judges Nash, Nielsen, and Silverman)	4/26/2016	Order Dismissing NIT's Appeal
4.	2016-CI-CL-001 & 002 <i>In re Galanda</i> (Judges Nash, Nielsen, and Silverman)	5/24/2016	Order re: Written Responses to April 25, 2016 Order on Petition for Writ of Mandamus
5.	2016-CI-CL-001 & 002 <i>In re Galanda</i> (Judges Nash, Nielsen, and Silverman)	5/27/2016	Order re: Second Petition for Writ of Mandamus
6.	2016-CI-CL-001 & 002 <i>In re Galanda</i> (Judges Nash, Nielsen, and Silverman)	6/28/2016	Order Finding Betty Leathers in Contempt
7.	2016-CI-APL-002 <i>Belmont v. Kelly</i> (Judges Nash, Nielsen, and Silverman)	6/28/2016	Order Re: the Petition for Writ of Mandamus
8.	2016-CI-CL-001 & 002 <i>In re Galanda</i> (Judges Nash, Nielsen, and Silverman)	7/25/2016	Order on Motion to Enforce Contempt Order
9.	2016-CI-CL-002 <i>In re Galanda</i> (Judges Nash, Silverman, and Nielsen)	8/15/2016	Order on Motion to Enforce Contempt Order
10.	2016-CI-APL-002 <i>Belmont v. Kelly</i> (Judges Nash, Nielsen, and Silverman)	8/29/2016	Order Denying Motion to Expand Jurisdiction

	Case Number	Date of Decision	Nature of Decision
11.	2016-CI-CL-007 <i>Belmont v. Kelly</i> (Judges Nash, Nielsen, and Silverman)	9/21/2016	Order Granting Requests to Join April 15, 2016 Motion and be Subject to June 28, 2016 Order
12.	2016-CI-CL-001 & 002 <i>In re Galanda</i> (Judges Nash, Nielsen, and Silverman)	9/21/2016	Order Re: Plaintiffs' Second Motion for Show Cause Order Re: PSJ, Contempt, Mandamus
13.	2016-CI-CL-001 & 002 <i>In re Galanda</i> (Judges Nash, Nielsen, and Silverman)	9/21/2016	Order and Judgment Awarding Costs
14.	2016-CI-CL-002 <i>In re Galanda</i> (Judges Nash, Nielsen, and Silverman)	9/22/2016	Second Amended Order Granting Requests to Join April 15, 2016 Motion and be Subject to June 28, 2016 Order

C. Decision or Parts of Decision Subject to Review.

The Tribe seeks review of each of the above identified decisions in their entirety. There, the Court of Appeals has committed an obvious error which would render further proceedings useless and committed probable error and the decision of the Court of Appeals substantially alters the status quo or substantially limits the freedom of a party to act. N.T.C. Title 80.13.020.

D. Error of Fact, Law or Procedure Error Claimed, and Effect on Case or Decision.

Each of the identified orders suffer from the same infirmities – they are void. A party

1 may attack an order directly on appeal, or in a collateral proceeding if it is absolutely void, not
2 merely erroneous. *Bresolin v. Morris*, 86 Wn.2d 241, 245, 543 P.2d 325 (1975), citing *State ex*
3 *rel. Ewing v. Morris*, 120 Wn. 146, 207 P. 18 (1922); *State v. Lew*, 25 Wn.2d 854, 172 P.2d 289
4 (1946); *State ex rel. Superior Court v. Sperry*, 79 Wn.2d 69, 483 P.2d 608 (1971).

5 Each of the orders identified above were issued from a judge (or judges) without
6 authority to act. All actions taken by a judge without authority to act are null and void. See
7 *National Bank of Washington v. McCrillis*, 15 Wn.2d 345, 359, 130 P.2d 901 (1942). Further,
8 each of the orders is also void because the issuing court lacked jurisdiction to enter the order. A
9 judgment is void where the court lacks jurisdiction of the parties or the subject matter or lacks
10 the inherent power to enter the particular order involved. *Dike v. Dike*, 75 Wn.2d 1, 448 P.2d
11 490 (1968); see *State v. Alter*, 67 Wn.2d 111, 406 P.2d 765 (1965); cf. *Bergren v. Adams County*,
12 8 Wn. App. 853, 509 P.2d 661 (1973); see, also, *In re Damian V.*, 197 Cal. App. 3d 933, 938,
13 243 Cal. Rptr. 185, 188 (1988).

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16 **E. Request for Stay.**

17 The Tribe seeks a stay from enforcement for each of the orders identified above. N.T.C.
18 Title 80.15.010 states:

19 A petitioner may include in his or her Petition for Review a request for
20 stay of the judgment or order for which review is sought. If the Supreme
21 Court accepts review of the matter, the notice from the Court shall indicate
22 whether the Court has granted a stay, and under what conditions.

23 Pursuant to N.T.C. Title 80.06.020(a), the court, "[i]n its discretion and on such conditions for
24 the security of the adverse party as are proper, the Court may stay the execution of or any
25 proceedings to enforce an order or judgment pending the disposition of the appeal, upon such

1 terms as are just.” Further “The power to stay proceedings is incidental to the power inherent in
2 every court to control the disposition of the causes on its docket with economy of time and effort
3 for itself, for counsel, and for litigants. How this can best be done calls for the exercise of
4 judgment, which must weigh competing interests and maintain an even balance.” *Landis v. North*
5 *American Co.*, 299 U.S. 248, 254–255, (1936). This power is memorialized in tribal law at
6 N.T.C. Title 10.03.040. Here, the Court of Appeals, a court without jurisdiction to issue the
7 orders identified above, has issued various orders which place the Tribe, and its employees,
8 freedom and property in jeopardy. Here, a stay is necessary in order to order to preserve the
9 status quo.

10 The Court of Appeals has issued no fewer than fourteen (14) void orders. Significantly,
11 on April 25, 2016, the Court of Appeals demanded that Ms. Leathers accept for filing certain
12 documents in violation of tribal law. *Order Re: Petition for Writ of Mandamus* at 6. When Ms.
13 Leathers failed to file documents in violation of tribal law, the Court of Appeals, in its “Order
14 Finding Betty Leathers in Contempt”, demanded the Chief of Police arrest and jail Ms. Leathers,
15 the Tribal Court Clerk until such time the Tribal Court accepted the same documents for filing.
16 *Id.* at 11 (June 28, 2016).

17 On August 15, 2016, the Court of Appeals then issued orders placing a Tribal employee’s
18 property in jeopardy. In the Court of Appeals “Order Re: Motion to Enforce Contempt Order”,
19 the Court began fining the Chief of Police \$1,000.00 per day until his arrest and jailing of Ms.
20 Leathers for her refusal to file documents in violation of the Court of Appeals’ void order. *Id.* at
21 1. Further, the Court ordered that the Chief of Police pay the petitioners reasonable costs for
22 bringing the motion. *Id.* Finally, on September 21, 2016, the Court of Appeals issued an “Order
23 and Judgment Awarding Costs”, entering a judgment against the Chief of Police in the amount of
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1 \$2,790.15 in favor of the underlying petitioners. The petitioners in the underlying case have
2 since taken actions to enforce the Order and Judgment Awarding Costs.


3 Here, absent an immediate stay, the Tribal Court Clerk is subject to immediate arrest and
4 detention, and, the Chief of Police's personal property is subject to execution at any time. This
5 Court is empowered to enter a stay pursuant to N.T.C. 80.15.010. This power must be exercised
6 immediately in order to prevent the incarceration and potential loss of personal property to
7 various tribal employees.

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9 **F. Request of Waiver of Costs, if applicable.**

10 Pursuant to N.T.C. 10.05.090, costs shall not be imposed on the Nooksack Tribe or any
11 agency or branch of the Tribe. If there are any costs associated with preparing the record, those
12 costs cannot be imposed, or alternatively, they should be waived.
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16 RESPECTFULLY SUBMITTED THIS 30th DAY OF SEPTEMBER 2016.

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18 NOOKSACK INDIAN TRIBE
19 OFFICE OF TRIBAL ATTORNEY

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22 _____
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