

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF NORTH DAKOTA

Archie D. Fool Bear)
P.O. Box 419)
Fort Yates, ND 58558,)

Plaintiff,)

vs.)

Standing Rock Sioux Tribe, Tribal)
Council)
Bldg. 1 North Standing Rock Ave)
P.O. Box D)
Fort Yates, ND 58538,)

and)

Standing Rock Sioux Tribe, Tribal)
Council Election Commission)
Bldg. 1 North Standing Rock Ave)
P.O. Box D)
Fort Yates, ND 58538,)

and)

Dave Archambault II, as Chairman)
of Standing Rock Sioux Tribe,)
Tribal Council)
Bldg. 1 North Standing Rock Ave)
P.O. Box D)

Case No:

Judge:

VERIFIED COMPLAINT FOR
VIOLATION OF CIVIL RIGHTS
UNDER 25 U.S.C. 1302(a)(8)
(With Request for Injunctive Relief)

Fort Yates, ND 58538,)
)
 and)
)
 Linda Comeau, as Chair of)
 Standing Rock Sioux Tribe, Tribal)
 Council Election Commission)
 Bldg. 1 North Standing Rock Ave)
 P.O. Box D)
 Fort Yates, ND 58538,)
)
 Defendants.)
)

NOW COMES Plaintiff, Archie Fool Bear, by and through undersigned counsel, and for his claim for relief against the Defendants, alleges and states as follows:

JURISDICTION

Plaintiff brings this action under 25 U.S.C. 1302(a)(8), for Defendants’ violation of Plaintiff’s equal protection and due process rights, in finding Plaintiff ineligible as a candidate to seek the Standing Rock Sioux Tribe office of Chairman of the Tribal Council. Plaintiff is entitled to fair compliance with the Tribe’s own voting procedures, and the Tribe’s violations of its procedures constitute violations of equal protection and due process under 25 U.S.C. 1302(a)(8). The Court has jurisdiction in this matter.

FACTUAL BACKGROUND

1. Plaintiff is a member in good standing with the Standing Rock Sioux Tribe, and resides in Ft. Yates, North Dakota. Plaintiff has verified the truth of the facts alleged in this Complaint. (*See*, Exhibit A, Affidavit of Archie Fool Bear). Defendants are the Standing Rock Sioux Tribe, Tribal Council, Standing Rock Sioux Tribe, Tribal Council Election Commission, Dave Archambault II, as Chairman of the Tribal Council, and Linda Comeau, as Chair of the Tribal Council Election Commission.

2. On May 15, 2017, Plaintiff submitted paperwork and signatures seeking election to the office of Chairman of the Tribal Council of the Standing Rock Sioux Tribe. The primary election is scheduled for **July 19, 2017**.

3. Nearly a month later, on June 12, 2017, Defendant Comeau, chair of Defendant Tribal Election Commission, issued a letter to Plaintiff informing Plaintiff that the Election Commission found Plaintiff initially ineligible as a candidate for Chairman, based solely on an alleged delinquency on an alleged debt to the Tribe. This alleged debt originated in 2001. In the letter, Defendant Comeau set a hearing for the following day, June 13, 2017, at 10:00 a.m.

4. Plaintiff appeared at the June 13, 2017, hearing, and disputed the initial finding of eligibility. Plaintiff argued that Plaintiff is unemployed, and that the debts of unemployed Tribe members are not considered delinquent. Plaintiff further argued that before submitting paperwork to run for election, Plaintiff confirmed his non-delinquent status with Tribe CFO Jerome Long Bottom.

5. Edie Rhoades, short-term loan director for the Tribe, testified at the June 13, 2017, hearing. Ms. Rhoades stated that Plaintiff was not delinquent on any debt owed to the Tribe.

6. On June 14, 2017, Defendant Comeau issued a letter to Plaintiff informing Plaintiff that the Election Commission found Plaintiff ineligible as a candidate for Chairman, again based on an alleged delinquency on a debt to the Tribe.

7. Plaintiff on June 19, 2017, in writing, requested reconsideration of the Election Commission decision. Reconsideration was denied by letter on June 20, 2017.

8. Plaintiff, while allegedly owing the *same debt* to the Tribe, was *twice* declared *eligible* by the Election Commission to seek two Tribal offices in 2013. That year, Plaintiff appeared on the ballot as a candidate for Tribal Chairman (primary election), and appeared on the ballot as a candidate for Cannon Ball Local District Chairman (general election).

9. By declaring Plaintiff ineligible as a candidate for the office of Chairman of the Tribal Council of the Standing Rock Sioux Tribe for the July 19, 2017, primary, Defendants failed to comply with the Tribe's own election procedures.

10. Plaintiff now brings this action for violation of his equal protection and due process rights per 25 U.S.C. 1302(a)(8).

DECLARATORY JUDGMENT

11. The allegations in paragraphs 1-10 of this complaint are restated and incorporated as if fully rewritten.

12. Plaintiff is entitled to fair compliance with the Tribe's own voting procedures, and the Tribe's violations of its procedures constitute violations of equal protection and due process under 25 U.S.C. 1302(a)(8). *See, White Eagle v. One Feather*, 478 F.2d 1311 (8th Circuit 1973).

WHEREFORE, Plaintiff requests that the Court declare that Defendants violated Plaintiff's equal protection and due process rights per 25 U.S.C. 1302(a)(8), and further requests that the Court order Defendants to place Plaintiff's name on the primary ballot for the office of Chairman of the Tribal Council of the Standing Rock Sioux Tribe. Plaintiff further requests attorney fees, costs, and any other relief the Court deems just and proper.

INJUNCTIVE RELIEF

13. The allegations in paragraphs 1-12 of this complaint are restated and incorporated as if fully rewritten.

14. The Tribal primary election is scheduled for **July 19, 2017**. Plaintiff requests injunctive relief under Fed. R. Civ. P. 65 enjoining Defendants from conducting the primary election until Plaintiff's claim for declaratory relief can be heard.

15. If injunctive relief is not granted, Plaintiff will suffer immediate and irreparable injury by being denied the right to run for office, as a trial on the merits very likely cannot be conducted before the primary election is held.

16. Plaintiff has no adequate remedy at law.

17. Given Plaintiff's financial circumstances, the proper amount of security to be given per Fed. R. Civ. P. 65(c) is \$0.00.

WHEREFORE, Plaintiff requests that Defendants be enjoined from conducting the Tribal primary election is scheduled for **July 19, 2017**. Plaintiff further requests attorney fees, costs, and any other relief the Court deems just and proper.

Dated this 14th day of July, 2017.

Respectfully submitted,

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