

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF NORTH DAKOTA

Archie D. Fool Bear,)	Case No: 1:17-cv-00146
)	
Plaintiff,)	Judge: Daniel L. Hovland
)	
vs.)	<u>PLAINTIFF’S MOTION FOR</u>
)	<u>RECONSIDERATION OF ORDER</u>
Standing Rock Sioux Tribe, Tribal)	<u>DENYING MOTION FOR</u>
Council, et al.)	<u>TEMPORARY RESTRAINING ORDER</u>
)	<u>AND EMERGENCY REQUEST TO</u>
Defendants.)	<u>GRANT TEMPORARY RESTRAINING</u>
)	<u>ORDER</u>

NOW COMES Plaintiff, Archie Fool Bear, by and through undersigned counsel, and requests that the Court reconsider its order of July 18, 2017, denying Plaintiff’s Motion for Temporary Restraining Order. Plaintiff further makes an emergency request that the Court issue a temporary restraining order under Fed. R. Civ. P. 65 to enjoin Defendants from conducting the Tribal primary election, because the election is scheduled for **tomorrow, July 19, 2017**. Plaintiff has brought an action asserting that Defendants violated his equal protection and due process rights under 25 U.S.C. 1302(a)(8) by declaring him ineligible for the primary election as a candidate to seek the Standing Rock Sioux Tribe office of Chairman of the Tribal Council. If injunctive relief is not granted and the primary election is held, Plaintiff will suffer immediate and irreparable injury by being denied the right to run for office.

Per the Standing Rock Sioux Tribal Code of Justice, Title II, Chapter 3, Section 2-301(a), “*No temporary restraining order* or other injunction without notice *shall be*

granted where the Tribe is a defendant or a tribal official is a defendant in his official capacity.” (Emphasis added) (*See*, Exhibit A, text of 2-3012(a)). Therefore, with no emergency injunctive relief available at the Tribal level, Plaintiff exhausted his tribal remedies. This Court is Plaintiff’s *only forum* for a temporary restraining order to protect his constitutional rights under 25 U.S.C. 1302(a)(8).

Furthermore, this case does not involve a non-justiciable political question. The equal protection clause of the Native American Civil Rights Act requires that tribal law be applied with an even hand, rather than being arbitrarily enforced in some cases and not in others. *Wounded Head v. Tribal Council of Oglala Sioux Tribe*, 507 F.2d 1079 (8th Cir. 1975). In the case before the Court, Plaintiff has alleged facts that establish the debt disqualification procedure was applied arbitrarily and unevenly, in violation of the constitutional equal protection and due process provisions of 25 U.S.C. 1302(a)(8). Again, this is *not* a political question.

Therefore, Plaintiff requests that the Court reconsider its decision denying the Plaintiff’s Motion for Temporary Restraining Order, and makes an emergency request to grant Plaintiff’s Motion.

Respectfully submitted,

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_____/s/ Scott R. Miller_____
By: Scott R. Miller, Esq.