

EXHIBIT K

STATE OF NEW YORK
SUPREME COURT SENECA COUNTY

CAYUGA NATION,

Petitioner,

v.

DECISION AND ORDER

Index. No. 20220022

CARLIN SENECA-JOHN and
CARLIN SENECA-JOHN d/b/a
GRAMMA APPROVED SOVEREIGN TRADES,

Respondents.

Hon. Barry L. Porsch, A.J.S.C.,

Upon Petitioner's Motion to Renew and Reargue this Court's Decision and Order signed July 19, 2022, an Affirmation in Support and an Affirmation in Further Support by Lee Alcott, Esq., a Memorandum of Law in Support by Mr. Alcott; and upon an Affirmation in Opposition by Michael A. Benson, Esq., and upon an Affirmation in Opposition by Michael A. Benson, Esq.; and upon consideration of all exhibits attached to Counsels' papers, the Court renders the following Decision:

On January 20, 2022, Petitioner commenced an action pursuant to Article 4 of the CPLR and 22 N.Y.C.R.R. §202.71, seeking enforcement of a Judgment of the Cayuga Nation Tribal Court. On July 19, 2022, this Court issued an Order denying the Petition on the ground that Petitioner had failed to establish that this Court has personal jurisdiction over Respondents. Petitioner now seeks to reargue the Court's ruling.

In its previous Order, this Court held, *sua sponte*, that Petitioner failed to allege or establish that the Cayuga Nation Civil Court is a court duly established by the Cayuga Nation, and which had jurisdiction to issue a judgment. In support of its instant motion. Petitioner argues that this Court misapprehended the law with regard to personal jurisdiction.

The Court finds that Petitioner's reliance on *Lenchyshyn v. Pelko Elec., Inc.*,

281 AD2d (4th Dept 2001) in misplaced. In *Lenchyshyn*, the Court, ruling on a matter involving the enforcement of a Canadian judgment in the New York courts, held that “a judgment creditor be permitted to obtain recognition and enforcement of a foreign country money judgment without any showing that the judgment debtor is subject to personal jurisdiction in New York.” In contrast, this Court’s previous Order was not premised on the principle that Petitioner needs to prove the Respondents are subject to the jurisdiction of New York, but rather that Petitioner failed to establish that the Cayuga Nation Civil Court is empowered to issue a judgment at all.

CPLR §5304(a)(1), states, in relevant part, that “[a] court of this state *may not* recognize a foreign country judgment if...the judgment was rendered under a judicial system that does not provide impartial tribunals or procedures compatible with the requirements of due process of law...(emphasis added).” Where, as here, a foreign court does not operate within the bounds of due process, its judgments are not entitled to recognition by our state courts.

In ruling today, this Court takes judicial notice of the fact that the subject property of this action does not lie within any recognized federal reservation, nor is it part of land held in trust for the Cayuga Nation by the federal government. The official website of the Cayuga Nation, cayuganation-nsn.gov, states that, as far back as the 18th century,

[t]he Cayugas were forced from their homeland and the land was dispersed in parcels to American soldiers. In November of 1794...[t]he Treaty of Canandaigua was signed between the Sachems of the Confederacy Nations and the United States of America. This Treaty affirmed the Cayuga Nation’s rightful reservation as 64,015 acres of sovereign land. Unfortunately, the Treaty was ignored by New York. The Cayuga homeland was not returned to its owners. For the next 250 years the Cayuga Nation pursued its land claim against New York State.” That statement concludes that “[i]n the early 21st century [the Cayuga Nation] made the decision to take affirmative action, [and] decided to start reacquiring its land by simply purchasing it.

The Court also notes that the Cayuga Nation’s 1980 U.S. District Court action seeking, among other things, the return of its original reservation land was

dismissed the Second Circuit Court of Appeals in 2005. *See, Cayuga Indian Nation v Pataki*, 413 F3d 266 [2d Cir 2005], cert denied 547 U.S. 1128 [2006]).

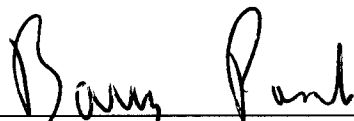
Here, the land that the Cayuga Indian Nation has purchased in Seneca County is owned and held in fee. While these purchases were completely lawful, they did not create a sovereign nation with the right to a separate recognized police force and judiciary. It is undisputed that no federally recognized reservation, or land held in trust by the federal government for the benefit of the Cayuga Indian Nation, exists within Seneca County. *See*, 25 USC 2201[4]; 7 CFR 253.2.

For this reason, the Court finds that the Cayuga Nation Civil Court has no legal authority to issue rulings against citizens whose property lies solely within Seneca County. Likewise, the Cayuga Nation's so called police force has no authority to enforce any "judgments" upon individuals who do not reside in, nor do not operate businesses within, sovereign national land recognized or held in trust by the United States Government.

It is therefore,

ORDERED. that Petitioner's Motion to Renew and Reargue is denied.

Dated: 4-7-23
Waterloo, New York



Hon. Barry L. Porsch, A.J.S.C.