

IN THE MUSCOGEE (CREEK) NATION SUPREME COURT

SUPREME COURT
FILED

CITIZENSHIP BOARD OF THE)
MUSCOGEE (CREEK) NATION,)

MAY 12 2026

Appellant,)

Case No.: SC-2023-10

CONNIE DEARMAN *lm*
MUSCOGEE (CREEK) NATION
COURT CLERK

v.)

(District Court Case No.: CV-2020-34)

RHONDA K. GRAYSON and)
JEFFREY D. KENNEDY,)

Respondents.)

**ORDER DENYING RESPONDENTS' MOTIONS FOR CONTEMPT, DENYING
RESPONDENTS' MOTION FOR TEMPORARY RESTRAINING ORDER AND
PRELIMINARY INJUNCTION, AND CLOSING THE CASE**

Before: ADAMS, C.J.; LERBLANCE, V.C.J.; THOMPSON, J.

HARJO-WARE and MCNAC, JJ, recused and not participating in the decision. STOMSKI, J. not participating in the decision pursuant to Administrative Order 2025-05.

This matter comes before the Court pursuant to (1) the Respondents' October 14, 2025, *Renewed Motion for Contempt and for Court Enforcement of Order and Judgment and for Order to Show Cause*, (2) the Respondents' March 9, 2026, *Third Motion for Contempt, for Court Enforcement of Order and Judgment, and for Order to Show Cause*, and (3) the Respondents' March 9, 2026, *Motion for Temporary Restraining Order and Preliminary Injunction*. For the reasons stated below, the Court denies the Respondents' pending *Motions* and closes the above-styled case.

This action was initially brought by the Citizenship Board of the Muscogee (Creek) Nation, via its September 29, 2023, *Notice of Intent to Appeal*, and filed pursuant to Rule 2 of this Court's appellate rules of procedure. The purpose of this appeal was for the Court to review the September 27, 2023, decision of the Muscogee (Creek) Nation District Court, and its interpretation of certain

treaty rights and constitutional rights concerning citizenship, and their impact on certain freedmen applicants seeking citizenship within the Muscogee (Creek) Nation. This action was properly filed with the lower court, and later with this Court, and included the necessary parties to resolve the dispute. In the course of this appellate action, the Muscogee (Creek) Nation National Council petitioned the Court for permission to intervene for purposes of submitting an amicus brief to the Court. This request was denied, and the National Council did not participate in the appeal in any capacity. Following the filing of this Court's *Order and Opinion* on July 23, 2025, the Respondents have sought enforcement of the Court's decision against the Executive Branch and the Appellant Board. In response, this Court has issued two requests for status reports from the Appellant and the Executive Branch generally. The evidence produced to the Court in response to these orders for status reports has shown conclusively that the Appellant and the Executive Branch have taken steps to comply with this Court's *Order and Opinion* (though, perhaps not in the manner or at the speed desired by the Respondents, and, to be frank, not at the speed this Court would prefer). However, the Court finds that the Respondents' pending *Motions* should be denied.

First, the Court is keenly aware that the Legislative Branch of this Nation's government is not a party to the above-styled action, and further, that this Court has previously denied the National Council's request to participate in a limited capacity in this case. As a result, the Legislative Branch was not a party to this case, and the Court's prior orders did not (and could not) impose obligations on it. This highlights the primary deficiency in the Respondents' attempts at enforcement through this already-open action, instead of beginning a new enforcement case with all necessary parties. The same is true with respect to the Respondents' *Motion for Temporary Restraining Order and Preliminary Injunction* in an action in which the Legislative Branch (that passed NCA 26-061), and the Election Board (administering the May 2026 Special Election) are

both not parties to this case. Simply put, the proper parties, necessary to achieve the Respondents' requested relief, are not part of this case.

Finally, this Court has consistently followed traditional rules of justiciability. Following this approach, "[o]nly "justiciable" matters may be properly adjudicated by our Nation's courts."¹ This Court is obligated to review justiciability as a threshold issue and dismiss claims that are determined to be non-justiciable.² This includes political questions committed to the Legislative and/or Executive Branches of government.³ As mentioned above, at the outset of the above-styled action, this Court was presented with a justiciable question concerning the interpretation of the Muscogee (Creek) Nation Constitution and the Treaty of 1866. However, the Respondents' post-*Order* motions for contempt present a new issue entirely (enforcement), and would have this Court insert its own judgment (concerning the manner of completion, timing, and legislative language, among other things) over that of the political branches of the Nation's government. This would be in violation of the Court's judicially-imposed criteria concerning political questions. This Court has issued its *Order and Opinion*, and has resolved the only justiciable dispute presented by the Appellant on appeal. That decision was subject to further scrutiny by this Court through Appellate Rule 24's *Petition for Rehearing* process, was resolved again in favor of the Respondents, and is

¹ See, Muscogee (Creek) Nation National Council v. Tiger, ___ Mvs. L.R. ___, SC-2011-06, at 8. (February 14, 2014), wherein the Court states, (1) that "Justiciability refers to a group of legal concepts used as criteria to assess whether adjudication may adequately resolve any given cause of action. These judicially-imposed criteria include ripeness, mootness, standing and a general restriction against judicial intervention in purely political questions or requests for advisory opinions[,] and (2), that, "[a]s the sole non-political arm of the Muscogee (Creek) government, the courts' concern over subject matter jurisdiction and justiciability must be particularly acute when asked to referee a dispute between the two political branches. For such a dispute to be justiciable, it must present matters that may be properly resolved by the judicial branch without intruding on the constitutionally vested domains of the executive and legislative branches. Absent a justiciable dispute, the Nation's courts must decline to adjudicate mere non-justiciable political disagreements...our Nation's courts are obligated to *sua sponte* review justiciability as a threshold issue and dismiss claims determined to be non-justiciable."

² *Id.*

³ *Id.*

now final.⁴ Judgments concerning necessary legislation to implement the Court’s decision, commissions that may be necessary to prepare for expected changes resulting from the sudden influx of new citizens, and how much time is necessary to responsibly implement these changes are political questions that must be left to the branches of government assigned those tasks under the Nation’s Constitution.

As dicta, the Court would also share the following to the parties, and the Nation as a whole. One of the unique features of our Nation’s Judicial Branch is that our Constitution authorizes the appointment of non-attorney, traditional Mvskoke experts to seats on the Supreme Court. Currently, two of the seven seats on this Court are filled with traditional experts. It is no exaggeration to say that, in every case filed with the Supreme Court, these traditional experts provide insights that book-and-paper law simply would not afford. Our Nation is benefited tremendously by this unique approach to appellate law. In the above-styled case, our Court has attempted to honor both traditional legal concepts, analyzing our statutory and case law precedent,

⁴ See, Article VII, Section 5 of the Muscogee (Creek) Nation Constitution, “The Decision of the Supreme Court shall be in writing and *shall be final*.” [Emphasis Added]. See also, Ron Graham v. Muscogee (Creek) Nation Citizenship Board, SC-2020-01, ___ Mvs. L.R. ___, at 7, “Finality is an essential aspect of the Nation’s judicial system, and is key to establishing reliable judicial precedent” and also at 9, “The *Order* was the final decision of the court. Any active controversy that existed at that time with respect to the Appellant’s various citizenship application was resolved by the court’s *Order*.” See also persuasive authority, Marbury v. Madison, 5 U.S. 137, at 178, “It is emphatically the province and duty of the judicial department to say what the law is. Those who apply the rule to particular cases, must of necessity expound and interpret that rule. If two laws conflict with each other, the courts must decide on the operation of each[;]” and Plaut v. Spendthrift Farm, Inc., 514 U.S. 211, at 218, (citing Marbury v. Madison, and Easterbrook, Presidential Review, 40 Case W.Res.L.Rev. 905, 926), “The record of history shows that the Framers crafted this charter of the judicial department with an expressed understanding that it gives the Federal Judiciary the power, not merely to rule on cases, but to *decide* them, subject to review only by superior courts in the Article III hierarchy-with an understanding, in short, that “a judgment conclusively resolves the case” because “a ‘judicial Power’ is one to render dispositive judgments[;]” and Tuba City Judicial Dist. of the Navajo Nation v. Sloan, 3 Am. Tribal Law 508, at 511, “One of the basic tenets which derives from the doctrine of separation of powers is judicial independence. The judiciary’s function is to render judgments and to enforce its judgments and orders. No other branch or office of the government may legally interfere with the judiciary’s duty to render judgments and enforce judgments in any way. Likewise, no other branch, office, or entity of the government may influence a court with the intent of altering its decision. Outcomes of cases that are before the courts must be free from any form of political influence. Justice for the Navajo people means the courts’ decisions must be free of influence or pressure from the Executive or Legislative Branches.”

while also honoring Mvskoke history and tradition. At the forefront of our analysis in this case has been a deep consideration of the past. In the time leading up to the signing of the Treaty of 1866, it would be fair to say that many of our ancestors would have been dismayed at the retributive nature of the Treaty of 1866, and at the prospect of entering into such treaty terms. However, they did so. They did so with the fervent hope that such a course would secure a better future for their posterity. From our vantage point today, we see that their decisions, their efforts, and their sacrifice produced their intended results. The Muscogee (Creek) Nation stands as a sovereign entity, and is stronger today because of our ancestors' decisions, with our Nation's sovereignty resting in large part on that same Treaty of 1866. It would be both a disrespect for our Court to reject this history, and, perhaps more importantly, a danger to our Nation's sovereignty to expect that certain advantageous terms of the treaty should be enforced, while certain terms that some may feel are disadvantageous should be ignored. It is clear to this Court that, like our ancestors, many among our citizens today are also dismayed at the prospect of this Court's *Order and Opinion*, and would have preferred that the Court had ruled differently. Also like our ancestors, this Court's fervent hope in this case, and in every case that finds its way to our docket, is that our decision will secure a better future for our Nation, and make clear to all that the Judicial Branch of the Muscogee (Creek) Nation produces just results to all parties, honoring both our tradition and our legal precedent, even if some results may be hard.

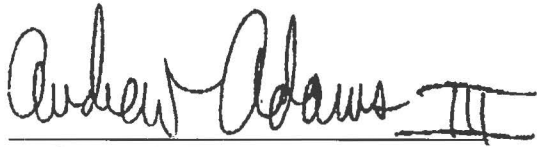
Five values inherited from our ancestors and elders anchor Este Mvskokvlke (Mvskoke People), and they anchor this Court as well. VrakkuECKV (respect) calls upon us to honor the rights and dignity of every person who comes before our bench, and to honor the promises our Nation has made, including those memorialized in the Treaty of 1866. Fvtcctv (integrity) and mecvlke (responsibility) call upon us to be fair, honest, and accountable in every decision we render, loyal

to the Mvskoke Constitution and laws we have sworn to uphold, and diligent in the work of judging without regard to the prevailing political winds. Eyasketv (humility) and hoporenkv (wisdom) call upon us to remember that the Court is one branch among three co-equals, to be mindful of the well-being of the Nation we serve, and to draw from both scholarly learning and from the knowledge and experience of our elders, whose decisions (made under conditions far harder than ours) resulted in the treaty-defined permanent homeland we enjoy today, and that still shape every aspect of our Nation. These values guided the Court's analysis in this case, and they will guide every case that comes before us. The Justices of this Court take their oaths seriously, and decide each matter before them without fear or favor, affection or ill-will.

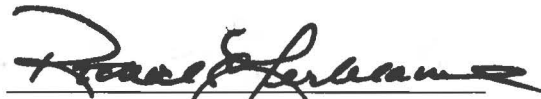
In a government composed of three coequal branches, disagreement among the branches is not only permissible, it is to be expected. Each branch is charged by the Constitution with a distinct role, and the friction that arises when those roles intersect is itself part of the constitutional design. The Court's responsibility is not to avoid that friction, but to discharge its own duty faithfully when called upon to do so. We lay this *Order and Opinion* at the doorstep of the political branches of government in the hope that they do the same.

IT IS HEREBY ORDERED that the Respondents' (1) October 14, 2025, *Renewed Motion for Contempt and for Court Enforcement of Order and Judgment and for Order to Show Cause*, (2) March 9, 2026, *Third Motion for Contempt, for Court Enforcement of Order and Judgment, and for Order to Show Cause*, and (3) the March 9, 2026, *Motion for Temporary Restraining Order and Preliminary Injunction* are hereby **DENIED**, and that the above-styled appeal is hereby **CLOSED**.

FILED AND ENTERED: May 12, 2026⁵



Andrew Adams III
Chief Justice



Richard C. LeBlance
Vice-Chief Justice

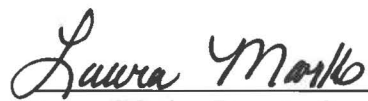


George Thompson, Jr.
Associate Justice

⁵ See, SC-2010-01, A.D. Ellis v. Checotah Muscogee Creek Indian Community, et al., and SC-2024-05, In the Matter of the Constitutionality of NCA 24-077, wherein this Court explained that “[i]n SC-2010-01, this Court reviewed a...challenge concerning the number of Justices required to sit on an appeal and issue a valid decision. In that action the Court was tasked with interpreting two conflicting statutes: M(C)NCA Title 27, § 3-101 (NCA 99-85), which required a minimum of four (4) justices be in agreement on any decision, and M(C)NCA Title 27, § 3-103 (NCA 82-30), which required at least four (4) justices sit on each case. The Court applied its “canon of constitutional avoidance” in order to save the two statutes from “constitutional problems[.]” It ultimately found that the only way to save these two statutes was first, to read § 3-101 as applying “[a]n inherent presumption” that a full complement of Justices were sitting on the case in question, while also reading § 3-103 as a simple quorum rule. Therefore, under the Court’s interpretation, “four justices may deliver a decision if six justices participate [and] [i]f only four or five justices participate, then three may render a decision.” Essentially, confirming what the Court has done throughout its history, which is issue a decision with a simple majority of those Justices present.” Pursuant to this binding precedent, the Court issues the above Order with the agreement of all participating Justices.

CERTIFICATE OF MAILING

I hereby certify that on May 12, 2026, I mailed a true and correct copy of the foregoing *Order Denying Respondents' Motions for Contempt, Denying Respondents' Motion for Temporary Restraining Order and Preliminary Injunction and Closing the Case* with proper postage prepaid to each of the following: Geri Wisner, Jeremy Pittman, and Clinton Wilson, Muscogee (Creek) Nation, Department of Justice, P.O. Box 580, Okmulgee, OK 74447; Rod Wiemer, 114 N. Grand, Okmulgee, OK 74447; Jana L. Knott, Bass Law, 252 NW 70th St., Oklahoma City, OK 73116; Damario Solomon-Simmons, Solomon Simmons Law, 601 S. Boulder Ave., Suite 602, Tulsa, OK 74119; M. David Riggs, Riggs, Abney, Neal, Turpen, Orbison & Lewis, 502 W. 6th St., Tulsa, OK 74119. A true and correct copy was also hand-delivered to the Clerk of the Muscogee (Creek) Nation District Court.



Laura Marks, Deputy Court Clerk