

**STOCKBRIDGE-MUNSEE COURT OF APPEALS**

**Mohican Nation**

**Stockbridge-Munsee Community**

**Scott Vele,**  
**Petitioner/Appellant,**

**Case No: 16-AP 2016-RO-0007**

**In the matter of:**  
**Jolene Bowman and Joseph Miller,**  
**Petitioners/Appellees**

**v.**

**Stockbridge Munsee Community Election Board,**  
**Respondents/Appellants.**

**DECISION AND ORDER OF DISMISSAL**

This case has come before the Stockbridge-Munsee Court of Appeals Judges Pro Tempore Diane House and Eugene White-Fish, and Chief Judge Marianne Higgins presiding.

**INTRODUCTION**

Scott Vele, enrolled Stockbridge-Munsee Community tribal member (hereinafter "Vele"), appeals the Stockbridge-Munsee Tribal Court's (hereinafter "Tribal Court") November 3, 2016 Preliminary Injunctive Order that suspended the Election Board's October 14<sup>th</sup>, 2016 order to hold a new annual election. Vele's appeal is *dismissed with prejudice*.

**JURISDICTION**

The court has jurisdiction over this matter per Chapter 1, §1.6 (L) of the Stockbridge-Munsee Tribal Court Code which gives the Court of Appeals the jurisdiction to hear appeals from the Tribal Court.

**PROCEDURAL BACKGROUND**

On October 25, 2016, Mr. Vele filed a Request with the Stockbridge-Munsee Tribal Court (hereinafter "Tribal Court") to file as an Amicus Curiae and for a substitution of the judge in the matter of *Jolene Bowman and Joseph Miller, v. the Stockbridge-Munsee Election Board* (hereinafter "*Bowman and Miller* case"), Case No. 2016-RO-007. On November 3, 2016, the Tribal Court issued a Preliminary Injunction Order that indefinitely suspended any and all action relating to holding a new annual 2016 election. On November 4, 2016, Mr. Vele filed an appeal of this November 3<sup>rd</sup> Preliminary injunctive order with the Court of Appeals. On November 18,

2016, the Tribal Court issued a permanent injunction in the Decision and Order in the Bowman and Miller case.

### ANALYSIS

The first matter before this Court is to acknowledge the delay in getting this matter before an Appellate panel for review. These were delays in the judicial selection/appointment process beyond this Appellate panel's control. This Court extends its sincere apologies to Mr. Vele and all other interested parties that were affected by these delays.

The second matter before this Court is an initial review of the different court filings by Mr. Vele. On October 25<sup>th</sup>, Mr. Vele's filed a request to the Tribal Court to file as an Amicus Curiae and for a substitution of the judge in the Bowman and Miller case. On November 4<sup>th</sup>, Mr. Vele also filed an appeal of the Tribal Court's November 3<sup>rd</sup> Preliminary injunctive order in the Bowman and Miller case with the Court of Appeals.

Since Mr. Vele's October 25<sup>th</sup> filing with the Tribal Court to file as an Amicus Curiae and for a substitution of the judge in the Bowman and Miller case, the Tribal Court, in its Decision and Order issued on November 18<sup>th</sup>, 2016:

- 1) overruled Mr. Vele's request on the Amicus Curiae request and the request for the substitution of judges<sup>1</sup>; and
- 2) elevated the November 3<sup>rd</sup> Preliminary Injunctive order to a permanent injunction<sup>2</sup>.

As these matters stand as of the date of this decision, Mr. Vele's October 25<sup>th</sup> requests have been answered in the November 18<sup>th</sup> Decision and Order issued by the Tribal Court in Bowman and Miller case. In addition, the November 3<sup>rd</sup> Tribal Court preliminary injunctive order has since become a permanent injunctive order in that same Decision and Order issued by the Tribal Court on November 18<sup>th</sup>.

Mr. Vele, although not a party in the Bowman and Miller case, has filed initial requests in the

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<sup>1</sup>Decision and Order at 8-10, *Bowman & Miller v. Stockbridge-Munsee Community Election Board*, 2016-RO-0007 (November 18, 2016).

<sup>2</sup>Id at 34.

Tribal Court and Appellate Court that have since 1) been overruled; and 2) been elevated to another level in the injunctive process. The Tribal Court made these determinations in its November 18<sup>th</sup> Decision and Order. Although there were delays in getting Mr. Vele's November 4<sup>th</sup> appeal of the November 3<sup>rd</sup> Tribal Court Order before an appellate panel, Mr. Vele has not filed any appeals of November 18<sup>th</sup> Tribal Court Decision and Order that has since 1) overruled his original Amicus Curiae filing of October 25<sup>th</sup>; and 2) elevated the Preliminary Injunctive Order issued on November 3<sup>rd</sup>. In the November 18<sup>th</sup> Decision and Order, the Tribal Court overruled his requests to file an Amicus Curiae and for substitution of the judge as he was not a party in the Bowman and Miller case.

Mr. Vele has not filed an appeal of this November 18<sup>th</sup> Tribal Court Decision and Order. Mr. Vele had the opportunity to amend his pleadings, or file an appeal of this November 18<sup>th</sup> Decision and Order, but has not done so. Based upon the foregoing, this Court hereby dismisses this matter with prejudice as it pertains to Mr. Vele's appeal in the Bowman and Miller case.

#### CONCLUSION

Regarding Mr. Vele's appeal pending in the Bowman and Miller case, this matter is dismissed with prejudice.

Dated this 28<sup>th</sup> day of February, 2017.

BY ORDER OF THE COURT OF APPEALS:

*Diane House*

Diane House, Lead Appellate Court Judge Pro Tempore

*Eugene S. White-Fish*

Eugene White-Fish, Appellate Court Judge Pro Tempore

*Marianne Higgins*

Marianne Higgins, Stockbridge-Munsee Community Chief Judge

