



CHEROKEE NATION
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OPINION OF THE CHEROKEE NATION ATTORNEY GENERAL

Question Submitted by: Chuck Hoskin, Jr., Secretary of State for the Cherokee Nation

Opinion Number: 2014-CNAG-03

Date Decided: September 23, 2014

This office has been asked for an opinion answering the following:

Question: Will Claryce Doyle's term as Editorial Board Member of the Cherokee Phoenix end in October 2014?

I. FACTUAL BACKGROUND

The Independent Press Act of 2000, LA #19-00, as amended, provides for the creation of an Editorial Board tasked with establishing and enforcing "an editorial policy that will be fair and responsible in reporting of general news, current events and issues of Cherokee concern", among other duties. In the original act, the Editorial Board consisted of three members – this was expanded to five members in June of 2009 when the act was amended by LA #16-09. Under the law as amended, two are appointed by the Principal Chief, two appointed by the Council and the fifth is appointed by the other four members. LA #16-09 Section 6(A). Both the Council and the Principal Chief confirm all members. *Id.* at Section 6(B). The initial three-member Editorial

Board members had been appointed to two, four or six year terms, presumably to stagger the seats. See LA #19-00 at Section 6(D). After these initial terms were completed, Board members would serve six year terms. Id.

The 2009 amendment stated that the two additional Board members would initially be appointed to five year terms, and then appointed to six year terms thereafter. Seat 4 was to commence on October 1, 2009 and expire on October 1, 2014; Seat 5 was to commence January 1, 2010 and expire on January 1, 2015. On August 10, 2009 the Tribal Council nominated Jason Terrell “to serve from October 1, 2009 through October 1, 2014, as authorized by Legislative Act 16-09.” See Tribal Council Resolution #96-09.

After this appointment, other appointments were made as “authorized by Legislative Act 11-00.” Rob Thomspson was appointed by the Principal Chief to a six year term in March of 2010, and John Shurr was appointed by the three other board members to serve a six year term in April of 2010. With the addition of John Shurr, the Board now had four members. Although the Resolutions appointing Editorial Board members do not specify which seat a Board member holds, it appears that no one has been appointed to Seat 5, which by statute was set to commence January 1, 2010 and expire on January 1, 2015.

In January of 2010, Claryce Doyle was appointed by the Principal Chief to serve a term that would end in October of 2014. Review of the Tribal Council Rules Committee meeting and the Tribal Council meeting where she was confirmed revealed no discussion of the term, nor does it indicate why she was appointed to a term of two years and nine months. Regardless, the Editorial Board now has a full complement of five members, albeit with two members serving terms set to expire at the same time.

II. LEGAL AUTHORITY AND ANALYSIS

When a legislative act or tribal council resolution is clear and unambiguous, there is no need to examine legislative history or attempt to divine legislative intent from the record.

It is presumed that the law-making body has expressed its intent in a statute's language and that it intended what it so expressed. If the meaning of a statute is plain and unambiguous, it will not be subjected to rules of judicial construction but will receive the effect its language dictates. Only where legislative intent cannot be ascertained from the language of a statute, as in cases of ambiguity, are rules of statutory interpretation employed.

Villines v. Szczepanski, 2005 OK 63, 122 P.3d 466, 470.

However, if a section of a resolution or statute could be interpreted multiple ways, an ambiguity may arise that requires the courts to interpret and examine the legislative intent.

The phrase “pursuant to the tribal Constitution,” absent adequate legislative history, could be interpreted in a number of ways, and therefore presents ambiguity. Where such ambiguity is present, the Court must decide what was most reasonably intended by the legislature in passing this particular section.

In re Sanders, JAT-99-26, 2002 WL 32099968 (Cherokee Dec. 5, 2002).

The Tribal Council, in Resolution 04-12, unanimously confirmed the appointment of Claryce Doyle to the Editorial Board of the Cherokee Phoenix. That resolution set forth the term of her appointment explicitly, stating that, “Claryce Doyle is hereby confirmed as a Board Member of the Editorial Board of the Cherokee Phoenix for a term ending October 2014, by Legislative Act 11-00, the Act of July 17, 2000.” Tribal Council Resolution 04-12.

There is nothing ambiguous about the language used in the Resolution. Because there is no ambiguity in the language used by the Tribal Council, it is the opinion of the Attorney General that the resolution must be taken at face value; the body has expressed its intent in the language of the Resolution, and the Council must have intended the result that it dictated. The Attorney General cannot re-write the resolutions and acts passed by the Tribal Council, and the

plain language of Resolution 04-12 leaves no room for interpretation or examination of legislative intent. When the language is clear, as it is here, it is outside the purview of this office to either lengthen or shorten terms of appointed offices. That can only be done by legislative or judicial actions.

The resolution passed by the Tribal Council and approved by the Principal Chief governs the term of Ms. Doyle, and pursuant to the language in the Resolution her term will expire in October of 2014. It is highly recommended in the future that the Tribal Council clearly delineate what office an appointee is filling in the resolution itself.



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