

ROSEBUD SIOUX TRIBAL COURT

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ROSEBUD SIOUX SUPREME COURT ) ROSEBUD SIOUX RESERVATION ) SS ) ROSEBUD, SOUTH DAKOTA )

FILED

BY: DOCKET # CA2006-02

NOTICE OF ENTRY OF ORDER

NORMAN RUNNING SR., DANA HANNA, ANTOINETTE MILLER, RONALD NEISS, JAUNITA PECHCO, PAMELA BIG CROW & PATRICIA JONES

Defendant/Appellee

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TO: THE ABOVE-NAMED PARTIES

Please take notice that on the 22<sup>nd</sup> day of February, 2007, the Honorable Chief Justice FRANK POMMERSHIEM presiding, The Court entered a MEMORANDUM OPINION AND ORDER. A certified copy of said Judgment of ORDER is enclosed and by this reference is incorporated herein and is herewith served upon you.

Dated this 28<sup>th</sup> day of February, 2007.

Clerk of Courts

*Dorothy Nelson*

CERTIFICATE OF SERVICE

I, Dorothy Nelson, Chief Clerk of Courts of Rosebud Sioux Tribal Supreme Court, hereby certify that I served a true and correct copy of the Notice of Entry of Order and copy of said Order upon the Appellant(s) and Appellee(s) as follows by placing in the U.S. Mail, postage prepaid, addressed as follows:

Valerie Crazy Bull - PO Box 804, Mission, SD 57555  
Dana Hannah - Attorney General, RST, Box 500, Rosebud, SD 57570

Dated this 28<sup>th</sup> day of February, 2007.

Clerk of Courts

*Dorothy Nelson*

Per curiam (Before Chief Justice Frank Pommersheim and Associate Justices Patrick Lee

and Cheryl Three Stars Valandra)

Appellant appeals from the Order entered in the Rosebud Sioux Tribal Court on January

4, 2006, by the Honorable B. J. Jones, Special Judge of the Rosebud Sioux Tribe. The Order

dismissed the Appellant's complaint against the Appellees for lack of jurisdiction. For the

reasons set forth below, this Court affirms the order of dismissal.

Appellant was a an unsuccessful candidate for the 2005 Rosebud Sioux Tribal Council

election. Appellee Norman Running, Sr. was the successful candidate in the election. Both

Valerie Crazy Bull and Norman Running, Sr. were certified by the Rosebud Sioux Tribal

Election Board as eligible candidates from the District 4 Soldier Creek Community. The

Appellees in this case are members of the RST Election Board and the Board's attorney.

The trial court's mixed findings of facts and conclusions of law in this case indicate that

the Rosebud Sioux Tribal Election Board is authorized by RST Ordinance No. 86-10 to review

challenges to Tribal Council elections and that its decisions are not subject to review, although

the tribal court has previously exercised limited jurisdiction for abuses of due process by the

Board and in matters involving compliance with Tribal constitutional standards and the Indian

VALERIE CRAZY BULL,

Appellant,

vs.

PATRICIA BIG CROW,

PATRICIA JONES, RONALD NEISS,

JUANITA PACHECO, DANA HANNA,

and NORMAN RUNNING, SR.,

Appellees.

MEMORANDUM OPINION

AND ORDER

*[Signature]*

SUPREME COURT  
OF THE  
ROSEBUD SIOUX TRIBE

ROSEBUD SIOUX  
TRIBAL COURT  
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Civil Rights Act of 1968. See e.g., Ellert v. Rosebud Election Board; Herman v. Rosebud Election Board; and Fast Horse v. Rosebud Election Board.

The trial court found that there were no violations of due process or Tribal Constitutional rights in that the appellant had not formally or timely challenged the qualifications of Mr. Running; that the board, however, did meet informally and considered the concerns that appellant expressed regarding the residency of her opponent. The findings and conclusions of the trial court indicate that the Tribal Election Board placed Mr. Running's name on the ballot and that no formal challenge was filed pursuant to Ordinance 86-10, Section 404 which requires that challenges be made under oath and within one week of the board's action.<sup>1</sup> Hence, the trial court concluded that there were no grounds for a limited due process review and correctly dismissed the case for lack of jurisdiction.

Our ruling in this case begins with a review of Article III, Section 8 of the Constitution and Bylaws of the Rosebud Sioux Tribe. Section 8 provides that "The Rosebud Sioux Tribal Council shall be the sole judge of the constitutional qualifications of its own members." (Amendment VI – May 2, 1966). That constitutional provision is followed by Article IV – Powers of the Rosebud Sioux Tribal Council, Section 1(u) "To delegate to subordinate boards or tribal officials, to the several communities, or to cooperative associations, which are open to all members of the tribe any of the foregoing powers, reserving the right to review any action taken by virtue of such delegated power."

RST Ordinance No. 86-10, SECTION 410. APPOINTMENT AND COMPENSATION, (A) provides that "the Council shall appoint an Election Board consisting of five qualified voters who shall serve for two years and conduct tribal elections during that term."

<sup>1</sup> If there had been such a timely and proper written challenges (made under oath), the Election Board would have been required to hold a hearing.

By appointing the Election Board the Tribal Council effectively delegated the power to

determine the constitutional qualifications of tribal council members to the Appellees who serve on the Election Board. In so doing, the Tribal Council further provided in Section 404 -

Challenging of the Candidates - that "The Board's decision on the eligibility of a candidate shall be final," thus severely limiting court jurisdiction to review the board's decision regarding the

eligibility of candidates. In affirming the decision of the trial court we agree with the trial court's decision to tread

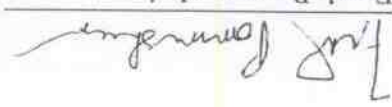
cautiously when hearing challenges to the authority of boards created by the Tribal Council in the absence of any express grant of jurisdiction to the trial court and in the absence of proof that

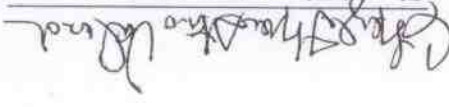
the actions complained of are in violation of the Rosebud Sioux Tribal Constitution or the Indian Civil Rights Act, 25 USC § 1302(8). We are convinced that the Board followed the Tribal

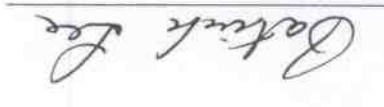
election ordinance properly and that the trial court correctly dismissed the complaint for lack of jurisdiction.

Based on this analysis, it is Ordered that Judgment of the trial court is AFFIRMED.

Done this 22 day of February, 2007.

  
Frank Pommersheim  
Chief Justice

  
Cheryl Three Stars Valandra  
Associate Justice

  
Patrick Lee  
Associate Justice