

## Letters

### Dear Smoke Signals:

If the recent decision made by the appellate court doesn't open our eyes, I am afraid nothing will. We have Tribal members and Tribal leaders publicly celebrating a determination that completely disregards our Tribal Constitution and brings in time restrictions that are non-existent in our written laws. These three judges have been inconsistent with their rulings, allowing some with actual proven descent to an ancestor on a roll to be terminated while allowing a certain family without any proof of an ancestor on a roll to remain.

We have become an embarrassment to the entire United States Tribal nations because some within the Tribe are giddy with winning at whatever cost to us and to all other Native Americans. They have become nearsighted, not even bothering to look at the big picture. Also, they are broadcasting the division within our Tribe in front of the whole world without the least bit of concern of the consequences and precedents that their "win" will inflict on this Tribe and possibly other Tribes for many years to come. Our Constitution has been made obsolete, yet these short-term "winners" are performing a victory dance.

To think that three judges who were chosen by our Tribal Council to protect our Constitution can possibly be allowed to nullify the very thing that they were chosen to protect and uphold is shocking. These three judges should be replaced and their decision should be completely ignored because of this conflict with our Constitution. If our Tribal leaders will not stop and consider that our very sovereignty is at risk, we have a good chance of losing everything.

When you vote, think about the repercussions that will be felt for many generations to come. While you're at it, we should all try and find a way to hold all leaders accountable if they refuse to uphold our Constitution and represent the majority of the membership. Let's all get angry and spread the word from family to family until justice is truly served for our Tribe.

**Jesse Knight**

Roll #921

### Dear Smoke Signals:

Aug. 5, 2016, changed the life of our Tribe. It was the day the decision on the Alexander disenrollment case came down in favor of the Chief Tumulth family. The decision was to remand the case back to our Tribal Court judge and then to remand the case back to our Tribal Enrollment Committee ordering them both to reverse their decisions in favor of the family.

One would think the appellate court would decide whether the family was correctly or incorrectly enrolled. They did not rule on that important question. Instead, we got loopholes called laches and estoppel as reasons why the appellate court wanted the disenrollment decisions reversed. They did not consider our Constitution, our Tribal laws or our Tribal sovereignty.

It was correctly argued by our Tribe that laches cannot be used against the federal government; yet this appellate court used laches against our sovereign nation. Our first Tribal Court judge said he would not use laches in this case. The doctrine of laches stem from "the principle that equality aids the vigilant, not those who sleep on their rights." So it ruled that our Tribe slept on our rights as a Tribe so we lost our rights as a Tribe. Do you agree with that? Our Tribal rules do not set any timelines to obey.

Laches mean to "neglect doing for an unreasonable length of time to do what in law should have been done." We snoozed, we lose. Do you accept that? Do you accept that our Tribal Constitution and Tribal laws no longer have power, but have to be interpreted to us by the courts?

The Tribal Constitution was voted in by the membership. The Tribal Constitution is what this Tribe stands for and gives us our identity as a people. It is the primary essence of our Tribe. What a shock to our Elders to know that our Tribal Constitution can be changed by an appellate court instead of by the people. What an injustice for the appellate court to order our Tribal judge and our Tribal Enrollment Committee to break our Tribal laws and reverse their decisions.

"Estoppel is closely related to laches." It means to stop someone from their claiming a lawful claim. Yet this family give their side of the claim publicly on Native Internet sites, the radio, newspapers, before the Tribal Enrollment Committee, before the Tribal Council and in two courts.

The only way the people will get this mess straightened out is by our vote. Vote for three candidates who will defend our Tribal Constitution, laws, sovereignty and who will uphold their oath of office. Choose three Tribal Council candidates who do not support this appellate court decision. Stand up for your Tribe, speak out for it and help to get it back on track by using one Tribal Court with one Tribal judge as in 1984. The Court of Appeals was brought in, to the downfall of our Tribe, and it can be taken back out if it is the will of the people.

**Rosemary Jameson**

Roll #883

### Dear Smoke Signals:

Recently I received a flier in the mail from three candidates who seem to be under the impression the appellate judges who recently ruled to reverse the disenrollment of the Chief Tumulth descendants somehow violated our Constitution. These judges ruled in favor of the Tumulth family by using estoppel and laches, both of which fall under the doctrine of federal common law.

However, the Tribe's Constitution clearly states our Tribe must follow not only our Constitution but federal law as well. Please see the following excerpt from the Confederated Tribes of Grand Ronde Community of Ore-

gon Constitution:

#### "ARTICLE I - AUTHORIZATION OF GOVERNMENT

*"Section I. Jurisdiction and Territory: The authority of the government established by this Constitution shall extend over all persons, property, and activities within the jurisdiction of the Confederated Tribes of Grand Ronde Community of Oregon except as limited by this Constitution and Federal Law."*

The judges wrote 20-plus pages explaining their decision. The law is clear and concise. I personally do not see a problem with their ruling to reverse the disenrollment of the Chief Tumulth family. I was in the court hearings and all three judges represented themselves in a professional manner and were obviously extremely well-versed in both sides of the case. Therefore, by ruling under the common law of laches and estoppel their decision is in full compliance of our Constitution and our sovereignty.

When I received the flier, I was saddened these candidates felt this is the most important thing our Tribe is facing right now. That they would want to continue spreading division and negativity among our people is unfathomable. The court's decision is final. I would hope we can move on and our leaders can put their attention toward the major issues we are currently facing. We are in a place where we need to stand together and move in a positive direction.

Blessings to you all!

**Ann K. Lewis**

Roll #3983

### Dear Smoke Signals:

We belong. For those of you who have followed Grand Ronde in the news for the last three years, 66 members of my family and I have spent much of our lives fighting to stay enrolled in this Tribe. After multiple changes in Tribal law surrounding our enrollment situation, the Tribe's appellate court handed down a decision in our favor, reversing our disenrollment and ordering that we, the descendants of Chief Tumulth, be reinstated as Grand Ronde Tribal members.

This has been a happy situation, a weight lifted from our shoulders unlike anything else. The past three years have included many sleepless nights, name calling and accusations from fellow Tribal members, including Elders and elected officials. Several of our family Elders passed away during this time, including Chuck Williams, who authored the famous book "Bridge of the Gods, Mountains of Fire" and who intended that many of his materials be donated to the Tribe following his passing. To say the last three years have been hard would be an understatement. But for all the bad, the Aug. 5 appellate court decision was one of the happiest days of our lives.

Looking forward to this Tribal election, it saddens us deeply to see candidates negatively using our situation for votes. The same goes for public comments making the claim that the Tribe somehow lost sovereignty because of our victory. Sovereignty, as we know it, having become familiar with Indian law over the last few years, is the ability to make your own laws and have your own courts. And that is precisely what the Tribe is doing. That we are being used as a political tool only reaffirms what we have always suspected: our disenrollment was political.

We offer the following excerpts from the appellate court's decision:

- "There is no question that the Tribe, Enrollment Committee, and staff were not diligent and unjustifiably delayed instituting this enrollment investigation and subsequent action to disenroll."
- "There is another type of estoppel that might apply and prevent the Tribe from arguing now that the petitioners are not Grand Ronde citizens: the Tribe has long argued in other venues that Chief Tumulth, the Watlala and Cascade Tribes, and Tumulth's relatives, who were enrolled in the Tribe, all lived in the Columbia River Gorge and Cascade Locks areas. The Tribe used these arguments to claim rights in those areas. The Tribe might be estopped from now making the opposite argument."
- "We do not decide today whether the Tribe has to engage in affirmative misconduct. ... But it seems clear that enrolling Petitioners' lateral and lineal ancestors, allegedly in error, and then repeatedly telling them, allegedly in error, for 27 years that they were properly enrolled in the Tribe could be affirmative misconduct." Affirmative misconduct, according to Black's Law Dictionary is "deliberately misleading."
- "Such a long chain of alleged misconduct and misstatements is far more than a one-time negligent act."
- Regarding the legal doctrines of laches and estoppel: "It is rare to apply laches and estoppel to governments, and we do so only in 'the most egregious instances.'" Black's Law defines "egregious" as "remarkably bad."

Several candidates, their supporters and some Tribal leaders have claimed we don't meet the constitutional requirements for enrollment. Nowhere in the court ruling is that statement made. What the judges ultimately said is this: The Tribe cannot claim people as members for 27 years, use them to influence public policy and then suddenly claim they aren't members anymore. While people are free to have their own interpretations, ours is simply this: For 27 years we lived as members of this Tribe, we met the constitutional requirements for enrollment, we drummed, we sang at events, some of us mastered Chinuk Wawa and we allowed the Tribe to use our family to influence public policy. People within certain positions in our Tribal governance, those whose behavior is considered "affirmative misconduct" and "very egregious" by the court, wanted us out, and for a time, we were. But we're back. Because, as we've been saying for three years now and long before then: We belong!

**Erin Bernando**

Roll #3266