

N THE NORTHERN CHEYENNE APPELLATE COURT  
OF AND FOR THE NORTHERN CHEYENNE TRIBE  
LAME DEER, MONTANA

IN THE MATTER OF:

CAUSE NO. **C2026-079.A**

MELISSA FISHER, EVA FOOTE,  
GWEN SPOTTED HORSE, STEFAN  
RAININGBIRD, MELISSA  
LONEBEAR, NIZHONI FRIEZ,  
DONOVAN LIMBERHAND,  
HOWARD ONTIVEROS, EDINA  
RED STAR, KRISTI KILLSNIGHT,  
and RYHAL ROWLAND,

APPELLATE JUDGE  
ADRIAN A. MILLER

**OPINION**

Petitioners,

JASON STANDING ELK, WAYLON  
ROGERS, LLEVANDO “COWBOY”  
FISHER, REUBEN ROUNDSTONE,  
COREY SPOTTED ELK, JOSIE  
“WADE” REDHAT, ROBERT  
SIMPSON, LYNWOOD EWING,  
SHARLENE EVANS, TERRANCE  
LIMPY, DONOVON TAYLOR,  
LARRY MEDICINE BULL,  
WESLEY SPOTTED ELK, and  
ROGER KILLSNIGHT.

Respondents.

Defendants Larry Medicine Bull, Wesley Spotted Elk, and Roger Killsnight  
(collectively, “Defendant Chiefs”) appeal the Trial Court’s August 18, 2026 Order

granting summary judgment to Plaintiffs (the “August 18 Order”). Defendants Jason Standing Elk, Waylon Rogers, Llevando “Cowboy” Fisher, Rueben Roundstone, Corey Spotted Elk, Josie “Wade” Redhat, Robert Simpson, Lynwood Ewing, Sharlene Evans, Terrance Limpy, and Donavon Taylor (collectively, “Council Defendants”) also appeal the August 18 Order.

### **PROCEDURAL AND FACTUAL BACKGROUND**

The procedural history here is lengthy, and is set forth more fully in this Court’s July 24, 2026 Order. The Court will outline the procedural history at issue in this Opinion, which consists generally of what occurred after the July 24, 2026 Order. A new judge, Judge Pro Tem Andersson, was appointed and assumed jurisdiction of this case for the Trial Court. Judge Andersson restored the Defendant Chiefs as defendants in this matter as required by the July 24 Order, and Respondents filed their response to the pending summary judgment motion on August 4, 2026. The Trial Court then determined the pending motion and granted summary judgment in Plaintiffs’ favor in the August 18 Order.

Defendant Chiefs and Council Defendants both appeal the August 18 Order on generally the same grounds. Both argue that the Trial Court should have granted a hearing on Plaintiffs’ summary judgment motion and allowed them to present evidence at the hearing. Additionally, Defendants argue that: (1) the September 25, 2025 Declaration (the “Declaration”) was within the bounds of the Northern

Cheyenne Constitution because the Constitution allows removal of council members for “other causes” and (2) even if the Declaration was not within the bounds of the Constitution, it does not need to be because traditional law allows it. There are several additional arguments raised by Defendants based upon justiciability, as well as concerns about the timeframe of Plaintiffs’ challenge given the special election that was held on October 30, 2025.

### **OPINION AND ORDER**

#### **A. This is a Justiciable Controversy.**

As an initial argument, Defendant Chiefs claim that the Court does not have jurisdiction to determine whether the Declaration is valid or not because it is a nonjusticiable issue. Specifically, Defendant Chiefs claim that the judiciary cannot “decide, standardize, and enforce the internal law of the Traditional Chiefs and military societies through an adversarial proceeding.” App. Op. Br., at 4. That is not what this Court or the Trial Court has done. The issue in this case is not the internal law of Defendant Chiefs. The issue is the external actions that those Chiefs took when issuing the Declaration and removing Plaintiffs from the Tribal Council. If the argument of Defendant Chiefs is to be believed, then what they truly want is recognition that their internal laws also govern the Tribe, even if those internal laws contradict the Tribal Constitution and the Northern Cheyenne Law and Order Code (the “Code”).

That is not the case. Defendant Chiefs are free to govern themselves internally however they see fit. They are not, however, free to also apply their internal laws to the Tribe when the Tribe has explicitly adopted a Constitution and the Code as the applicable laws of the Tribe. As Defendant Chiefs correctly state, *Williams v. Lee*, 358 U.S. 217 (1959) confirmed the right of tribes to make their own laws and be governed by them. The Northern Cheyenne Tribe has done exactly that by adopting the Constitution and the Code. As part of that adoption, the Tribe has given tribal courts jurisdiction over “tribal customs and traditions” and allows advocates of relevant customs and traditions an opportunity to prove their content. *See* Code, § 2.2.4(E).

Thus, to the extent Defendant Chiefs claim that some external action they take constitutes a lawful action that governs the Tribe, there is no doubt that the tribal courts have jurisdiction over that action. Again, Defendant Chiefs are free to follow whatever internal laws they deem necessary to govern themselves, but once they apply those internal laws to govern other aspects of the Tribe, their actions are subject to judicial review. This Court, accordingly, rejects the argument that review of the Declaration is a nonjusticiable issue.

**B. Custom and Tradition Cannot Contradict the Constitution.**

Defendants correctly note that the Code recognizes that tribal customs and traditions may be considered by the Court when determining issues pursuant to

Section 2.2.4(E), provided that their content can be proven. However, they failed to recognize that there is a limitation on such consideration. When determining any case over which it has jurisdiction, a court shall give binding effect to “[a]ny applicable custom or usage of the Northern Cheyenne Tribe not in conflict with the law of the Tribe or of the United States.” Code, § 4.1.1(C)(3) (emphasis added). Thus, when faced with a decision about whether to consider evidence of custom and tradition, a court must first consider whether the custom at issue would conflict with a law of the Tribe. If the proposed custom does not conflict with a law, the Court may next request witness testimony of persons familiar with the custom or tradition at issue. *Id.*

Here, Defendants object to the fact that the Trial Court did not hold a hearing to consider evidence regarding traditions of Defendant Chiefs and the Tribe. But Defendants fail to acknowledge that the Trial Court made the first determination required under Section 4.1.1(C)(3) and found that the Declaration did, in fact, contradict the law of the Tribe. Once the Tribal Court determined that the proposed tradition (here, the Declaration) contradicted tribal law, the Court was not required to hold a hearing or hear any witnesses. In fact, the Tribal Court could go no further under Section 4.1.1(C)(3) after it determined that Defendant Chiefs’ proposed custom was in direct contradiction with the Tribal Constitution. Holding a hearing would have been pointless.

Specifically, the Tribal Court found that Articles VI and VII of the Tribal Constitution provide for both election and removal of members of the Tribal Council. Article VII provides four circumstances under which a Tribal Vacancy occurs and explicitly sets forth a procedure for removal of a member of the Tribal Council. Removal from office requires a 2/3s vote of Tribal Council “after affording the accused member a fair opportunity to be heard in his own defense.” Art. VII, Sec. 2, Tribal Constitution. The due process requirement for removal is specific and important. The Tribal Court correctly noted that nothing in the Constitution reserves any removal power to anyone else or through any other process.

Thus, as correctly determined by the Trial Court, the Declaration is in direct contradiction to both Article VI and VII of the Tribal Constitution. If Tribal Council members can be removed arbitrarily by any process, other than that set forth in Article VII, then the constitutional provision is meaningless. More importantly, the member whose removal is at issue would have no due process rights. Similarly, if Defendant Chiefs can simply appoint whoever they want to those positions once members are removed, then the democratic process set forth in Article VI is pointless.

The Declaration explicitly violates the process set forth in the Constitution for removal of Council Members, including the right to due process as part of that proceeding. Because the Declaration itself directly contradicts the Constitution, the

Tribal Court correctly found that there was no issue of material fact present; under Section 4.1.1(C)(3), any tradition contradicting tribal law cannot be binding. No evidence presented by Defendants or anyone else could change that legal determination.

The term “other cause” in Section 4 of Article VII also does not give Defendant Chiefs authority to arbitrarily remove a member of the Tribal Council. That section deals only with how to fill vacancies of an office, but it does not govern removal. Instead, as discussed above, the procedure for removal is set forth in Section 2 of the same article, and there is nothing in Section 2 that suggests that a member can be removed other than through the explicit process set forth therein. The catch-all language in Section 4, then, is simply an acknowledgment that a vacancy may arise through something other than death, removal, or resignation; it does not reserve or give any powers to Defendant Chiefs.

### **C. The Trial Court Correctly Voided the October 2025 Election.**

Defendants also suggest that the Trial Court could not void the October 2025 Election because Plaintiffs did not challenge that election through the procedure set forth in the Revised Tribal Election Ordinance (the “Election Ordinance”). Defendants do not, however, explain how Plaintiffs could have done so. While this Court agrees that it would have been faster and cleaner if Plaintiffs could have used the election challenge process, it does not appear that it was available to Plaintiffs.

Section 22 of the Election Ordinance sets forth the process for challenging an election. Section 22(c) states, “An Election Contest may be initiated only by one or more candidates who lost the primary or general election being challenged, and by no other party.” (emphasis added). The Election Ordinance does not, accordingly, allow members of a Tribal Council who were unlawfully removed prior to an election to then subsequently challenge the election. It also only permits very specific grounds for election challenges: (1) that serious or repeated violations of material provisions of the Tribal laws occurred in connection with the election and that (2) such violations actually, or in all likelihood, altered the outcome of the election. Section 22(d), Election Ordinance. That is not, however, the claim that Plaintiffs have made. Instead, Plaintiffs’ claim is that the election should never have taken place because the vacancies that the Declaration created were unlawful.

In conclusion, Plaintiffs did not have a path to challenge the validity of the October 2025 election through an election challenge. Instead, they were forced to file this case in the Trial Court. While this Court agrees that the case certainly could have been filed sooner and that it would have created less chaos if it had been, that does not mean that Plaintiffs’ claims cannot or should not be adjudicated. This Court is not going to dismiss Plaintiffs’ case because Council Defendants have been governing (unlawfully) for the past year. Allowing them to continue in their current

positions simply because so much time has passed would compound the wrongs flowing from the unlawful Declaration.

For the reasons set forth herein, the August 18, 2026 Order is **AFFIRMED**.

DATED this 22<sup>nd</sup> day of September, 2026.

/s/ Adrian A. Miller  
APPELLATE JUDGE  
NORTHERN CHEYENNE TRIBE



NORTHERN CHEYENNE COURT  
**CERTIFIED COPY**  
CLERK OF COURT:  
BY: [Signature]  
DATED: 9/22/2026