

IN THE SUPREME COURT  
OSAGE NATION

Supreme Court  
of the Osage Nation

FILED AUG 19 2015

By 

Cynthia Boone, )  
Everett Waller, )  
Kathryn Red Corn, )  
Joseph Cheshewalla, )  
Stephanie Erwin, )  
Defendants/Appellants, )  
v. )  
Osage Nation, )  
Plaintiff/Appellee. )

Case No.: SCV. 2015-01

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JOINT PETITION IN ERROR  
AND PRELIMINARY STATEMENT

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I. TRIAL COURT HISTORY

A. Name of Parties Filing This Petition in Error: Appellants were individual defendants in the following cases in the Trial Court:

1. Osage Nation v. Cynthia Boone – CV-2015-03
2. Osage Nation v. Everett Waller – CV-2015-05
3. Osage Nation v. Kathryn Red Corn – CV-2015-06
4. Osage Nation v. Joseph Cheshewalla – CV-2015-07
5. Osage Nation v. Stephanie Erwin – CV-2015-08

The Defendants/Appellants join together to file this single Petition in Error consistent with Code of Civil Appeals, § 11 which states “Two or more parties may join in any appeal by filing a single petition in error.” Defendants/Appellants understand that “the precise points of law to be urged by a joint petition in error shall be regarded as joint and several.” Id.

B. This Appeal is Brought From: Entry of Summary Judgment granting declaratory relief to the Appellee/Plaintiff.

II. TIMELINESS OF APPEAL

A. Date Judgment was filed: July 30, 2015.

B. This Petition is filed by: Filing by electronic mail to [courtfilin@osagenation.org](mailto:courtfilin@osagenation.org) and by mailing to the Office of the Court Clerk on August 19, 2015.

### III. RECORD ON APPEAL

The Designation of Record on Appeal as required by Code of Civil Appeals, § 12 is being filed concurrently with the Petition in Error.

### IV. JUDGMENT APPEALED

Attached as Exhibit "A" to the Petition in Error is a copy of the judgment from which the appeal is taken. Defendants/Appellants are attaching the Journal Entry of Judgment entered in *Osage Nation v. Cynthia Boone* – CV-2015-03. The Journal Entry of Judgment entered in the other cases are exactly the same except for the case heading on each.

### V. PRELIMINARY STATEMENT

Attached as Exhibit "B" is a brief preliminary statement of the case.

### VI. ISSUES TO BE RAISED ON APPEAL

Attached as Exhibit "C" is a list of issues to be raised on appeal.

### VII. NAME OF COUNSEL OF PARTIES

#### ATTORNEYS FOR DEFENDANTS/APPELLANTS

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#### ATTORNEY FOR APPELLEE/PLAINTIFF

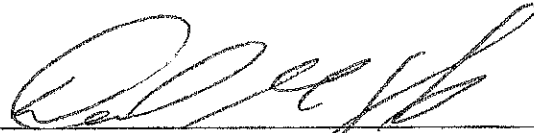
Jeff Jones  
Assistant Attorney General  
1223 Grandview  
Pawhuska, OK 74056

VIII. VERIFICATION

Dated this 19<sup>th</sup> day of August, 2015 and Verified by:

DOERNER, SAUNDERS, DANIEL  
& ANDERSON, L.L.P.

By:



David McCullough, ONBA #150  
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*Attorneys for Defendants/Appellants*

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the Petition in Error for Defendants/Appellants was mailed, by depositing it in the U.S. Mails, postage prepaid, this 19<sup>th</sup> day of August, 2015 to:

Jeff Jones  
Assistant Attorney General  
1223 Grandview  
Pawhuska, OK 74056

I further certify that a true and correct copy of the Petition in Error for Defendant/Appellant was transmitted by electronic mail to [courtfilings@osagetribe.org](mailto:courtfilings@osagetribe.org) in .PDF form and was mailed for filing to the Office of the Court Clerk on the 19<sup>th</sup> day of August, 2015.



David McCullough

IN THE TRIAL COURT OF THE OSAGE NATION  
CIVIL DIVISION  
PAWHUSKA, OKLAHOMA

Trial Court of the Osage Nation  
FILED

JUL 30 2015

Osage Nation, )  
)  
Plaintiff, )  
)  
v. )  
)  
Cynthia Boone, )  
Duly Elected Minerals Council Member, )  
Defendant. )

By KBunde

Case No. CIV-2015-03

**JOURNAL ENTRY OF JUDGMENT**

NOW ON THIS 20<sup>th</sup> day of July, 2015, this matter comes on for hearing on the Motions for Summary Judgment filed herein. The parties announce that they stand on the pleadings and waive oral argument. The Court inquires of each attorney as to questions of the Court. The Court having read the pleadings filed in the case, having heard statements of the attorneys and having his questions answered hereby finds as follows:

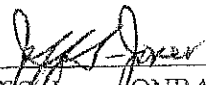
1. That the Constitution of the Osage Nation was adopted by a vote of the people in 2006.
2. The Minerals Estate is not to be diminished by the Constitution.
3. That Osage Nation statute, 15 ONC 6-101 et. seq., is the Osage Nation Ethics Law and specifically, 15 ONC 6-103(O) defines governmental body as the Osage Minerals Council.
4. That the language of the statutes and the Constitution include the Osage Minerals Council.
5. That the 1906 Act does not control.
6. That the Osage government was reconstituted under the new Constitution.
7. That the Constitution states the Nation cannot interfere with the minerals owners but can establish rules on how the Osage Minerals Council is to operate.
8. That the Osage Minerals Council is not diminished by the Ethics Law.
9. That the Summary Judgment Motion of the Osage Nation is upheld and that the Ethics Law does apply to the Osage Minerals Council.

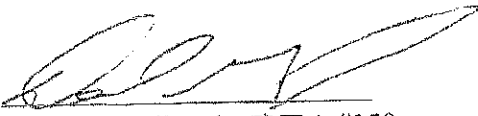
Further, the Court finds that any enforcement of this ruling is stayed pending appeal.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the Motion for Summary Judgment filed by the Osage Nation is upheld and the Ethics Law does apply to the Osage Minerals Council.

  
JUDGE OF THE COURT

APPROVED BY:

  
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Attorney for Defendant

## EXHIBIT B

Defendants/Appellants comprise collectively a majority of the members of the Osage Minerals Council (“OMC”). On January 20, 2015, the Attorney General of the Osage Nation filed, on behalf of the Osage Nation, an action against Defendants/Appellants in their individual capacity as a “Duly Elected Minerals Council Member.” While the Nation’s action was styled an “Ethics Complaint,” the action sought “declaratory relief pursuant to Osage Nation . . . to determine whether Osage Nation laws apply to the Osage Minerals Council.” The law in question is the Osage Ethics Act requires officials of any “governing body” to file an affidavit listing gifts received during the previous year. Defendants/Appellant did not file an affidavit.

Defendants/Appellants contend the Ethics Act does not apply elected members of the OMC. The OMC is an independent agency. Its members are elected by “only Osage mineral royalty interest holders” who are the beneficiaries of the Osage Mineral Estate under the 1906 Act. The OMC’s constituency is not the members of the Osage Nation. The interests of the OMC may not align with the interest of the Osage Nation. Defendants/Appellants asserted the application of the Ethics Act against the OMC places the Osage Nation in the position to exert undue pressure on the members of the OMC to exact a result from the OMC that may not be in the best interest of the beneficiaries of the Osage Mineral Estate. Such an outcome would conflict with federal laws and regulations, as well as a violation of the Osage Nation’s Constitution.

A hearing was scheduled for July 20, 2015. The parties submitted the case to the court on their briefs. The court declared from the bench that judgment would be granted to the Nation. On July 30, 2015, the court entered the Journal Entry of Judgment. From that order, Defendants/Appellants have appealed.

## EXHIBIT C

### ISSUES TO BE RAISED ON APPEAL

1. Is the Osage Minerals Council a “governmental body” under the Osage Nation Ethics Act?
2. Is a member of the Osage Minerals Council a public official under the Osage Nation Ethics Act?
3. Is application of the Osage Minerals Act against the Osage Minerals Council and its members a violation of federal law and regulations?
4. Is application of the Osage Minerals Act against the Osage Minerals Council and its members a violation of the Osage Nation Constitution?
5. Was it error for the trial court to find that the Osage Nation cannot interfere with the Osage Minerals interest holders but the Osage Nation could establish rules on how the Osage Minerals Council and its members must act?