**Aaron Tobey Jr, Crystal Asiwe, Steve Helme vs. Francie Dottin, Darlene Scott, Allyssa Hathaway, Elsie Pocknett, In their official capacities as members of the Mashpee Wampanoag Tribal Election Committee**

 **CV-21-001**

Synopsis

On January 25th, 2021 the Tribal Council adopted Emergency ordinance 2021-ORD-001 amending the Election Ordinance to postpone the regular election for 2021 and conduct mail-in voting in place of in-person voting given the state of the COVID-19 pandemic. On February 2, 2021, the plaintiffs filed a Complaint for Declaratory & Injunctive Relief alleging that the Tribal Council, in conjunction with the Election Committee, violated the Constitution by altering its requirements for in-person voting without a majority vote of the registered voters of the Tribe as is required by Article XIII of the Constitution.

The plaintiffs sought a preliminary injunction to enjoin the defendants from taking any action inconsistent from in-person voting for the 2021 regular election.

The Defense requested that the case be dismissed on the grounds of sovereign immunity and a lack of standing.

District Court Holdings

The Court found that the Plaintiff, Aaron Tobey, Jr. maintained standing as a candidate for public office. The Court dismissed the individual Mashpee Wampanoag Tribal Council members in their official capacities. The Court also granted the preliminary injunction sought by the plaintiffs and enjoined the Election Committee from holding the General Election scheduled for March 26, 2021 to avoid the constitutional violation, stating that the Election Committee has the ability to remedy the issue by holding a constitutionally viable election not involving mail-in ballots.

The judgement of the District Court was appealed by the defendants, bringing the matter to the Supreme Court.

Supreme Court Holdings

The Supreme Court affirmed the District Court’s finding that Tribal Officials do not benefit from Sovereign Immunity when acting beyond their authority in violation of constitutional law, as was the case for the defendants. The Supreme Court found that the Tribal District Court’s granting of the preliminary injunction was appropriate given that the Emergency Election Ordinance conflicted with the Constitution and that the Appellants had no authority to conduct mail-in voting in the election. Since that District Court decision, the Tribal Council repealed the Emergency Election Ordinance in question and adopted a new Emergency Election Ordinance which did not include mail-in voting. Due to this intervening action to rescind the violating provisions of the original Emergency Election Ordinance, the Supreme Court found that the Appellants appeal was moot. Therefore, the case was dismissed.