



Council of the Cherokee Nation

Cherokee Nation Tribal
Council
17763 S. Muskogee Ave.
Tahlequah, OK 74464

Legislation Text

File #: 09-097, Version: 2

A RESOLUTION AUTHORIZING THE CHEROKEE NATION TRIBAL COUNCIL TO SUPPORT THE APPEAL OF COUNCILORS FISHINGHAWK AND JORDAN CONCERNING TRIBAL COUNCILOR'S RIGHT TO INDIVIDUALLY HAVE ACCESS TO COUNSEL OF THEIR CHOICE AND HAVE ACCESS TO THE COURTS

BE IT RESOLVED BY THE CHEROKEE NATION TRIBAL COUNCIL:

WHEREAS, the Cherokee Nation, since time immemorial has exercised the sovereign rights of self-government on behalf of the Cherokee People; and,

WHEREAS, the Cherokee Nation is a federally recognized Indian Nation with a historic and continual government to government relationship with the United States of America; and

WHEREAS, the Cherokee Nation Tribal Council consists of seventeen (17) members, each with equal duties and responsibilities; and,

WHEREAS, Cherokee Nation Tribal Council members opinions may differ from time to time concerning litigation positions; and,

WHEREAS, Cherokee Nation Tribal Council has specifically allocated funds for individual Councilors to hire independent attorneys in matters that affect the Cherokee Nation government; and

WHEREAS, in *Smith v. Cherokee Nation Election Commission*, et.al. CV-2009-65, Councilors have differing opinions as to issues presented; and

WHEREAS, the Cherokee Nation District Court ruled and denied Councilors Jordan and Fishinghawk the right to proceed with separate counsel; and

WHEREAS, said ruling impairs the authority of the Cherokee Nation Tribal Council members and should be appealed.

WHEREAS, the Cherokee Nation Judicial Appeals Tribunal (now Supreme Court) has ruled in *Phillips v. Eagle*, JAT 98-09, that:

“To the extent the constitutional authority and powers of the Cherokee Nation Council are impaired, so too is the authority and power of each member of the Cherokee Nation Council, since the office of councilor confers a right to participate in the exercise of the authority and powers of the Council”

WHEREAS, it would be beneficial to the Cherokee Nation Tribal Council, as an institution, to protect the individual rights of its members.

NOW, THEREFORE BE IT RESOLVED by the Cherokee Nation through its Tribal Council, that it supports the appeal of Councilors Jordan and Fishinghawk concerning the District Courts decision to deny them individual participation in *Smith v. Cherokee Nation Election Commission*, et.al. CV-2009-65.