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Member of Tribe Found Ineligible to Run for City Council under Michigan Constitution

FACTS:

In 2010, Fred Paquin pled guilty to a federal indictment of conspiracy involving the misuse of federal funds granted to the Sault Tribe of Chippewa Indians, a federally recognized Indian tribe. At the time, Paquin was serving as the Tribe's chief of police and as an elected member of the Tribe's Board of Directors. After serving his prison sentence, Paquin sought to run for a position on the City of St. Ignace's city council in the 2013 general election.

The Michigan Constitution 1963, art 11, § 8 provides: A person is ineligible for election or appointment to any state or local elective office of this state and ineligible to hold a position in public employment in this state that is policy-making or that has discretionary authority over public assets if, within the immediately preceding 20 years, the person was convicted of a felony involving dishonesty, deceit, fraud, or a breach of the public trust and conviction was related to the person's official capacity *while the person was holding any elective office or position of employment in local, state, or federal government.* (Emphasis added.)

On August 15, 2013, the Attorney General issued OAG, 2013-2014, No. 7273, concluding that the constitutional provision applies to a person convicted of a crime based on that person's conduct as a governmental employee or elected official of a federally recognized Indian Tribe, making Paquin ineligible for election or appointment to the St. Ignace city council. Paquin asserted that the constitutional provision did not apply to him since he was not convicted while holding an elective office or a position of employment in a "local, state, or federal government."

Paquin sued in state court and asserted that the Attorney General had cited no authority for its determination that a local, state, or federal government somehow includes a federally recognized sovereign Indian Tribe. The trial court dismissed Paquin's complaint, holding that Paquin fell under the constitutional provision as a citizen of Michigan, regardless of his status as member of the sovereign tribal nation.

QUESTION:

Does § 8 of Article 11 of the Michigan Constitution apply to a member of a sovereign political unit?

ANSWER:

The Court of Appeals recognized that the Sault Tribe is a sovereign political unit of government and that "Indian tribes are distinct, independent political communities, retaining their original natural rights in matters of local self-government." Nonetheless, the Court agreed with the Attorney General and the trial court in finding that the Tribe qualifies as a "local government" under § 8 of Article 11. The Court noted that in "seeking to run for an elective position in a Michigan city, [Paquin] was acting in his capacity as a Michigan citizen rather than a member of the Tribe. As a Michigan citizen, plaintiff is subject to the same laws as other Michigan citizens when seeking to run for an office in a Michigan municipality."

Paquin v City of St. Ignace, No. 334350 (October 19, 2017).

Note: Case has been appealed to the Michigan Supreme Court.

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