

Aaron Tobey v. Cedric Cromwell, and Rebekah Salguero

CV-18-001

This synopsis was prepared following review of the original complaint (filed August 17, 2018), and Order Allowing Defendant's Motion to Dismiss issued by Judge Jeffrey L. Madison sitting in the Mashpee Wampanoag Tribal Court. Tobey v. Cromwell, and Salguero, **CV-18-001** (November 30, 2018).

Synopsis: Plaintiff filed a Complaint alleging that a proposed amendment to an intergovernmental agreement between the Mashpee Wampanoag and the Town of Mashpee is unconstitutional when negotiated by the Tribal Chairman lacking authority delegated under art. VI, § 2(D) of the Constitution of the Mashpee Wampanoag Tribe. Plaintiff sought declaratory and equitable relief. Defendant presented a Motion to Dismiss for failure to state a claim upon which relief can be granted and further argued that the Tribe's sovereign immunity requires dismissal of the Complaint. The Court heard arguments from parties both for and against Defendant's Motion to Dismiss the Complaint.

The issue before the court:

Whether the Defendant Tribal Chairman during discussions with the Town of Mashpee engaged in mere continuance of an existing intergovernmental agreement or entered into an amendment in violation of the Tribal Constitution?

Holding

The Court found Defendants were acting in conformance with the Chairman's constitutionally stated duties by participating in a meeting with the Mashpee Selectman relating to an intergovernmental agreement previously entered into under the authority of the Tribal Council.

The Court found nothing in Plaintiff's Complaint disputing Defendants' legitimacy as a tribal official. Nor does the Complaint allege that Defendants attendance at the meeting with the Board of Selectman was in any way improper. Further, the Tribal Council has not waived Tribal Sovereignty. As a result, this Court is without jurisdiction to hear the claim. Defendants' are entitled to dismissal on the grounds of sovereign immunity.

Defendant's Motion to Dismiss is allowed and this matter is dismissed with prejudice.