

Marie Stone v. Cedric Cromwell, et al

This synopsis and holding were taken from the **interlocutory appeal** drafted by Judge Robert Mills sitting in the Supreme Court. Marie Stone v. Cedric Cromwell, CV-12-001 (June 11, 2013).

Synopsis:

The Plaintiff, as Tribal Council secretary, brought this action against Cedric Cromwell, Tribal Chairman, as well as six other individuals, whom are members of the Tribal Council, for denying her rights under the Tribal Constitution when she was suspended from her position as Tribal Secretary without pay. The Defendants appealed the District Court's decision denying the Defendant's Motion To Dismiss on grounds of sovereign immunity.

Holding:

The Court reversed the lower court's decision holding that the Tribe was immune from suit. The Court also found that sovereign immunity extends to individual tribal officials who are acting within their scope of a tribal official. The Court explained that there is no judicial review of suspensions as there is for expulsions as stated in the Tribe's Constitution. It is not the duty of the Court to create a law where it is not specified in the Tribe's Constitution. The Court did not express an opinion on whether the Plaintiff-Appellee's due process rights were violated or not. The Court found that the Tribal Council did not waive its sovereign immunity. The Trial Court's finding that the Tribal Council is subject to claims by Tribal Members that are based upon alleged violations of the Tribal Constitution is reversed absent a waiver of sovereign immunity.