

LEGISLATIVE

RESOLUTION NO. L-AS-2024-15

ABSENTEE-SHAWNEE TRIBE OF INDIANS OF OKLAHOMA

REGULAR EXECUTIVE COMMITTEE MEETING

NOVEMBER 21, 2024

A RESOLUTION DULY ADOPTED BY THE EXECUTIVE COMMITTEE OF THE ABSENTEE-SHAWNEE TRIBE OF INDIANS OF OKLAHOMA ADOPTING AMENDMENTS TO THE ABSENTEE SHAWNEE CIVIL CODE TO CLARIFY THE STATUS AND RIGHTS OF ALL TRIBAL COURT STAFF AND EMPLOYEES AS TRIBAL EMPLOYEES AND FOR OTHER PURPOSES. (ATTACHMENT)

WHEREAS, the Absentee-Shawnee Tribe of Indians of Oklahoma is a federally recognized Indian Tribe exercising all inherent sovereign rights from time immemorial; and

WHEREAS, the Absentee-Shawnee Tribe of Indians of Oklahoma has a Constitution approved by the Department of the Interior, as last amended in May 2019; and

WHEREAS, the Executive Committee of the Absentee-Shawnee Tribe of Indians of Oklahoma is empowered by the Constitution to speak and otherwise conduct business in the name of, and on behalf of, the Absentee-Shawnee Tribe of Indians of Oklahoma; and

WHEREAS, the authorities granted by this Resolution shall be continuing until and unless amended, repealed, superseded, rescinded or nullified by separate action of this body; and

WHEREAS, it is the responsibility of the Executive Committee to uphold its constitutional responsibility to the Tribe and its membership as the highest priority; and

WHEREAS, the Executive Committee has determined it necessary to clarify the status and rights of all tribal court staff and employees as tribal government employees entitled to the protections provided by the Tribal Employee Policies and Procedures; and

WHEREAS, the Executive Committee has also determined the need to assign responsibility for the oversight and supervision of all court staff and employees to the presiding judge or justices while the court is in session and to the Executive Committee at all other times the tribal court is open for regular business and to serve tribal members and the general public.

“EXHIBIT A”

AMENDMENTS TO THE ABSENTEE SHAWNEE TRIBAL CIVIL CODE

Section 203. “Minimum Qualifications of Justices”

This Code provides that to be eligible to serve as a Justice of the Absentee Shawnee Supreme Court, a person must fall within one of the following categories.

(a) Attorneys and Paralegals

- (1) An attorney that has demonstrated a knowledgeable of the basic principles of Federal Indian law and that has been permitted to practice before any tribal, state or federal bar for at least seven years, or who is an enrolled member of the Absentee Shawnee Tribe; or
- (2) An enrolled member of any federally recognized tribe or band of Indians who is a graduate of a Paralegal Program that is approved by the AST Supreme Court and who has at least seven years of experience working under the supervision of an attorney that meets the requirements of (a)(1) above may serve as an Associate Justice only.

(b) Others

- (1) a trained Lay Advocate who has regularly practiced before the Absentee Shawnee Tribal Court for a period of at least seven (7) years may serve as an Associate Justice only.

To be considered for appointment a person must,

(c) have demonstrated moral integrity in their business, public and private life;

(d) have not been convicted of a felony or an offense involving moral turpitude, whether or not actually imprisoned, and have not been convicted of any offense, except traffic offenses, for a period of five (5) years next preceding their appointment. The five (5) year period shall begin to run from the date the person was unconditionally released from supervision that resulted from a conviction;

(e) not be known to regularly use alcoholic beverage to excess, nor use any illegal drug or other controlled substance;

(f) is at least thirty (30) years of age;

(g) is not currently a member of the Executive Committee, or the holder of any other elective Tribal Office of this Tribe, provided; that a candidate who is a member of the Executive Committee, or the holder of some other elective Tribal Office may be confirmed as a Justice subject to their timely resignation. Upon resignation from his office, they may be sworn in and assume the duties of judicial office;

(h) if less than fifty (50) years of age, must have successfully completed sixty (60) credit hours at an accredited college or university or have at least four (4) years of experience as a Judicial Officer for another recognized tribal, state or municipal Court.

Absentee Shawnee Courts Code Section 203, AST COURTS Code Section 203

Section 204. Selection of Justices

All Justices shall be selected in accordance with the provisions of Section 203 of this Title.

Absentee Shawnee Courts Code Section 204, AST COURTS Code Section 204

Section 205. Term of Office

All Justices of the Supreme Court shall serve six (6) year terms of office beginning from the date of their swearing in and until their successors take office, unless removed for cause, or vacating their office by death or resignation. The appointments of Associate Justices shall be for terms which vary in order to maintain staggered terms of office. All Justices may be reappointed by the Executive Committee without a limit to the number of terms they may serve.

Absentee Shawnee Courts Code Section 205, AST COURTS Code Section 205

Section 207. Duties and Powers of Justices

All Justices of the Supreme Court, unless disqualified or voluntarily recused for conflict of interest or other good cause, shall participate in the deliberations of that body and shall have the duty and power to conduct all Court proceedings and to issue all orders and papers incident thereto, in order to administer justice in all matters within the jurisdiction of the Supreme Court. In the event of the disqualification or recusal of any Justice, the Executive Committee may appoint a District Judge to serve as a *Pro Tem* Justice to hear any case or matter that is before the Supreme Court in which the District Judge has not previously ruled or deliberated.

In the performance of their duties the Supreme Court shall:

(a) Be responsible for creating and maintaining the Rules of the Courts consistent with the Tribal Constitution and Code, to regulate all conduct in the Supreme Court and in the District Courts while in session and provide for the orderly and efficient administration of justice. Such rules will establish, where not otherwise provided by law, all actions that may be taken by a single Justice or Judge of the Court, as well as any limitations placed on those actions and when such actions may be taken. All orders that are issued by any or all Justices shall be promptly filed with the Clerk of the Court and with the Tribal Secretary.

- (b) Hear oral arguments on appeal from the District Court when the Supreme Court believes after review of the briefs filed on behalf of the parties that oral argument would be helpful to the Court in its understanding of the issues or the law and in deciding the case.
- (c) Set the designated time and place for an oral argument to be heard.
- (d) Enter all appropriate orders and judgments with or without oral argument.
- (e) Keep all appropriate records that are required to memorialize all proceedings and actions of the Court.
- (f) Perform any and all other duties required for the operation of the Supreme Court and the District Court.
- (f) Supervise the actions of the District Court and all Clerks, Reporters, Bailiffs, and other officers of the Courts while court is in session.
- (g) Perform any of the duties and exercise the powers of a Justice or District Judge in appropriate cases.

Absentee Shawnee Courts Code Section 207, AST COURTS Code Section 207

Section 208. Administration of the Courts.

The administration of the Courts will be in accordance with the Court Rules adopted by the Absentee Shawnee Supreme Court which shall control and instruct as to the duties and responsibilities of all Judges, Justices and court personnel while court is in session.

However, all court staff and personnel including a Court Administrator, Court Clerk, Assistant Court Clerk(s), Court Reporters and Bailiffs of the Absentee Shawnee Tribe are tribal employees temporarily placed under the direct control and supervision of the District Judges and the Justices of the Supreme Court while any of the courts are in session.

When court is not in session, all court staff and personnel shall be under the day-to-day authority and supervision of the Directors of the Department where they are otherwise assigned when the court is not in session and of the Executive Committee of the Absentee Shawnee Tribe and subject to the same Personnel Policies and Procedures and tribal laws as all other tribal employees.

Absentee Shawnee Courts Code Section 208, AST COURTS Code Section 208

Section 214. Special Appointments.

(a) Special Appointment of Justices.

Whenever, due to vacancies that result from the disqualification or recusal of one or more Justices, or for other cause, at least three (3) Justices cannot be convened to hear and decide the merits of a case before the Court, the Chief Justice or in his/her unavailability, the next most senior Associate Justice not conflicted out of the case, shall request the Executive Committee to make one or more special *Pro Tem* appointments as needed to hear any appeal or original action.

Prior to making such appointments the Executive Committee shall, with the assistance of the Office of the Absentee Shawnee Attorney General ensure that any proposed appointee is qualified to serve without bias or prejudice, having not served on the trial of the case below and having no personal or professional ties to one or the other of the parties or attorneys.

No special procedure is required in making such appointments and *Pro Tem* Special Justices need not meet all of the qualifications of Section 203 of this Title that is applicable to appointees to a full term on the Court. All such appointments made by the Executive Committee shall be made by formal action requiring a majority vote and the Supreme Court is required to give notice to the parties after such appointments are announced to the Court.

(b) Special Appointment of Judges

Whenever, due to vacancies that result from the disqualification or recusal of one or more District Judges or for other cause, there is no current Judge available to hear any case, the Chief Justice shall request the Executive Committee to make one or more special *Pro Tem* appointments as needed to hear any pending matter before the District Court.

Prior to making such appointments the Executive Committee shall, with the assistance of the Office of the Absentee Shawnee Attorney General ensure that any proposed *Pro Tem* appointee is qualified to serve without bias or prejudice, having no personal or professional conflicts due close ties to one or the other of the parties or their attorney.

No special procedure is required in making such appointments and *Pro Tem* Special Judges need not meet all of the qualifications of Section 203 of this Title applicable to appointees to a full term on the Court. All such appointments made by the Executive Committee shall be made by formal action requiring a majority vote and the Supreme Court is required to give notice to the parties through their attorneys after such appointments are announced to the Court.

(c) Appointment of Special Prosecutor.

In the event the Attorney General determines there is a conflict of interest, whether real or perceived, in his office undertaking to prosecute any person charged with a violation of any crime under the laws of the Absentee Shawnee Tribe of Oklahoma, the Attorney General shall inform the Executive Committee of the nature of the conflict and make a request for the appointment of a qualified Special Prosecutor to take responsibility for the prosecution of such


case. For purposes of this provision, the term 'crime' does not include traffic violations or minor violations that would result in fines that do not exceed One Hundred dollars (\$100.00) or incarceration for less than thirty (30) days or both. However, the Attorney General may choose to make such request in any case where the AG believes that an appearance of conflict or favoritism might arise due to a personal or professional relationship of his office with the defendant. The Attorney General may assist the Executive Committee in the selection of the Special Prosecutor if requested.

Absentee Shawnee Courts Code Section 214, AST COURTS Code Section 214

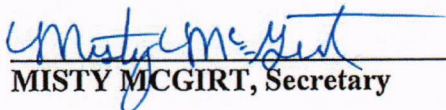
NOW, THEREFORE, BE IT RESOLVED that the Executive Committee of the Absentee-Shawnee Tribe of Indians of Oklahoma hereby adopts the following amendments shown on the attached "Exhibit A" to this resolution listing all affected sections of the code.

CERTIFICATION

We, John R. Johnson, Governor, and Misty McGirt, Secretary, of the Absentee-Shawnee Tribe of Indians of Oklahoma, do hereby certify this Resolution No. L-AS-2024-15 to be a true and exact copy as approved by the Executive Committee of the Absentee-Shawnee Tribe of Indians of Oklahoma at a duly called Regular Executive Committee Meeting held on November 21, 2024, there being a quorum present, by vote of 4 in favor, 0 opposed, and 0 abstentions, as follows: Lt. Governor Ponkilla: YES, Secretary McGirt: YES, Treasurer Blanchard: YES, Representative Johnson: YES, Governor Johnson's vote, if required, N/A.



JOHN R. JOHNSON, Governor



MISTY MCGIRT, Secretary

