

Circuit Court for Somerset County
Case No. C-19-CV-20-000075

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 0727

September Term, 2021

MICHAEL J. HINMAN, SR.

v.

ACCOHANNOCK INDIAN TRIBE, INC.

Wells, C.J.,
Friedman,
Wright, Alexander, Jr.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Friedman, J.

Filed: September 23, 2022

*This is an unreported opinion, and it may not be cited in any paper, brief, motion, or other document filed in this Court or any other Maryland Court as either precedent within the rule of stare decisis or as persuasive authority. MD. RULE 1-104.

This case concerns the governance of the Accohannock Indian Tribe. The case was assigned to the Circuit Court for Somerset County and decided by that court on June 21, 2021. Because the court’s written opinion contains a clear and concise statement of the case, a careful explanation of the court’s resolution of the case, and because the parties’ respective arguments follow from the court’s opinion, we have set it forth in full:

MEMORANDUM OPINION AND ORDER

This suit for declaratory relief was before the Court for trial on April 28, 2021 and May 3, 2021, under the Maryland Uniform Declaratory Judgment Act, § 3-401 *et seq.*, Subtitle 4, Courts and Judicial Proceedings Article. The Plaintiffs, purporting to be members and officers of the Accohannock Indian Tribe, initiated this action on behalf of the Tribe’s corporate entity and also individually for the use of the Tribe. The Complaint names another member and purported former officer of the Tribe as the Defendant.

Background

The Accohannock Indian Tribe (“Tribe”) existed in Maryland and Virginia before the European colonizers came to the area. Members of the Tribe have continued to live in and around the area now known as Somerset County, Maryland and Accomack County, Virginia. In 1994, the Tribe was incorporated as a Maryland non-stock corporation, and, in 2017, it was recognized as an American Indian Tribe by the State of Maryland. The Tribe is a voluntary membership organization and operates pursuant to a Constitution and By-Laws codified as “The Great Law of the Accohannock Indian Tribe” (“Great Law” or “Constitution”), with the latest iteration dated July 19, 2000.

The Great Law vests executive and legislative authority in a seven-member Council, and the Chairman is the head of the Council. The Great Law provides for other important tribal positions, such as Chief, Senior Clan Mother, and Medicine Man, all of whom serve for life. The Chief has a vote to break ties in Council deliberations. While they do not vote, the Chief, Senior Clan Mother, and Medicine Man are required to attend all Council meetings and are to be consulted in all Council deliberations.

Officers and Council Members are to serve for a term of four years and are subject to periodic elections. There are no term limits.

The Great Law provides for the establishment of various tribal agencies, such as Department of Justice, Tribal Court, Housing Authority, Department of Health and Human Services, Department of Education, and Board of Elections. It appears that none of these agencies have ever been created.

Prior to 2019, the last Tribal Election was conducted in 2009. At that time, Clarence Tyler (Plaintiff) was elected Chairman of the Tribal Council and Michael Hinman (Defendant) was elected Vice-Chairman. Rudy Hall was serving as Ceremonial Chief, which was a lifetime hereditary position with the Tribe. Chief Rudy Hall died on March 3, 2015, and, on March 10, 2015, Clarence Tyler was chosen to succeed Chief Hall. Accordingly, Michael Hinman was elevated from Vice-Chairman to Chairman to complete Clarence Tyler's term.

In July 2015, Diane Baldwin (Plaintiff) was designated to serve as the successor to the then Senior Clan Mother, Mary Hall, upon Mrs. Hall's death or retirement. The Senior Clan Mother is also a hereditary position.

On October 13, 2015 the Tribe held a formal Pow Wow and adopted approximately twenty new members of a group calling themselves the "Wolf Clan." These individuals were made full tribal members, without distinction as between blood and non-blood membership.

In early 2016, Diane Baldwin succeeded Mary Hall as Senior Clan Mother.

On June 28, 2017 Chairman Michael Hinman convened an "executive session" of the Tribal Council and "expelled" various members of the Wolf Clan from the Tribe, including Senior Clan Mother Baldwin. On February 19, 2018 Chairman Hinman also "expelled" Chief Clarence Tyler from the Tribe. There were rigorous and unyielding protests and appeals for a tribal court proceeding by the members purportedly ejected. They received no response from Chairman Hinman, who simply ignored their appeals, which lead them to engage legal counsel for assistance. Also, Chief Tyler noted that he held a life position with the Tribe and could not be removed as a member.

Following the alleged expulsions, Chairman Hinman excluded the "ejected" members from Tribal activities, notifications, meetings, and events. Though regular monthly meetings of the Tribal Council, as required by the Constitution, were only sporadically held, Chief Tyler and Senior Clan Mother Baldwin were neither invited nor involved in the Council deliberations. The required annual General membership meetings were not held.

In the Spring [of] 2019, Senior Clan Mother Baldwin, Chief Tyler, Medicine Man John Baldwin, and other members of the Tribe, which

included the adopted Wolf Clan members, began to organize in order to hold a Tribal election. This group contacted Chairman Hinman and other members of the Council to request membership lists but the lists were not provided.

Senior Clan Mother Baldwin, Chief Tyler, and Medicine Man Baldwin sent notifications to Chairman Hinman and all known members of the Tribe, announcing a Tribal election to be held on June 23, 2019. These announcements explained the process for voting and invited members to run as candidates for various Tribal offices under the Constitution. No Tribal members protested, objected to, or noted a challenge to the election.

Chairman Hinman did not run for office or participate in the June 23, 2019 election.

After the election, by written ballot, all known Tribal members were notified in writing that Jerry Wimbrow was elected as Chairman, Billy Tapman was elected as Vice-Chair, Jean Laughman was elected as Secretary, Vivian Tyler was elected as Treasurer, and Emily Brothers, Sandi Ennis, Julie Gilroy, and Kenny Gilroy were elected to the Tribal Council. Neither Michael Hinman nor any other person protested, objected to, or challenged the election results.

Following the election, however, Michael Hinman refused to acknowledge the validity of the election, and Hinman maintained that he remained Chairman of the Tribe. He and a group of his followers engaged in activities in the name of the Tribe. Also, the newly elected members of the Tribe continued to engage in various Tribal activities. Inevitably, major conflicts arose as to: missing Tribal funds, bank accounts, mortgage payments due, the sale of real and personal property, missing records, access to Tribal property, and, most importantly, resolution of Tribal disputes and continued Tribal governance.

In an effort to resolve matters, elected members, Senior Clan Mother Diane Baldwin, and Chairman Jerry Wimbrow, together with Chief Clarence Tyler, initiated this declaratory judgment action on behalf of the Tribe against Michael J. Hinman, Sr., seeking relief for alleged improper and *ultra vires* acts by Mr. Hinman during the time he served as Chairman of the Tribe.

Discussion

Jurisdiction and Sovereign Immunity

The U.S. Constitution vests the Federal Government with “plenary and exclusive” powers to legislate with respect to Indian Tribes. *See United State[s] v. Lara*, 541 U.S. 193, 200 (2004). The Indian Tribes are “domestic dependent nations” that exercise “inherent sovereign authority.” *Okla. Tax Comm’n v. Citizen Brand Potawatomi Tribe of Okla.*, 498 U.S. S05, 509 (1991). A core aspect of the sovereignty that the tribes enjoy is common-law

immunity from lawsuits. *See Michigan v. Bay Mills Indian Community*, 572 U.S. 782, 788 (2014); *Santa Clara Pueblo v. Martinez*, 436 U.S. 49, 56 (1978).

Because of the dependent relationship between Indian Tribes and the Federal Government, generally cases involving Indian Tribes are exclusively within the jurisdiction of the federal courts. However, only certain tribes are immune from the jurisdiction of state courts. *See Wolfchild v. United States*, 72 Fd. Cl. 511, 536 (2006) (“To enjoy the benefits of tribal sovereign immunity, an Indian tribal entity must be recognized by the federal government.”); *see also Kahawaiolaa v. Norton*, 386 F. 3d 1271, 1273 (9th Cir. 2004) (“As far as the federal government is concerned, an American Indian tribe does not exist as a legal entity unless the federal government decides that it exists.”). The Maryland Court of Appeals has held that a Tribe not listed on the Federal Department of Interior’s Federally Recognized Indian Tribe Lists is subject to the jurisdiction of the state court. *See LaSalle Bank, N.A. v. Reeves*, 173 Md. App. 392, 403-04 (2007).

No one is claiming that the Accohannock Indian Tribe is a federally recognized tribe, nor does the Accohannock Indian Tribe appear in the most recent Federally Recognized Indian Tribe Lists. *See* 85 Fed. Reg. 5,462-67 (Jan. 30, 2020) (listing the federally recognized tribes).^[1] The Accohannock Indian Tribe has been recognized by the State of Maryland and is organized under the Maryland Corporate Code. As such, the case is properly brought in Maryland state court.

* * *

This Court is mindful of the Tribe’s sovereign rights and stated purpose to teach and promote the American history, culture, customs and traditions of the Accohannock Indian Tribe, as well as its efforts to obtain recognition as a sovereign nation by the Federal government. At this time, the Tribe has lapsed into a state of inertia and has become incapable of advancing those purposes. There must be some resolution of the controversy between the parties involved in order to terminate the uncertainty giving rise to this proceeding. Accordingly, this Court will intrude into Tribal matters only to the extent absolutely necessary to resolve the election dispute and permit the Tribe to move forward with its major internal affairs.

¹ On October 5, 2021, Hinman and others filed suit in the United States District Court for the District of Maryland seeking federal recognition of the Tribe and, consequently, to bring this dispute within the jurisdiction of the federal courts. By order dated December 14, 2021, the federal court (Gallagher, J.) declined federal recognition.

The Wolf Clan

This Court has previously determined by Partial Summary Judgment (Order dated April 9, 2021) that the twenty or so members of the group calling themselves the Wolf Clan remain as full members of the Accohannock Indian Tribe as a result of the adoption ceremony held on October 13, 2015. Even though the Constitution and By-Laws require lineal descendancy for membership, the Tribe held a formal Pow Wow and formally sanctioned the adoption of these new members as full Tribal enrolled members without distinction as between blood and non-blood membership. While there was a failed effort by the Defendant, Michael Hinman, to unilaterally classify these members as “appointees” rather than full members, there is nothing in the Great Law providing for appointee membership in the Tribe. Furthermore, the *ad hoc* executive meetings convened by Mr. Hinman on June 28, 2017 in an effort to banish the Wolf Tribe members from the Tribe were a nullity. The Constitution clearly provides for due process, such that tribal membership is for life and any banishment must be by a Tribal Court in a judicial proceeding “as punishment for violation of the laws of the Tribe.” Art. III, Sec. 2(d).

Likewise, Mr. Hinman’s contention that Clarence Tyler may have resigned his position as Chief is without merit. The Great Law provides that his appointment as Chief is a lifetime appointment, and for any resignation to be effective, it “must be on the reading of a written resignation into the record at a duly called meeting of the Tribal Council.” Art. III, Sec. 3. Also, any assertion that Chief Tyler was dismissed from the Tribe is without merit. The Great Law provides that the Ceremonial Chief remains in his position for life unless he resigns or is “dismissed for reasons of gross misconduct or neglect of duty.” Art. IX, Sec. 1. Furthermore, removal must be by “formal charges presented in writing, and a hearing by the Tribal Court.” Art. X, Sec.1 (a).

The current Chief of the Accohannock Indian Tribe is Chief Clarence Tyler.

The 2019 Election

Prior to 2019, the last constitutional election held by the Tribe was in 2009. Since that time, Chairman Michael Hinman and his Tribal Council have held no elections and only sporadic monthly Tribal Council meetings. There is no evidence of annual General Membership meetings as mandated by the Constitution. Art. VI, Sec. 7 (a). Although no full election by the entire Tribal membership has been held, The Great Law states that “All Tribal Council members will serve for a term of four (4) years.” Art. V, Sec. 5. No elections were held in 2013 and 2017 and there is no evidence of a scheduled election in 2021.

According to Mr. Hinson, there were “pretty steady” monthly Tribal Council meeting(s) but “we stopped” the annual General Membership meetings “when the Wolf Clan started disobeying the By-Laws, right and left,” and “tried to undermine my authority.”

The exhibits offered by both parties do not contain minutes of monthly council meetings after June 28, 2017, other than a letter dated February 28, 2019 from Michael Hinman to Clarence Tyler advising Mr. Tyler that the Council had removed him as a member of the Tribe. The letter was purportedly the result of a decision by the Council. The June 28, 2017 minutes attempting to terminate the Wolf Clan member indicate that there were four of the seven required members of the Council present, one of whom (Davis A. Palakanis) was made a member and Secretary at that *ad hoc* meeting, for purposes of an “executive quorum.” There are no documents to support subsequent monthly Council meetings – including documents supporting action by the Council relative to the various appeals by members of the Tribe who were expelled by Mr. Hinman, Mr. Chelton, Mr. Palakanis, and Mrs. Carson.

Because of inaction, the Wolf Clan group led by Senior Clan Mother Baldwin, Chief Tyler, and Medicine Man Baldwin chose to hold an election on June 23, 2019, in order to rectify the delay in electing leadership of the Tribe. The group attempted to send notifications to all members of the Tribe, but they were denied access to a full list of membership by Mr. Hinman. Accordingly, an election was held on June 23, 2019 with all the members known to the organizers receiving a ballot with an invitation to run as a candidate.

The Great Law provides for a Board of Elections, Art. VII, Sec. 5, to oversee and regulate the election process. No Board of Elections was ever established by the Tribe, nor could the Wolf Clan group establish a Board of Elections under the circumstances that existed at that time. The Court finds that the lack of Board is not a deficiency or failure of the June 23, [2019] election process.

Based on the good faith efforts of the Wolf Clan group to hold a fair election and the lack of full participation of the entire membership, the Court finds that the June 23, 2019 election results are valid insofar as an Interim Administration was elected. Accordingly, the Interim Administration will consist of Chairman Jerry Wimbrow, Vice-Chairman Billy Tapman, Secretary Jean Laughman, Treasurer Vivian Tyler, and Tribal Council members, Emily Brothers, Sandi Ennis, Julie Gilroy, and Kenny Gilroy. The Chief shall continue to be Chief Clarence Tyler and the Senior Clan Mother shall continue to be Dianne Baldwin. The Interim Administration of the Tribe shall hold monthly Tribal Council meetings and shall appoint a Board of

Elections consisting of four (4) members and a fifth member who shall be designated as Supervisor of the Board of Elections. The Board of Elections shall arrange, with the assistance of the Tribal Council to hold an election pursuant to Article VII of the Great Law **prior to December 31, 2021** with proper notice sent to the entire voting membership. [T]o assure that the Board of Elections has access to the entire membership lists of the Tribe and the election takes place, the Court will retain jurisdiction over the matter until the election results are announced and the Council members take the Oath of Office at the Annual General Meeting of the Tribe which shall take place **within the first three months of 2022**. Until that time, the Interim Administration of the Accohannock Tribe shall continue to serve as the governing body of the Tribe.

Accounting. Conversion and Other Alleged Improprieties

As noted above, the Court is entirely deferential of the Tribe's historic status as an independent nation and only intends to address the issue of the election dispute due to the current Tribal inertia. The proper place to address the issues of accounting or allegations of conversion or any other alleged improprieties a member or former officer is a Tribal Court or another intra-Tribal mechanism available to governing body of the Tribe under the Great Law following the upcoming election.

Conclusion

In conclusion, the June 23, 2019 election was a valid election insomuch as it produced an Interim Tribal Administration. The Interim Administration shall serve the Tribe until a valid election with full participation of the membership is held before the end of 2021 and the annual General Meeting of the Tribe is held within the first three months of 2022. In the meantime, the Court will retain jurisdiction over the matter until the election results are announced and the Tribal Council takes the Oath of Office at the annual General Meeting of the Accohannock Indian Tribe, Inc.

In deference to the Tribe's status as an independent sovereign, the Court believes that any matters regarding accounting, conversion, or other alleged improprieties by a member or former officer shall be handled by the Tribal Court or another intra-Tribal mechanism properly in place under the Great Law of the Accohannock Indian Tribe.

(Internal citations omitted in part). After entry of the circuit court's opinion, it received an affidavit from Chief Clarence Tyler of the Accohannock Indian Tribe. Chief Tyler's affidavit, which Hinman has not challenged, explains that the Tribe had taken several steps

to reestablish independent Tribal governance, including holding a Tribal election on November 21, 2021. Chief Tyler’s affidavit avers that Hinman took no steps, internally or externally, to prevent these actions.

On appeal, Hinman alleges four legal errors in the circuit court’s opinion that, he argues, require us to reverse. These are: (1) alleged defects in the nature of the proceedings and parties; (2) alleged defects in the relief granted; (3) alleged errors in the interim election procedure; and (4) alleged error in interpreting the Great Law with regard to Tribal membership. The appellees’ response, while answering each of these in a cursory fashion, focuses instead on what we will characterize as mootness—that is, because Hinman failed to seek and obtain a stay pending appeal, the circuit court’s decision has been effectuated to the point that it cannot be undone. For the reasons that follow, we agree with the appellees that, *first*, the circuit court did not err, and *second*, even if it had erred, its orders have been effectuated and it is now too late to undo them.

ANALYSIS

Before beginning our analysis, we wish to emphasize and join a point made by the circuit court, which guides our thinking here: that Maryland state courts “will intrude into Tribal matters only to the extent absolutely necessary ... and [thus] permit the Tribe to move forward with its ... internal affairs.”

I. THE CIRCUIT COURT DID NOT ERR IN GRANTING DECLARATORY JUDGMENT

Hinman’s first argument is, in effect, that the circuit court erred in granting declaratory judgment because an action sounding in mandamus would have been superior

to an action sounding in declaratory judgment, and because the declaratory relief potentially prejudiced the rights of numerous parties not joined in the suit.

We have several responses. *First*, we observe that the work of the circuit court is a little like playing golf: it must “play ‘em where they lie.” That is, the circuit court works from the pleadings filed. The existence of an arguably better procedural device (*i.e.*, mandamus) does not, by itself, make it an error to grant relief using the procedural device pleaded (*i.e.*, declaratory judgment).² *Second*, this Court does not review unpreserved errors. We have scoured the briefs and record and find no occasion in which Hinman objected that a declaratory judgment was an improper procedure for resolving this dispute. We refuse to hold that the circuit court erred by failing to raise an objection that Hinman himself failed to raise. *Third*, while Hinman is correct that a party whose interest would be affected by a declaration is a necessary party to that declaratory judgment action, Hinman has failed to establish that the parties he has identified as potentially necessary parties are,

² We also are not persuaded that the Declaratory Judgment Act did not provide a useful vehicle for resolving this controversy. *See generally Hanover Invs., Inc. v. Volkman*, 455 Md. 1 (2017) (describing benefits of declaratory judgment actions).

in fact, necessary,³ or that there was any reversible error created by the alleged defect.⁴ But *fourth*, and most importantly, after the circuit court’s opinion was issued, no stay or injunction was sought, Tribal self-governance was re-established, and the 2021 election was held. It is now far too late for us to undo an alleged defect in the pleadings.

II. THE CIRCUIT COURT DID NOT ERR IN ORDERING THE RELIEF THAT IT CRAFTED

Hinman next argues that the circuit court erred by ordering a new election. Hinman does not argue that the circuit court could not, in the exercise of its discretion, order a new

³ The Declaratory Judgment Act, provides that “[i]f declaratory relief is sought, a person who has or claims any interest [that] would be affected by the declaration, shall be made a party.” MD. CODE, CTS. & JUD. PROC. § 3-405(a)(1); *Rounds v. Maryland-National Capital Park & Planning Commission*, 441 Md. 621, 648 (2015) (explaining that the general rule for declaratory judgment actions is that “all persons interested in the declaration are necessary parties”) (quoting *Williams v. Moore*, 215 Md. 181, 185 (1957)). Hinman’s brief identifies four groups of potentially necessary parties: (1) other council members whose terms of office were cut short by the allegedly invalid 2019 election; (2) the Accohannock Indian Tribe itself; (3) seven Wolf Clan members who were elected in the 2019 election; and (4) the twenty Wolf Clan members who were adopted into the Tribe by the 2017 adoption ceremony. As to categories (3) and (4), this appears only to be a theoretical concern, because although their rights may have been threatened, their rights were ultimately vindicated. Any error with respect to those in categories (3) and (4) are thus harmless beyond any doubt. As to category (2), the Tribe itself, it was a party to the litigation, albeit its participation was through officers and directors who were different than Hinman wishes. Nevertheless, there is no reversible error for failing to join a party which was, in fact, joined. The only remaining category is Hinman’s category (1), those Tribal officers whose terms as members of the Tribal Council were cut short by the 2019 election. Although joinder is mandatory in declaratory judgment actions, it may be excused if the non-joined party had knowledge of the litigation and the ability to join but failed to do so. *Rounds*, 441 Md. at 648-49. We note that these councilmembers had notice of the lawsuit, could have joined, but chose not to participate. As a result, the exception to the mandatory joinder requirement applies. *Id.*

⁴ We need not decide whether Hinman has the standing to raise the alleged failure to join necessary parties on their behalf. We note, however, that neither of the cases cited by Hinman—*Kelley v. Davis*, 233 Md. 494 (1964) and *Bender v. Secretary, Md. Dept. of Personnel*, 290 Md. 345 (1981)—stand for that proposition.

election. Rather, his argument is solely that the parties did not request this relief. We reject this argument because the plaintiffs' Complaint sought "such other and further relief [as] they may be entitled to receive," which we hold was sufficient.

Moreover, Hinman failed to raise this argument in a timely fashion. Hinman should have raised this in the circuit court where the plaintiffs' pleadings could easily have been amended to more specifically seek the relief of a new election. *See* MD. R. 2-341(c) ("Amendments [of pleadings] shall be freely allowed when justice so permits."). Hinman's failure to object to the pleadings below constitutes a waiver in this Court. Hinman's argument is also untimely in a second regard as well. To be timely, he should have raised this objection, in some form or fashion, before the 2021 election was held. Now that the 2021 election has been held, Hinman's complaint is simply too late.

III. THE CIRCUIT COURT DID NOT ERR IN RECOGNIZING THE VALIDITY OF THE 2019 TRIBAL ELECTION

Hinman next argues that the circuit court's recognition of the 2019 election was an error of law and must be reversed. In support of this, Hinman argues (1) that only the existing Tribal Council had the authority to call an election; (2) that the disaffected Tribal members should have sought a writ of mandamus to force the Tribal Council to call an election; (3) that the nominating process for candidates was improper; and (4) that the supervisors of elections did not supervise the 2019 election. These arguments, however, misunderstand the court's findings. The circuit court found that the Tribe was at an impasse and unable to function. The court described major conflicts over "missing Tribal funds, bank accounts, mortgage payments due, the sale of real and personal property, missing

records, access to Tribal property, and, most importantly, resolution of Tribal disputes and continued Tribal governance.” *Supra*, at 3. The circuit court further found that “the Tribe [had] lapsed into a state of inertia and ... become incapable of advancing [its] purposes.” *Supra*, at 4. In such a circumstance, the circuit court is not and was not helpless to craft a solution to Tribal impasse by recognizing the validity of the 2019 Tribal election until a proper election could be held in 2021 and self-governance reestablished. We see no error.

IV. THE CIRCUIT COURT DID NOT ERR IN AFFIRMING THE TRIBE’S ACTION IN ADOPTING THE WOLF CLAN INTO THE TRIBE

Finally, Hinman asserts that the circuit court erred in granting partial summary judgment regarding the status of the Wolf Clan, approximately 20 individuals who were adopted into the Tribe in 2015. Hinman argues that it was legal error for the circuit court to find that the Wolf Clan were members of the Tribe.

The circuit court began by observing that the Accohannock Tribe is a voluntary membership organization incorporated as a non-stock Maryland corporation, and, as such, its decisions are insulated by the business judgment rule absent a showing of fraud or bad faith. *See Tackney v. U.S. Naval Acad. Alum. Ass’n*, 408 Md. 700, 712-14 (2009); *Chisholm v. Hyattstown Vol. Fire Dep’t Inc.*, 115 Md. App. 58, 70 (1997). The circuit court found, however, that Hinman had made a sufficient *prima facie* showing of bad faith to allow the court to review the merits of the decision to admit the Wolf Clan. The circuit court then found that:

[T]he twenty members of the group designated as the “Wolf Clan” remain as full members of the Accohannock Indian Tribe as a result of the adoption ceremony held on October 13, 2015. Although the Constitution and By-Laws of the Tribe (The Great Law) requires lineal descendency for membership,

the Tribe held a Pow Wow and sanctioned the adoption ceremony for the new members who were adopted as full tribal members, without distinction as between blood and non-blood membership. The Tribal Council Chairman, Chief, and Senior Clan Mother were or should have been aware of the Great Law, and chose to sanction the ceremony nonetheless. Those individuals adopted into the Tribe served as active members of the tribe, giving of their time and financial resources. The Court finds that the Tribal meetings held on June 28, 2017 and thereafter amounted to an improper and failed attempt to banish the Wolf Clan members and the Ceremonial Chief. The Great Law provides that membership is lifetime and banishment from the Tribe must be by a Tribal Court in a judicial proceeding “as punishment for violation of the laws of the Tribe.” The record is devoid of any such proceeding. Therefore, the Court must conclude that the Wolf Clan individuals remain as full members of the Accohannock Indian Tribe.

Hinman’s argument against this finding turns on Article III, § 3(b) of the Great Law, which requires lineal descendancy. The circuit court, however, looked at this provision in the context of Article III of the Great Law as a whole:

ARTICLE III – MEMBERSHIP

SECTION 1. Determination of Membership: The Council of Clan Mothers, under the direction of the Senior Clan Mother, shall serve as the Registration Committee. The Council of Clan Mothers shall review all applications for membership, and submit their recommendation, (for or against), in writing to the Accohannock Indian Tribal Council for a vote to accept or reject the applicant. All decisions of the Tribal Council are final and not subject to review by any Tribal, State or Federal Court[,] or Agency.

SECTION 2. Membership Criteria: The membership of the Accohannock Indian Tribe shall consist of:

- (a) all persons who can establish that they are enrolled members of the Accohannock Indian Tribe, on the Tribe’s existing roll as of July 19, 2000, or are direct lineal descendants of such members; or
- (b) persons who can provide sufficient proof of lineal descendancy to the Accohannock Indian Tribe.
- (c) In no event shall membership be granted to any person who is a member of any other organized band, tribe or Indian community.

- (d) Once enrolled, individuals are members of the Accohannock Indian Tribe for life, unless an individual resigns his or her membership, or is banished from the Tribe by the Tribal Court in a judicial proceeding as punishment for a violation of the laws of the Tribe.

SECTION 3. Resignation of Membership: Any member of the Accohannock Indian Tribe may resign at any time by delivering a written resignation to the Accohannock Tribal Council. Resignation shall extinguish all rights derived from Tribal membership. Such resignation shall be effective upon the reading of the written resignation into the record at a duly called meeting of the Tribal Council.

SECTION 4. Honorary Membership: The Accohannock Indian Tribe shall not establish an Honorary Membership.

Thus, although Hinman is correct that the Great Law establishes lineal descendancy as the basis for membership, it also establishes a process by which the Council of Clan Mothers must make written recommendations and the Tribal Council votes to accept or reject members. That is to say, the Great Law anticipates that there will be cases in which proof of lineal descendancy will be stronger and other cases in which the proof will be weaker. No matter how strong or weak the proof of a particular case for membership, however, the Great Law is crystal clear that the vote of the Tribal Council on membership issues is final and not subject to review. Great Law, Art. III, § 1. Moreover, Tribal membership is for life, and can only be terminated by written resignation or banishment for violation of Tribal law. Great Law, Art. III, § 2(d).⁵ Given that the membership

⁵ Although not necessary to our interpretation of the Great Law, we are fortified by our understanding of the circumstances of the Wolf Clan adoption proceedings. The formal Tribal meeting took place in October 2015, approximately seven months after Hinman was elevated to Chairman of the Tribal Council. Thus, at the time of the adoption ceremony, Hinman was (or should have been) aware of the Great Law and had the opportunity to vote on the admission of the members of the Wolf Clan. He (and the other officers of the Tribal

decision, once made, is both unreviewable and irrevocable, there is no legal error in the circuit court’s granting partial summary judgment on the issue of the membership of the Wolf Clan. We affirm.

CONCLUSION

The Circuit Court for Somerset County broke the impasse that had plagued the Accohannock Indian Tribe in such a way that was respectful of its laws and interfered as little as possible. The court helped set the Tribe on the path back to self-governance. We affirm that decision in all respects.

JUDGMENT OF THE CIRCUIT COURT FOR SOMERSET COUNTY AFFIRMED. COSTS ASSESSED TO APPELLANT EXCEPT COSTS OF RECORD EXTRACT, WHICH ARE ASSESSED TO APPELLANT’S COUNSEL.⁶

Council) chose not to object and instead sanctioned the proceedings. *See generally, Blackstone v. Sharma*, 461 Md. 87, 113-14 (2018) (discussing the interpretation of statutes with regard to surrounding events).

⁶ Costs of the Record Extract are assessed to Appellant’s counsel pursuant to Rules 8-501(m) and 8-608. We explain. A Record Extract is produced to assist this Court. It is not intended to contain every document produced below, or that are part of this Court’s Record, but only those “parts of the [R]ecord that are reasonably necessary for the determination of the question presented by the appeal.” MD. R. 8-501(c). Moreover, the parties must “refrain from unnecessary designation.” *Id.* The 9-volume set provided by Appellant’s counsel in this case simply did not comply. It contains hundreds of pages of documents, including newspaper articles, black and white photocopies of pictures, and other ephemera that are unconnected to the “questions presented” (as that term is defined by Rule 8-504(a)(3)). Moreover, the Record Extract here (1) failed to include the “circuit court docket entries,” that are required pursuant to Rule 8-501(c); (2) erroneously included “part[s] of ... memorand[a] of law in the trial court” despite that these documents had no “independent relevance,” *id.*; (3) lacked a table of contents (rendering the Record Extract virtually worthless), MD. R. 8-501(h); and (4) contained redundant documents, MD. R. 8-

501(i). These redundant designations included, for example, six (6!) copies of “The Great Law of the Accohannock Indian Tribe.” Finally, we strongly suspect that Appellant’s counsel failed to engage in the cooperative process for identifying Record Extract components discussed in Rule 8-501(d). Evidence in support of this supposition includes that only Appellant’s counsel’s name is on the Record Extract and that Appellee was forced to attach the federal court’s opinion, *see supra* note 1, as an appendix (*see* MD. R. 8-501(e)), despite that it was filed 3 weeks *before* Appellant filed the Record Extract. For all of these reasons, we assess the costs related to the Record Extract to Appellant’s counsel, not Appellant.