No. SC-CV-58-14

OHA-EC-007-14

IN THE SUPREME COURT OF THE NAVAJO NATION

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HANK WHITETHORNE,
Petitioner/Appellant,

v.

CHRISTOPHER C. DESCHENE,
Respondent/Appellee

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# OPENING BRIEF OF THE APPELLANT

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***THE LAW OFFICES OF JUSTIN JONES, P.C.***

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## STATEMENTS OF THE BRIEF

**(1)** The Office of Hearing and Appeals erred in dismissing the Appellant's Grievance against Christopher C. Deschene; **(2)** Christopher C. Deschene is unqualified to be a candidate for the Office of the Navajo Nation President; **(3)** Christopher C. Deschene should be disqualified as a candidate for Navajo Nation President.

## STANDARD OF REVIEW

The Supreme Court's "review shall be limited to whether or not the decision of the Office of Hearings and Appeals is sustained by sufficient evidence on the record." 11 N.N.C. § 24(G) and 11 N.N.C. § 341(A)(4). Though these provisions emphasize the sufficiency of the evidence, clearly a decision based on an erroneous interpretation of the law cannot be sustained by sufficient evidence. The Court therefore has the authority to examine the underlying legal interpretation, and can reverse an OHA decision if the law OHA relies on is not valid. *Sandoval v. NEA*, No. SC-CV-62-12, slip op. at 3 (Nav. Sup. Ct. February 26, 2013).

## STATEMENT OF JURISDICTION

The Commission has jurisdiction to review the order of the OHA pursuant to 11 N.N.C. § 24(G) and 11 N.N.C. § 341(A)(4).

## BRIEF ARGUMENTS

### THE OFFICE OF HEARING AND APPEALS ERRED IN DISMISSING THE APPELLANT'S GRIEVANCE AGAINST CHRISTOPHER DESCHENE

The Appellant brought his Grievance before the Office of Hearing Appeals ("OHA") pursuant to 11 N.N.C. § 341 (A)(1), which reads, " *A. The Office of Hearing and Appeals shall have the authority to implement procedures in resolving disputes pertaining to elections as follows: (1) Within 10 days of the incident complained of or the elections, the complaining person must file with the Office of Hearing and Appeals a written complaint setting forth the*

*reasons why he or she believes the Election Code has not been complied with*". See Appellant's Addendum to Statement of Grievance, (B). Appellant timely filed his written complaint within ten (10) days of the primary elections. Appellant cited in his Statement of Grievance that 11 N.N.C. §§8 (A)(4)(5) and 11 N.N.C. §21(B)(2), of the Navajo Nation Election Code were not complied with, alleging that Mr. Christopher Deschene did not fluently speak and understand Navajo, that Mr. Christopher Deschene never held a Navajo Nation elected office, has never been an employee within the Navajo Nation organization, and Mr. Christopher Deschene lied by signing a sworn affidavit before a Notary Public declaring that he was able to fluently speak and understand Navajo and that he held a Navajo Nation elected office and / or was an employee within the Navajo Nation organization.

However, OHA dismissed Appellant's Grievance not pursuant to the dismissal provisions contained in 11 N.N.C. § 341 (A)(1), but pursuant to 11 N.N.C. §24 (A). OHA dismissed Appellant's grievance on a totally different set of statutes than the statute the Appellant initially brought his claim under. Appellant filed his grievance pursuant to 11 N.N.C. § 341 (A)(1) because the statute allowed him to bring, "*reasons why he or she believes the Election Code has not been complied with*" within 10 days of an election. Appellant stated in his grievance that the unambiguous requirements contained in 11 N.N.C. §§8 (A)(4)(5) and 11 N.N.C. §21(B)(2) were not complied with by the Appellee. Mr. Deschene did not fluently speak and understand Navajo at the time of his candidacy certification on April 25, 2014. But more importantly, Appellant brought his grievance before OHA pursuant to 11 N.N.C. § 341 (A)(1) because Mr. Christopher Deschene lied about being able to speak and understand Navajo and that he held an Navajo Nation elected office and / or was employed within the Navajo Nation organization. Appellee

made these declarations through a signed affidavit before a Notary Public, as required by 11 N.N.C. §21(B)(2).

Even if the Appellant attempted to bring his complaints under 11 N.N.C. §24 (A), the circumstances surrounding the Appellant's complaints would not have allowed the complaints to be brought under 11 N.N.C. §24 (A). The Appellee's non fluency in speaking and understanding Navajo was not revealed and noticed until the 2014 Primary campaign went into full gear, which was until after the ten (10) days grievance period, pursuant to 11 N.N.C. §24 (A), had expired[1]. On May 29, 2014, during the first Candidate's Forum, the Appellee publicly admitted that he was not fluent in speaking and understanding Navajo by publicly stating that he was unable to state his opinions in the Navajo language because he did not have a "sufficient grasp of Diné Bizaad". Appellant could not have filed a grievance pursuant to 11 N.N.C. §24 (A) because Appellee did not reveal his Navajo language deficiency until twenty-three (23) days after the ten (10) day window had closed. Thereafter, the Appellee, on numerous occasions, the Appellee publicly admitted that he was not fluent in speaking and understanding Navajo. Moreover, applying the ten (10) day rule as prescribed by 11 N.N.C. §24 (A) would be virtually impossible because it would be impossible to prove or gather facts and evidence within ten (10) days, to prove that there have been violations of the qualifications to be a candidate for Navajo Nation President, to justify filing a grievance pursuant to 11 N.N.C. §24 (A).

11 N.N.C. § 341 (A)(1) covers these types of unforeseen circumstances after the ten (10) day grievance window expires and the statute allows violations of the Election laws to be questioned and examined even after elections have been held. The statute states, "*Within 10 days of the incident complained of or the elections..*". This provision of the statute covers anything

[1] Navajo Nation Election Administration certified Appellee on April 25, 2014. The ten (10) day window for filing grievances under 11 N.N.C. §24 (A) had expired on May 06, 2014. Most or all of the major campaign rallies did not begin until after the candidates were certified.

that may violate election laws during the course of the election process and even covers incidences that may arise or be discovered, after the general election is held. This is especially true when the qualification of a candidate is questioned, as is the case with the present case.

In *Sandoval v. NEA*, No. SC-CV-62-12, slip op. (Nav. Sup. Ct. February 26, 2013), the Appellant brought her appeal before the Navajo Nation Supreme Court, appealing an OHA ruling which dismissed her case. This appeal occurred after the General Elections were held and where the Appellee won the election. The Appellant brought her claim that the Appellee was never qualified to be a candidate for the elected office he was seeking. Appellant claimed that the Appellee was wrongfully certified by the Navajo Nation Election Administration ("NNEA") to be qualified because the Appellee did not qualify pursuant to the qualification statutes for that elected office. Even more damaging was the Appellant's allegation that the Appellee made a false statement, perjuring himself, to swear, that he was qualified for the elected position he was elected into.

The Navajo Nation Supreme Court allowed the "false statement" challenge, even after the General Elections were held. The Court held that although the Navajo Nation Election Administration should have cured the issues of qualifications by implementing its responsibilities, the NNEA's inaction allowed an unqualified candidate, " *to be presented to the public for their selection to office*". Id at 13. In addition to the NNEA's "inaction", the candidate's own "*inaction*" allowed an unqualified candidate to be presented to the public for an election. Id. This was a severe concern to the Court.

Although the Court identified the fact that the NNEA needed to do a better of job of carrying out its responsibilities to avoid allowing "unqualified" candidates to run in Navajo Nation Elections, the Court placed a significant responsibility on the candidate who wants to be a

Naat'áanii, to ensure that an "unqualified candidate" is not presented to the Navajo Nation voters. *Id.* The Court set forth significant Navajo Law as follows:

> In our Navajo thinking, great responsibilities of public service are placed on a *naat'ánii*, greater than may be commonly understood in other jurisdictions. Those who wish to serve must understand his/her own need to self-assess his/her own qualifications under the laws, his/her own abilities to serve, and the great needs of the public that in numerous cases lack the resources to watch over the actions of the *naat'ániis* they select. A candidate may not circumvent express conditions established by the Council by keeping silent until an election is over. ***Disqualifying conditions that are known to a candidate are not waived simply because an election has taken place.*** In short, the withholding of disqualifying conditions by a candidate goes to the self-assessment expected of a *naat'ánii* and his/her fitness to serve. The *naat'ánii* in the circumstances of this case would be expected to voluntarily "step back"—*nát'ą́ą́' hizhdidoogáát.*

Id at 13.

The Court, very eloquently, stated that when the qualification of candidates for individuals who want to be Naat'aaniis are questioned pursuant to the Navajo Nation Election law, the timing of when those allegations are brought before prescribed Navajo Nation tribunals do not matter; a grievance can be submitted even after the General Elections are held. The Court held in *Sandoval*, slip op. at 14, that it is implied that, "all elected officials should maintain their qualifications during their terms of office" and the Court also held that, " the timing of the challenge does not affect the mandatory nature of the requirement". *Id.*

Appellant makes these points to counter any arguments that the Appellee may raise predicated upon the holding in *Haskie v. Navajo Board of Elections*, 6 Nav. R. 336 (Nav. Sup. Ct. 1991). The Court adopted a rule in *Haskie* that, " election statutes are mandatory when enforcement is sought prior to an election, but they are read to be dictator only when challenges are raised after an election". *Id* at 338. The Court further

opined in *Haskie*, that, " the law presumes that elections which have already been held were conducted regularly an validly." *Id*, citing *Johnson v. June*, 4 Nav. R. 79, 81 (Nav. App. Ct. 1983). It would be disappointing if the Appellee did not raise the argument that pursuant to *Haskie*, the Appellant should have made a pre-election challenge and the fact that Appellant's challenge did not rise until after the primary election, Appellant's appeal should be dismissed. That argument might've held some water if the Appellant made procedural errors and there was a lack of due diligence on the part of the challenger, in *Haskie*; the Court was disturbed by this and dismissed the challenger's case. However, the Appellant's case at hand is based upon the truthfulness of the Appellee on his qualifications to be a candidate for Navajo Nation President. The truthfulness of the Appellee on his qualifications can easily be distinguished from the procedural errors and the lack of due diligence in *Haskie*. The admittance by the Appellee that he cannot fluently speak and understand Navajo clearly shows that he was not qualified to be a candidate for the office of the Navajo Nation President. The Appellee did not step forward and was not forthright that he was not fluent in speaking and understanding Navajo in his sworn statement where he was required to be truthful, as required by 11 N.N.C. §21(B)(2). Thereby, *Haskie* does not apply to the present case.

OHA significantly erred in dismissing the Appellant's case pursuant to 11 N.N.C. §24 (A). Appellant brought his grievance to OHA pursuant to 11 N.N.C. § 341 (A)(1) as it is the more appropriate statute to bring forth the complaints the Appellant outlined in his Statement of Grievance. But, most importantly, the Appellant brought forth his grievance on the basis that the Appellee lied about his fluency in speaking and understanding Navajo and that the Appellee held a Navajo elected office and / or was employed within the Navajo Nation organization. Appellee

substantiated his lies when he declared under oath that he was qualified to be a candidate for Navajo Nation President, as required 11 N.N.C. §21(B)(2). OHA erred in dismissing the Appellant's grievance.

**CHRISTOPHER DESCHENE IS UNQUALIFIED TO BE A CANDIDATE FOR NAVAJO NATION PRESIDENT PURSUANT TO 11 N.N.C. §8 (A)(4)&(5).**

**A. <u>The Plain meaning of the statute is clear and must be enforced as written.</u>**

The words in statute, 11 N.N.C. §8 (A)(4) and (5), are very clear on its face and can easily be interpreted with the plain meaning of the language, which reads:

(4.) ***Must fluently speak and understand Navajo and read and write english***

(5.) ***Must have served in an elected Navajo Nation office, other than the office of School Board member, or must have been employed within the Navajo Nation organization.***

The Navajo Nation Supreme Court held in *In Matter of Certified Question Concerning DD*, No. SC-CV-50-07 slip op. (Nav. Sup. Ct. March 02, 2010), that when interpreting a statute, the plain language of the statute will be enforced when it applies and clearly requires a certain outcome. In *Matter of Appeal of Vern R. Lee*, No. SC-CV-32-06, slip op. (Nav. Sup. Ct. August 11, 2006), the Court held that if the language of a statute is clear, the Court applies the meaning the Council clearly intended. Finally, In *Begay v. Chief*, 8 Nav. R. 654 (Nav. Sup. Ct. 2005), the Court held that the Court would enforce the plain meaning of a statute where the language is clear. The statutory language in 11 N.N.C. §8 (A)(4) and (5), is very clear and should be enforced as it is written.

Doo naaki nilíígóó, bik'izh dootą'ígi' át'éego bikáá'. Nizhónígo, dahdilkǫǫhgo, t'áá k'ídahineezláago, chánahgo, diits'a'go, Nihookáá' Diné bizaad bee yáníłti'go dóó t'áá ákót'éego bik'i'dinitįihgo t'éiyá, Nihookáá' Diné Binanit'a'í díileeł. Índa, Diné Bi Kéyah bikáá' naat'áanii bá anída'ii'niłígíí ła' nigháídéé' hoolzhish dęę' ná'i'iisnilgo, honíníłnáo, éí doodago, Diné Bi

Wááshindoon da'íníshígíí ła' atah nishínílnishgo t'éiyá Nihookáá' Diné Binanit'a'í dííleeł. Doo ga' haa'ída t'áá naaki nilǫ́ǫ bikáa'da. Éí biniinaa, t'áá bee haz'áanii bikáá' dóó t'áá bee ha'oodzí'ígi' át'éego bik'eh ániit'éego t'éiyá nihá yá'át'eeh.

**B. <u>Appellee has admitted that he does not fluently speak and understand Navajo</u>**

The Appellee does not "fluently speak and understand Navajo". The Court does not have to search far to make its factual conclusion that the Appellee does not "fluently speak and understand Navajo". Mr. Christopher Deschene, the Appellee has admitted over and over again that he does not "fluently speak and understand Navajo". On May 27, 2014, during a Candidates Forum, Appellee was quoted in the Navajo Times, that he was "apologizing that he did not know the language well enough to express his opinions in it and promising to learn it as his campaign progressed. See Appellant Dale E. Tsosie's Appendix D. Mr. Deschene, during an interview with the Associated Press on September 11, 2014, was quoted, " I've made a commitment to the language, and I've stated a number of times that my personal goal is to be completely fluent by the end of my first term". See Appellant Dale E. Tsosie's Appendix E. The High Country News reported that, "Deschene.....the younger candidate does not speak Navajo, though it's a requirement of the president according to the Election Administration. Deschene says he'll pick more up on the campaign trail". See Appellant Dale E. Tsosie's Appendix F. The Appellant listed names of Navajo citizens, on his OHA Statement of Grievance, who witnessed the Appellee openly declare and admit that he cannot "fluently speak and understand Navajo".

The Appellee has admitted that he does not "fluently speak and understand Navajo". To substantiate his admittance even further, the Appellee has stated over and over again that he is in the process of learning Navajo, that he will be fluent "at the end of his first term", he is "improving his Navajo" as the campaign progresses, or now, the media is even keeping track of what percentage of his public speeches are in Navajo. See Navajo Times, September 18, 2014,

issue, article by Cindy Yurth, reporting that Deschene made 50% of his speech in Chinle, in Navajo. The point here is not whether how much Deschene has progressed in his learning of the Navajo language to date, but rather, if Deschene was fluent in speaking and understanding Navajo at the time Deschene declared under oath that he "fluently spoke and understood in Navajo. The law in 11 N.N.C. §8 (A)(4) is very explicit and clear, "Must fluently speak and understand Navajo..". The law does not give provisions for learning on the job or as time goes along, the law is very specific: Can you fluently speak and understand Navajo or you don't. In Deschene's case, he does not.

**C. The Legislative History Of 11 N.N.C. §8 Clearly Indicates That The Navajo Nation Council Always Intended To Make And Keep The Speaking and Understanding of the Navajo Language As A Requirement For The Navajo Nation Presidency.**

The Navajo Nation Council ("Council") first organized and codified its election laws in 1966. The 1966 Election Law created and set forth the qualifications for Tribal Chairman under 11 N.T.C. §4. Under the 1966 Election Law and the amendments under CJY-70-74, 11 N.T.C. §4 (a)(4), the Navajo Nation Election Law required that the Navajo Tribal Chairman "Must be able to speak and understand Navajo and read and write English.". See Appellant Dale E. Tsosie's Appendix I.

The requirement that the Navajo Tribal Chairman "Must be able to speak and understand Navajo", was never changed until the Council passed the Navajo Nation Election Code by Resolution CAP-23-90. See Appellant Dale E. Tsosie's Appendix J. The Navajo Board of Election Supervisors conducted extensive reviews and public hearings prior to forwarding their recommendations to the Council. The Election Supervisors only recommended an insertion of the word "fluently" into the statute 11 N.T.C. §4(a)(4), to now read, "Must fluently speak and understand Navajo and read and write English". The requirement to speak and understand the

Navajo language remained intact, but the Council made the requirement even stricter, by adding the word "fluently". The election law language "Must fluently speak and understand Navajo and read and write English" has remained in its' present form since 1990.

The Navajo Nation Council has always intended that the "Diné Binanit'a'í" must speak and understand Navajo. In 1990, the Council made it even more of a stricter standard by adding "fluently" to the statute. It is clear that the Diné bizaad has always been a priority and coveted by the Navajo Nation government, to require that its' leaders speak and understand Navajo. Although written records of debates or verbal deliberations, which indicate the justifications for requiring the speaking and understanding of Navajo by the Navajo Tribal Chairman and today, the Navajo Nation President, cannot be located within the short time frame for writing this brief, all the justifications needed to make such a requirement for the President of the Navajo Nation is vested in our Dine Bibeehaz'áanii. Diné Bibeehaz'áanii beautifully stipulates why the Diné Binanit'a'í, Navajo Nation President must be required to "fluently speak and understand Navajo".

The origin and embodiment of our Diné Bibeehaz'áanii is our sacred Diné Bizaad. In the Black World, Ni'hodiłhił, there was a holy person, Yá'ałníí'neeyání. This holy person had a thought and had feelings, which came in the form of a beams of light, adínídíín. Through the Holy person's thought and feelings, came sound. Through sound, came a voice. This voice was diyin biinéé' and thus became nihiinéé'. The voice came in the form of a male voice and a female voice. Through the duality of the male and female voice, four words were born. These became the Yoołgai, Dootł'izhii, Diichiłí, and Bááshzhinii Saad (whiteshell, turquoise, abalone, and black jet language). These four words or language, became the basic structure for our communication with Yá'ałníí' neeyání, with his creations, through prayers and songs. Through the creation of the four language, the concept of four and the four dimensions were created. The

Four directions were also created. The Earth, the Sky, Water, Mountains, Air, Vegetation, Fire, Light, and sacred offering sites were created. These creations were organized and embodied with Nitsáhákees, Earth and Sky, Nahat'á, Water and Mountains, Iiná, Air and Vegetation, and Siihasin, Fire, Light and Sacred offering sites. These creations became the Foundation of our Diné Bibeehaz'áanii.

All of the creation, through the four language were instilled into the Nihookáá' Diné, thus, we were created in the image of the Holy People and identified as Nihookáá' Diné through our Diné clans, sacred names, footprint, shadow, life ways, and all bundled together with our sacred Diné language. As an extension of the four language, we were given the Naadá'áłgai saad, whitecorn language, Naadą́'áltsoi saad, yellow corn language, tádídíín saad, corn pollen language, Iniłt'ánii saad, germination language, Si'ah Naagháí saad and Bik'eh Hózhóón saad, the spiritual essence language. These language were given to us to communicate with one another through K'é, to use it in our leadership capacities, bee nahat'á ál'į, and for the protection of our people and life ways, bee adích'ą́ą́h yéilti'.

All of these languages are uniquely organized into and emdodied into Diné Bibeehaz'áanii: Natural, Traditional, Customary and Common Laws. Through the language, the Diné Bibeehaz'áanii bitsisiléí is thus established. Through these Fundamental Laws of the Diné, the foundation of our Diné leadership and structure of our Diné government is established. The criteria and standards for leaders of our Diné are also established.

Our Diné bizaad, embodied in our Diné Bibeehaz'áanii, establishes the standards for our Diné leaders. The standards, pursuant to our fundamental diné laws requires that a Diné leader have the capacity and skills to communicate with the Creator through prayer and songs. This communication requires the reciting of prayers and the singing of songs without assistance and at any given moment, and without mistakes. There are prayers and songs that cannot be "messed up" by an individual. The Diné leader is expected to smoothly communicate with all of creation

through prayer, song, and to conduct offerings. The Diné leader is also expected to have the oratory skills to communicate with the Diné people and have the oratory skills to talk about their concerns and worries. The Diné leader is expected: Baa yájiłti', talk about, Nabik'í yájiłti', analysis speech, bich'į' yájiłti', to talk to, hach'į' yálti', to be talked to, and Diné k'ehgo bik'izhdii'tiih, all utilizing Diné Bizaad. A Diné leader must do all of these things utilizing Diné Bizaad, in a dah dilkǫǫhgo, t'áá k'ídahineezláago, t'áá chánahgo, diits'a'go, manner. Finally, a Diné leader must exercise the proper protocol and demeanor of Diné language usage and most importantly, this language, must be used in their proper cosmic order and natural flow.

To believe in the language, joodlą́, to abide by it's laws, bikeh nijighá, to respect it, jidísin, to have love for it, ayóó' ájó'níigo, is the essence of the fundamental law of the language and the essence of Diné Bibeehaz'áanii. This process makes it distinct and unique. When one achieves and implements these fundamental laws of the Diné Bizaad, only then, will that individual be "fluent" as fluency is measured by achieving the totality of the fundamental laws of Diné Bizaad. Thereby, fluency in Diné Bizaad is not a matter of opinion.

Diné Bizaad is so structured and embodied in Diné Bibeehaz'áanii that any deviation from it would be like trying to deviate from the natural laws. Utilizing the language only for conversational purposes is a deviation from the fundamental laws of Diné Bizaad. It would be like just going through the motions without the foundation and the substance of the language.

It appears that the Navajo Nation Council wanted to write all of these down in the Navajo Nation Code. However, it probably would have taken a lot of pages and expanded the number of pages in the Code. Instead, the Council simply wrote, "Must fluently speak and understand Navajo..".

**D. Appellant Never held a Navajo Nation elected office and Appellant was never an employee within the Navajo Nation organization.**

11 N.N.C. § 8 (A)(5) requires that to be qualified to be a candidate for Navajo Nation President requires the individual "Must have served in an elected Navajo Nation office, other than the office of School Board member, or must have been employed within the Navajo Nation organization". The Appellee's printed campaign materials, his website, and his speeches to the public never mentioned any facts that the Appellee was an elected official of any Navajo Nation elected office. The only information the Appellee has on his campaign material is his election to the Arizona State Legislature.

In addition, the Appellee has never cited or mentioned anywhere that he was employed within the Navajo Nation organization. Typically, the Navajo Nation organization encompasses the Executive, Legislative, and Judicial branches of the Navajo Nation government. To be employed within these organization would mean being on the payroll of any of the three mentioned branches of the Navajo Nation government, holding a position, classified through the Department of Personnel Management, and earning salary that the Navajo Nation Council has approved during its annual budget approval. In addition, a Navajo Nation employee is afforded Navajo Nation health insurance and is eligible to participate in the Navajo Nation 401 K retirement program.

Appellee was never employed by any of the three branches of the Navajo Nation government and Appellee was never afforded the benefits afforded Navajo Nation employees. Thereby, Appellee was never employed within the Navajo Nation organization. Ultimately, Appellee was never qualified under 11 N.N.C. § 8 (A)(5).

## APPELLANT MUST BE DISQUALIFIED FROM HIS CANDIDACY FOR NAVAJO NATION PRESIDENT DUE TO MAKING FALSE STATEMENTS IN HIS CANDIDATE APPLICATION.

11 N.N.C. §21 (B)(2) requires that a candidate for Navajo Nation President shall submit, "*A notarized, sworn statement by the candidate that **(a)** he or she is legally qualified to hold the office; **(b)** that he or she meets the qualifications set forth in 11 N.N.C.§8; **(c)** that his or her candidate application is in the form and manner prescribed by law; and **(d)** that he or she may be removed as a candidate in the event his or her application contains false statement*".

Mr. Christopher Deschene filed a sworn, notarized statement swearing that he is legally qualified to hold the office and that he met the qualifications as set forth in 11 N.N.C.§8. Deschene may have submitted a sworn, notarized statement, however, Deschene lied about fulfilling the qualifications requirements as set forth in 11 N.N.C.§8 (A)(4) and (5). Chris Deschene could not "fluently speak and understand Navajo" and Chris Deschene was never elected into any Navajo Nation elected offices and he was never employed within the Navajo Nation organization. Along with falsely swearing that he met the qualifications set forth in 11 N.N.C. §8, Mr. Chris Deschene also acknowledged that he may be removed as a candidate if his candidacy application contained false statements. Mr. Christopher Deschene must be removed from his candidacy for Navajo Nation President, pursuant to 11 N.N.C. §21 (B)(2) because his candidacy application contained false statements.

## REQUEST FOR ATTORNEY'S FEES

Rule 18(c)(1), N.R.C.A.P. allows an Appellant to request for attorney's fees. Appellant requests reasonable attorney's fees to cover fees and costs incurred in bringing this matter before the Court. In *Shirley v. Morgan*, No. SC-CV-02-10, slip op. at 46-47 (Nav. Sup. Ct. May 28, 2010), the Court held that a party to an appellate action may be awarded attorney's fees

where a party expends resources, not for personal gain, but for the aid of this Court and the Navajo people in vindicating important rights. The Appellant was not the third highest vote getter in the recent primary elections. Appellant did not file this appeal to further his political career. Appellant filed this action to prevent the Navajo people from being presented with an unqualified candidate, to cease the attempted manipulation of the election laws, and most importantly, to preserve and protect Diné Bizaad.

## CONCLUSION

Based upon the foregoing reasons, the Navajo Nation Supreme Court should overturn the OHA's ruling, disqualify Mr. Christopher Deschene from being a candidate for the office of the Navajo Nation President, and should order the candidate with the third highest votes during the primary election to be placed on the General Election ballot, pursuant to 11 N.N.C. §44.

**RESPECTFULLY SUBMITTED THIS 24TH DAY OF SEPTEMBER, 2014.**

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## CERTIFICATE OF SERVICE

I hereby certify that a COPY of the foregoing APPELLANT'S BRIEF was mailed, via United States Postal Service this 24h day of Septermber, 2014 to:

Mr. Christopher Deschene
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