

IN THE MUSCOGEE (CREEK) NATION SUPREME COURT

SUPREME COURT
FILED

CITIZENSHIP BOARD OF THE
MUSCOGEE (CREEK) NATION,

OCT 27 2023

Appellant,

Case No.: SC-2023-10

CONNIE DEARMAN
MUSCOGEE (CREEK) NATION
COURT CLERK

v.

(District Court Case No.: CV-2020-34)

RHONDA K. GRAYSON and
JEFFREY D. KENNEDY,

Respondents.

**ORDER DENYING APPLICATION OF THE MUSCOGEE (CREEK) NATIONAL
COUNCIL TO FILE BRIEF OF AMICUS CURIAE**

This matter comes before the Court pursuant to the *Application of the Muscogee (Creek) National Council to File an Amicus Curiae Brief in Support of Appellant*, filed with the Court on Wednesday, October 25, 2023.


M(C)NCA Title 27, App. 2, Rule 7 (C) provides that “[a] person wishing to intervene or file an amicus curiae brief in an appeal shall file a motion to intervene **within fifteen (15) days of the entry of the initial review decision accepting the appeal**. Parties shall have fifteen (15) days from receipt of the person’s motion to file a response brief to the motion to intervene.” [Emphasis Added]. In the instant matter, the Court issued its *Order of Docketing Notice and Filing Schedule and Order Staying Enforcement of the District Court’s September 27, 2023, Order and Opinion* [the Court’s initial review decision docketing the appeal] on October 2, 2023, placing the fifteen (15) day deadline described in Rule 7 (C) on Tuesday, October 17, 2023. The Movant’s *Application* is therefore untimely.

The Movant advises the Court that Movant is not a party to the case, and therefore did not receive a copy of the Court’s docketing decision until Wednesday, October 11, 2023 (six (6) days

before expiration of the fifteen (15) day deadline), with the implication that the Court should extend the Rule 7 (C) filing deadline in this instance to accommodate the lag in time from the date the *Docketing Order* was filed to the date the Movant actually received the *Order*. However, Rule 7 (C) requires that all persons/entities seeking amicus curiae status be non-parties to the case. Therefore, the circumstances outlined in the Movant's *Application* would not be unique compared with any other non-party seeking amicus curiae status. Further, Rule 7 (C) specifically uses the language that a non-party shall file its application within "fifteen (15) days of the entry of the initial review decision accepting the appeal" and not language such as "from receipt of the Order/Motion[.]" as was used further along in Rule 7 (C) when authorizing the parties-to-the-action the option to respond to any application to intervene within fifteen (15) days of the "receipt of the person's motion..." The Court therefore finds this distinction to be significant and intentional. As such, the Court denies the Muscogee (Creek) National Council's *Application* to file an amicus curiae brief in the above-styled action.

IT IS THEREFORE ORDERED that the October 25, 2023, *Application of the Muscogee (Creek) National Council to File an Amicus Curiae Brief in Support of Appellant* is hereby **DENIED**.

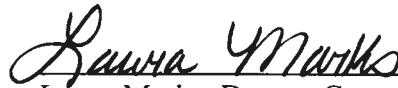
FILED AND ENTERED: October 27, 2023



Richard Lerblance
Chief Justice

CERTIFICATE OF MAILING

I hereby certify that on October 27, 2023, I mailed a true and correct copy of the foregoing *Order Denying Motion for Leave to File Brief of Amicus Curiae* with proper postage prepaid to each of the following: Kyle Haskins, Muscogee (Creek) National Council, P.O. Box 580, Okmulgee, OK 74447; Geri Wisner, Jeremy Pittman, and Clinton Wilson, Muscogee (Creek) Nation, Department of Justice, P.O. Box 580, Okmulgee, OK 74447; Damario Solomon-Simmons, Kymberli J.M. Heckenkemper, and Beatriz Mate-Kodjo, Solomon Simmons Law, 601 S. Boulder Ave., Suite 602, Tulsa, OK 74119 A true and correct copy was also hand-delivered to the Clerk of the Muscogee (Creek) Nation District Court.



Laura Marks, Deputy Court Clerk