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SUPREME COURT REVERSES OHA DECISION IN SHERLOCK V. NEA

The Navajo Nation Supreme Court reversed a decision of the Office of Hearings and Appeals that allowed an individual elected to the Chilchimbeto Community School Board to remain in her elected position after the Navajo Election Administration sought to remove her due to two state misdemeanor convictions.

The OHA had ruled that the convictions of Terlyn Sherlock having been set aside by the Arizona Municipal Court of Flagstaff had the effect of dismissing those convictions and thus qualifying Ms. Sherlock to remain in her position. The set aside of the convictions was granted after Ms. Sherlock was informed of her removal.

The Supreme Court noted that the order setting aside her criminal charges came 13 months after Ms. Sherlock filed her candidate application and six months after taking office. Qualifications for candidates for school board under Navajo Nation law prohibit convictions of certain misdemeanor crimes. Ms. Sherlock had filed a notarized statement that she met all qualifications required by Navajo Nation law and understood that she may be removed as a candidate if her application contained a false statement or if she no longer qualified for office, if elected.

The Supreme Court noted that OHA “marginalized the non-reporting of prior convictions stating such convictions were of public record.” The Court stated in its opinion that the voting public “must be able to rely on the statutory protections of our laws, as well as the truth of candidates’ statements as to their qualifications.”

The Supreme Court’s decision by opinion in Sherlock v. Navajo Election Administration, No. SC-CV-64-17 allows the Navajo Election Administration to proceed with removing Ms. Sherlock.

The Supreme Court opinion is subject to a 20-day reconsideration period.

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