

No. 18-7404

IN THE
SUPREME COURT OF THE UNITED STATES

JOHN LAAKE a/k/a WINTER LAAKE — PETITIONER

vs.

TURNING STONE RESORT CASINO — RESPONDENT.

ON PETITION FOR A WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

PETITION FOR REHEARING

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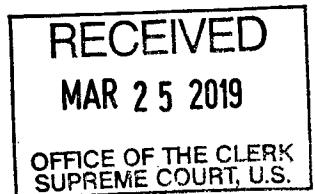


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PETITION FOR REHEARING

Petitioner, proceeding Pro Se, and filing Informa pauperis under Rule 39, respectfully asks this Honorable Court to grant rehearing of this Court's February 25, 2019 order, pursuant to Rule 44 of this Court. This Petition for Rehearing calls the Court's attention to other events which have occurred which may affect the Court's consideration of this case. Pursuant to Supreme Court Rule 44.1, this Petition for Rehearing is filed within 25 days of this Court's order.

As detailed in his Petition for Writ of Certiorari, Petitioner Laake had his freedom of religion and free speech rights trampled upon while being a vendor at the Scare-A-Con event at the Turning Stone Resort Casino ("TSRC") on September 30 – October 2, 2016, as did other vendors who were present. Additionally, Petitioner Laake is not the only one who has been suffering under the current Indian governance in Oneida County.

TSRC is owned and operated by the Oneida Indian Nation. The tribal Clan Mothers have always traditionally chosen the Tribal Leader, and that fact is admitted and even openly stated in the Oneida Indian website, wherein it says:

Oneidas are a matrilineal society – clan and Nation Membership come from the mother. Each clan chooses representatives to the governing body, the Nation Council. According to tradition, male council members are responsible for daily decisions while Clan Mothers make long-term decisions. Tradition also requires Nation leaders and Members to consider the impact on the next seven generations when making decisions. The Nation is headed by a federally recognized Representative, that person is Ray Halbritter.

... As a business and cultural leader, Halbritter has continued to give back to his community with the same enthusiasm that he

brought to his people when he first began working to build Turning Stone.

(<http://www.oneidaindiannation.com/about/oin-leadership/>) (last visited 3/17/2019).

This is what the official tribal website itself states, yet how has the current tribal leadership been treating the traditional Tribal Mothers and their families?

The following battles and events, as stated in the *Shenandoah, et al. v. Halbritter, et al.* lawsuit, directly affected Petitioner Laake in **his** case, since it involves disputes regarding the current Indian leadership structure, which exists against the will of the traditional tribal leaders.

(*Shenandoah, et al. v. Halbritter, et al.*, Case No. 5:02-cv-01430).

As stated in *Shenandoah*, the plaintiffs in that case, including Maisie Shenandoah, a Wolf Clan Mother of the Oneida Nation, testified that they were subjected to endless harassment and threat of arrest and homelessness caused by Halbritter and the Oneida police -- which were, and still are, under his control. Plaintiffs, as stated in their affidavits therein, directly experienced the full wrath of the so-called 'tribal authorities' for dissenting from their 'authority', having experienced countless sufferings at the hands of Halbritter and the casino police.

As stated in the Affidavit of Victoria Schenandoah-Halsey:

... I am resident of the Oneida Territory and a member of the Oneida Indian Nation. I have been made a 'member not in good standing' by the defendants who presently control the Oneida Indian Nation because I speak my voice against the **defendants' improper seizure of control and how they treat those who question not only their authority, but also the way they use that authority.** I am a Plaintiff in this cause of action. ... I own my home which I purchased with my own money and live with co-plaintiff Matthew S. Jones. My home has been targeted for

demolition by the defendants. Because the home is owned by me, I have not given plaintiff Matthew S. Jones any authority to permit or allow entrance to any officials for any purposes. On June 18, 2003, I was taking a shower. I heard some noise, I got out of the shower, threw a towel around me and went out into the kitchen. Matthew and Kathleen Bell and my son Wesley were there very excited. They proceeded to describe to me what had just taken place and how **four armed officers had broken down the door and forcibly entered my home**. They described how the armed officers 'inspected' every room and took pictures as they went. **This hit me like a ton of bricks – that strangers could force their way into my home while I was taking a shower – and open my bathroom door and take pictures of me naked in the shower.** **I felt VERY violated and humiliated – beyond words –** particularly given my Traditional Oneida upbringing, morals and values which these non-Oneida hired Casino police officers would have absolutely no appreciation, respect or sensitivity for. ... **I live under constant stress knowing that I will be made homeless as part of the defendants' plan to forcibly evict me and my children, destroy my home and leave me and my children homeless without any means to rebuild a home on the Territory**, as these same defendants made certain Clint Hill and others who are 'favored' have been enabled to do.

(Affidavit of Victoria Schenandoah-Halsey, July 14, 2003, *Shenandoah, et al. v. Halbritter, et al.*, Case No. 5:02-cv-01430) [emphasis added].

Furthermore, in the Affidavit of Matthew S. Jones of the same case, it states as follows:

... I am resident of the Oneida Territory and a member of the Oneida Indian Nation. I have been made a 'member not in good standing' by the defendants who presently control the Oneida Indian Nation because I also speak my voice against the defendants' improper seizure of control and how they treat those who question not only their authority, but also the way they use that authority. I am a Plaintiff in this cause of action. I live with co-plaintiff Victoria Shenandoah-Halsey in the home owned by her which has been targeted for demolition by the defendants. Because the home is owned by Victoria, I do not have any authority to permit or allow entrance to any officials for any purposes. On June 18, 2003, I was

standing in the driveway of the home when I saw a number of Oneida official vehicles drive up to the house. It happened so suddenly, it was not possible to count the precise number of vehicles, but it was three or more. I saw defendant Corky Ryan get out of the vehicle and walk towards the house. I saw four other Oneida Indian officials with defendant Ryan. **Their actions were intimidating, with at least two of the people carrying weapons which I could see and the others making me believe that they carried weapons which I could not see under their clothing.** I realized that they were there to do the forced, armed inspection of the house even though no prior notice of their arrival had been given to either Victoria or myself other than the so-called Tribal Court order giving defendants the right to arrive at any time, unannounced and force entry into the home. Because of what these very same people had done to Danielle Shenandoah-Patterson, I immediately feared that they intended to bully, intimidate, harass and try to incite or fabricate an incident that they would use as an excuse to seize me, or Victoria and place us under arrest – even if we did nothing to justify such. I went quickly into the house, closed and locked the door because I was very concerned for the safety of Victoria and the guests who were visiting at that time including Kathleen B. Bell, who herself has provided her own Affidavit [about] this incident. **Because the defendants are so unpredictable and ruthless in the way they treat disfavored 'dissidents' such as myself and the other plaintiffs, I wanted whatever security would come from having other witnesses, or video or pictures to document whatever happened.** I also feared the demonstrated brutality of these defendants used against Danielle Shenandoah-Patterson, Maisie Shenandoah and how they used their arrest and imprisonment power to extort 'plea agreements'. **The number, armed guns and weapons and the militant manner of walking towards me and the house told me that they intended to do to me and Victoria what they had done to Danielle. I heard them pounding loudly on the door demanding that Victoria open the door for them.** Victoria was taking a shower at that time, therefore, unable to come to the door. Immediately, the defendants shouted my name in a very loud, angry voice and demanded that I open the door for them. I did not reply out of fear and because I do not have authority or permission to let the defendants in, it not being my house. **I then heard the**

defendants reading from something, again in their very loud angry, hostile, threatening and aggressive voice. I looked for and found my camera and remained standing in the living room facing the door. One of the defendants shouted, “I’m going to break down the door!!”, and immediately afterward, I heard a big ‘thump’ against the door and the door flew open.

Defendant Corky Ryan was the first person to come through the door, and I took a photograph of him. ... The next individual was unknown and carried a video camera as well as what I saw as being a weapon, gun, on his ‘police’ belt. It appeared that he was ready to ‘draw’ the weapon ... The third person to forcibly enter Victoria’s home was a female uniformed Oneida officer who also carried a weapon, gun, and who also kept her hand ‘at the ready’ to withdraw the weapon at any moment. ... These armed individuals proceeded to walk around Victoria’s home, looking around. **I stayed in the living room at which time I took another photograph of the female officer who had her hand positioned over her weapon ready to draw it at any moment. ... This made me very angry, violated, fearful and humiliated because there was nothing we could do to protect the sanctity of our home.** The so-called ‘inspection’ was over in what seemed like five minutes, but it could have been longer or shorter due to the emotional stress I was under at having the home forcibly entered and violated as part of the defendants’ plan to forcibly evict us, destroy this home and leave me and Victoria and the children homeless without any means to rebuild a home on the Territory, as these same defendants made certain Clint Hill and others who are ‘favored’ have been enabled to do. ... I do not know what other personnel were stationed surrounding the home out of eye sight. **I am very distraught over what these defendants have done, continue to do and intend to do. We are helpless to stop the defendants who have repeatedly made it clear that they intend to drive us ‘dissidents’ out of and off of the sovereign Territory and this so-called housing ordinance is their mechanism.**

(Affidavit of Matthew S. Jones, July 13, 2003, *Shenandoah, et al. v. Halbritter, et al.* Case No. 5:02-cv-01430) [emphasis added].

As stated in that suit, police raids are used as a form of harassment and control against the people. This calls into question and contradicts Halbritter’s

Oneida Indian Nation website statement of his “giving back to the community.” This is not liberty. It is civil rights violations of the highest caliber. According to the *Shenandoah* lawsuit, those jack-booted thugs proceeded to break in without a warrant or any form of law.

As mentioned, one of the traditional tribal leaders, was Maisie Shenandoah. Maisie Shenandoah was a Wolf Clan Mother. Historically, the Oneida tribe is comprised of a six nations confederacy. The leader of the tribe is traditionally chosen by the clan mothers, who initiate the nomination process.

Maisie Shenandoah and other plaintiffs also filed a lawsuit against the United States Department of the Interior and others, stating that Ray Halbritter was only supposed to be the interim leader. He was not intended to be the permanent leader. He seized power against the expressed will of the traditional tribal leaders. He proceeded to build the Turning Stone Resort Casino further against the will of the traditional tribal leaders – they expressing their deep concerns over the resultant damage to the ecological system and the water table. (See *Shenandoah, et al. v. U.S. Department of the Interior, et al.*, case no. 96-cv-258).

On May 21, 1995, at a duly convened meeting of the Oneida Nation, the members of the Oneida Nation endorsed by consensus a resolution to remove Halbritter from his position as a representative of the Oneida Nation.

On May 23, 1995, Halbritter received formal notification of the decision of the Oneida Nation, removing him from any position of authority within the Oneida Nation government.

On June 4, 1995, Halbritter's removal was approved by unanimous consent by the Grand Council of the Haudenosaunee, Six Nations Confederacy.

By letter dated June 4, 1995, the Grand Council of the Haudenosaunee advised the Department of the Interior that it had unanimously approved the resolution calling for the removal of Halbritter from his position as a representative of the Oneida Nation.

The Department of the Interior failed to act on the issue of the Oneida Nation's removal of Halbritter from his position as a representative of the Oneida Nation. (*Id.*)

Herein in this case, the illegal Oneida Indian leaders scuttled and abolished Petitioner Laake's freedom of religion and free speech rights while upon their land, as they have done to others and continue to do so, involving police raids, the casino built over the objections of the traditional tribal leaders, irreparable damage caused to the ecological table as a result of the casino having been built, and the intentions of the traditional Indian tribal leaders trounced upon, all of which the Respondent does not deny, and proceeds to hide behind tribal immunity which does not apply in this case. If this case is denied by the Supreme Court, it will embolden them to violate civil rights across the United States. This will set a precedent, if this case is denied by the Supreme Court. (See *Shenandoah, et al. v. U.S. Department of the Interior, et al.*, case no. 96-cv-258.

Since the traditional leaders are not in charge, what third-party entity is Halbritter, in fact, running the casino with? There is a mysterious third-party

entity involved, whom he evidently received the money from to build the casino with. Let the TSRC's money records be opened, so it can be known who it is. Halbritter has refused to provide the Oneida Nation with a complete and accurate account of the proceeds from the Nation's business, and how those proceeds have been used on behalf of the Nation. None of the revenues from the Oneida Nation gaming businesses are distributed to the members of the Nation, nor taxes paid to the State of New York nor taxes paid to the federal government of the United States. (*Id.*)

Furthermore, the abuse continues today in Indian territory as shown by what occurred to Petitioner Laake as a vendor at the TSRC event. The unbelievable cycle of abuse continues to the current day with the crushing of Petitioner's freedom of religion and free speech rights. There aren't even constitutional rights for Indians upon Oneida land.

The *Shenandoah* case is relevant herein because the issues raised by that lawsuit pertain to who's in charge at TSRC, which decisions directly caused impact upon the Petitioner through the losses he incurred on TSRC premises regarding his freedom of religion and speech, which were denied to him amidst fear of bodily harm and removal. The abuses listed in the *Shenandoah* lawsuit continue today. The raids and shutting down activities continue unabated on Oneida land, as evidenced by what transpired with Petitioner Laake. Habeas corpus is not sufficient to address these abuses of common basic rights. It is a problem that

needs to be addressed. It is all relevant to this case herein because the abuse continues.

CONCLUSION

The abuse continues today, as clearly demonstrated by what happened to Petitioner Laake while upon the TSRC premises.

TSRC argues tribal sovereign immunity rights, and it's not even the right and legal Indian leadership there, according to the traditional tribal leaders. It is definitely not the tribal sovereign rights of the average Indians involved here. The traditional tribal leaders do not have their sovereign rights. So, who's sovereign rights is it? Whose tribal sovereign immunity is it truly? Because it's certain not of the average Indian or the proper tribal leaders, according to the *Shenandoah* lawsuit -- certainly not of the traditionally recognized tribal leaders. Nor is it of a citizen of the United States, because Petitioner Laake's sovereign rights have been violated here. If the Supreme Court denies this Petition, then this is a death knell for civil rights of any kind upon Indian land.

Since Halbritter is not working with the traditional tribal leaders, who then is he actually in reality running the casino with? Open the casino money records, so it can be known who it is. Where are all of the TSRC's tax-free money revenues going to? Clearly, no casino money is actually going to the Indians. Most of them live in poverty. **There should be an audit leading to a change in governance.**

Petitioner Laake is seeking remuneration as sought in the complaint, and he seeks permission to speak before this Honorable Court, to avoid justice being denied.

This Honorable Court should reconsider its denial of certiorari in this case.

Dated: March 18, 2019

Respectfully submitted,

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