



THE MILLE LACS BAND OF
OJIBWE INDIANS

Executive Branch of Tribal Government

SOLICITOR'S OPINION 97-18

PROCEDURAL HISTORY

On November 5, 1997, the Solicitor General received a written request dated November 3, 1997, from Secretary-Treasurer David G. Matrious asking for a Solicitor's Opinion clarifying the process for delivering bills passed by the Band Assembly to the Chief Executive for her approval or veto.

QUESTION PRESENTED

Does delivery of a bill passed by the Band Assembly to office staff in the Office of the Chief Executive within 72 hours of the bill's passage meet the requirement of personally delivering the bill to the Chief Executive as contained in 3 MLBSA § 16(c)? No.

PRINCIPLES OF STATUTORY INTERPRETATION

Various rules and principles of statutory construction have been developed by courts to aid in the interpretation of statutes. The Court of Appeals of the Court of Central Jurisdiction has adopted many of these principles. In The Matter Of: The Interpretation of the Solicitor General 15-OSG-92, 92-CV-5359 (1993).

The starting place for any statutory interpretation "is the language itself." However, in those cases where a literal application would produce an absurd result, "the intention of the drafters or the meaning of the statute, rather than [its] strict language, controls." Interpretation of 15-OSG-92 at 6. "If the language of a Band statute is plain, unambiguous and uncontrolled by other parts of the Band statute or other Band statutes upon the same subject," then it should be given its customary meaning. Id. at 7. Often, though, "the meaning of a statute lies deeper than the actual words of the statute" and "involves questions of judgment." Id. at 9.

Where there is uncertainty as to the true meaning of a statute, "consideration must be given to the problem in our [community]" that the Band Assembly was attempting to remedy. Interpretation of 15-OSG-92 at 8. In addition, a rational and sensible construction of the meaning of statutory language is favored. "The unreasonableness of the result produced by one among alternative possible interpretations of a statute is reason for rejecting that interpretation in favor of another which would produce a more reasonable result." Id. at 9.

Finally, rather than adopt a bright line method of statutory interpretation the Court of Appeals held that the method of interpretation "which achieves a liberal and reasonable interpretation of the statute" should be used. Interpretation of 15-OSG-92 at 10.

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DISCUSSION

Does delivery of a bill passed by the Band Assembly to office staff in the Office of the Chief Executive within 72 hours of the bill's passage meet the requirement of personally delivering the bill to the Chief Executive as contained in 3 MLBSA § 16(c)?

3 MLBSA § 16(c) requires that "no later than 72 hours after [passage], each bill shall be **personally delivered** to the Chief Executive," who will then have 5 days "**from receipt**" to either approve or veto the bill. (emphasis added.)

Black's Law Dictionary (6th ed. 1990) defines **personal** as "appertaining to the person; belonging to an individual; limited to the person" **Receipt** is defined in Black's as ". . . delivery of a thing of value It requires delivery or change of possession . . . and can only be accomplished by affirmative assent" The plain meaning of 3 MLBSA § 16(c) appears, then, to be that bills passed by the Assembly must be physically delivered to the Chief Executive herself before the 5 day time limitation starts to run. Delivering the bill to office staff does not qualify as personal delivery under this interpretation.

This interpretation also reflects the intent of the legislature and is reasonable. The clear intent of the statutory provision is to provide a reasonable opportunity for the Chief Executive to consider and either approve or veto legislation passed by the Band Assembly as a part of the separation of powers form or government which was established. Checks and balances would not be meaningful unless there was a reasonable opportunity to exercise the power. If 3 MLBSA § 16(c) were interpreted to mean that the 5 day window to approve or veto legislation began to run simply when a bill was delivered to office staff, the intent of the Assembly might well be frustrated. The Chief Executive could be away on travel and the bill might not reach her before the 5 days expired. Surely, the Assembly could not have intended this result.

In addition, interpreting the statute to mean that the 5 day time limitation begins to run when the bill reaches the Chief Executive's hand is not unreasonable. Allowing the Chief Executive 5 days after receipt to review a bill is not an unreasonable amount of time taking into consideration the length of Band Assembly sessions, the amount of work which all of us are doing, and the travel required of anyone in the Chief Executive position. We note, however, that taking these same considerations into account it is our opinion that interpreting the 5 day limitation to run from the time that a bill is **forwarded** to the Chief Executive, regardless of when it is received, is an unreasonable interpretation.

Therefore, we conclude that the 5 day time limitation contained in 3 MLBSA § 16(c) begins to run when a bill has actually been physically received by the Chief Executive and that delivery to office staff alone does not meet this requirement. We also note that in the recent past the practice of the clerk has been to deliver bills to office staff for them to actually give to the Chief Executive. This process does appear to us to be unreasonable as long as the office staff certifies on the bill tracking form the time and date that the bill is actually given to the Chief Executive and that the 5 day time limitation does not begin to run until this date.

Dated this 21 day of November, 1997.

James M. Genia

James M. Genia
Solicitor General



THE MILLE LACS BAND OF
OJIBWE INDIANS

Legislative Branch of Tribal Government

November 3, 1997

James Genia
Solicitor General
Mille Lacs Band of Ojibwe
HCR 67 Box 194
Onamia, MN 56359

Dear Solicitor:

This letter is a request by the Band Assembly, pursuant to 3 MLBSA § 29, to the Solicitor General to issue a Solicitor's Opinion clarify the following:

- 1.) Is delivery of a bill passed by the Band Assembly that is delivered to the Chief Executive's Office within 72 hours of passage meet the requirements of personally delivering the bill to Chief Executive as required by 3 MLBSA § 16 (c) (d)?

Please provide me with a copy of your Opinion within 14 days. Thank you for your attention to this matter.

A handwritten signature in blue ink, appearing to read "David G. Matrious".

David G. Matrious
Speaker of the Assembly

Cc: District Representatives
Marge Anderson

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