

IN THE OFFICE OF THE COURT CLERK
 BY *Jm*
 COURT CLERK/DEPUTY
 JAN 03 2022
 DELAWARE NATION TRIBAL COURT
 FILED

IN THE DISTRICT COURT
 OF THE DELAWARE NATION

KERRY HOLTON,)
 PLAINTIFF,)
)
 V.) CASE NO. CIV-2021-3
)
 THE DELAWARE NATION ELECTION)
 COMMITTEE,)
 DEFENDANT.)

ORDER

Before this Court is a *Notice of Appeal of Denial of Election Protest* filed by Plaintiff, Kerry Holton and a *Motion to Dismiss* filed by Defendant, The Delaware Nation Election Committee and joined by The Delaware Nation Executive Committee and President, Deborah Dotson. The Court makes the following findings:

1. That a *Notice of Appeal of Denial of Election Protest* was filed on July 8, 2021. The *Notice* did not contain any legal basis for such appeal or any supporting documentation. The *Notice* did request a briefing schedule.
2. No request was made to set the matter for hearing.
3. That at the October 4, 2021 docket, a briefing schedule was provided to the Plaintiff, Kerry Holton and the Defendant, Delaware Nation Election Committee. Both parties appeared and agreed that the schedule was satisfactory.
4. The Court ordered Plaintiff, Kerry Holton to submit his Brief by October 18, 2021 at 5:00 pm and that the Defendant, Delaware Nation Election Committee's Reply Brief was due by October 29, 2021 at 5:00 pm.
5. That no Brief was filed by the Plaintiff prior to October 18, 2021, 5:00pm. No contact was made to the Clerk of Court requesting additional time or requesting clarification of the Court's Order. As such, no reply brief was filed by the Defendant.
6. The Delaware Nation Election Committee herein filed a *Motion to Dismiss* on November 1, 2021.
7. That this Court only has before it a *Notice of Appeal of Denial of Election Protest* that contains no legal basis for the contest for the Court to consider. No other pleadings have been filed.
8. That the Plaintiff has wholly failed to state a claim for which relief can be granted.

9. That the Plaintiff failed to prosecute its case by not filing its Brief as ordered by this Court.
10. Additionally, the Delaware Nation Executive Committee and President, Deborah Dotson filed a *Motion to Intervene* and joined in the *Motion to Dismiss*.
11. That at the November 29, 2021 hearing, the Court heard oral arguments on the *Motion to Dismiss*. Plaintiff provided a disingenuous response to the Court that Plaintiff had nothing to add to his *Notice* which is why he did not file his Brief although it was Plaintiff that initially requested a briefing schedule.

IT IS THEREBY ORDERED BY THIS COURT that upon review of the Court file and hearing arguments by counsel, the Court finds that the Motion to Dismiss should be hereby sustained. The *Notice of Appeal of Denial of Election Protest* is hereby dismissed. The results of the June 19, 2021 election as determined by The Delaware Nation Election Committee is hereby upheld.

IT IS SO ORDERED this 29 day of December, 2021.


SHANNON L. PRESCOTT
DISTRICT COURT JUDGE