

SUPREME COURT OF WISCONSIN

NOTICE

This order is subject to further editing and modification. The final version will appear in the bound volume of the official reports.

No. 07-11C

No. 14-02

07-11C In the Matter of the Review of the
Discretionary Transfer of Cases to Tribal Court

FILED

14-02 In the Matter of the Petition to
Amend/Dissolve Wisconsin Statute § 801.54
Discretionary Transfer of Civil Actions to
Tribal Court

MAR 17, 2015

Diane M. Fremgen
Clerk of Supreme Court
Madison, WI

This order advises petitioners and interested persons of the status of two separate administrative rule petitions that both relate to Wis. Stat. § 801.54, governing the discretionary transfer of cases to tribal court. On July 31, 2008, this court created Wis. Stat. § 801.54. See S. Ct. Order 07-11, 2008 WI 114 (iss. Jul. 31, 2008, eff. Jan. 1, 2009) (Roggensack, J., dissenting), as amended, by S. Ct. Order 07-11A, 2009 WI 63 (Jul. 1, 2009) (Roggensack, J., dissenting).

On Monday, October 18, 2010, the court conducted a public hearing to review the operation of Wis. Stat. § 801.54. The majority of the court concurred that the rule was operating as expected and

that no action was required.¹ See S. Ct. Order 07-11B, 2011 WI 53 (Jul. 1, 2011) (Roggensack, J., dissenting). The court voted to conduct another review of the rule in five years. Id.

On July 24, 2014, six individuals who are members of the Oneida Tribe of Indians of Wisconsin, namely, Nona Danforth, Candace Danforth, Kerry Danforth, Linda S. Dallas, Cathy L. Metoxen, and Amanda Gerondale, filed rule petition 14-02 asking the court to repeal Wis. Stat. § 801.54. The petitioners state broad objections to Wis. Stat. § 801.54 and generally contend that their efforts to resolve their concerns with Oneida Tribal leadership have been unsuccessful.

The court discussed petition 14-02 at an open administrative rules conference on November 17, 2014. The court decided to consider petition 14-02 when it conducts a scheduled review of the operation of Wis. Stat. § 801.54. Originally, that review was scheduled to commence in January 2016. See S. Ct. Order 07-11B, 2011 WI 53 (Jul. 1, 2011) (Roggensack, J., dissenting). The court will conduct the review in the fall of 2015. An order scheduling a public hearing in the above-captioned matters will issue when the calendar for the 2015-16 term is finalized. A letter to petitioners and interested persons accompanies this order and details the manner in which written filings and public testimony will be considered.

¹ Justice Patience Drake Roggensack stated her continuing concerns about the constitutionality of the rule as set forth in her dissent to the order. See Kroner v. Oneida Seven Generations Corp., 2012 WI 88, 342 Wis. 2d 626, 819 N.W.2d 264.

The court also considered a letter filed on November 14, 2014, in connection with petition 14-02, by one of the petitioners, Amanda Gerondale, who asked the court to dismiss her from the petition. The court agreed to dismiss Ms. Gerondale from the petition.

IT IS ORDERED that Petitioner Amanda Gerondale's request to be dismissed from rule petition 14-02 is granted. Ms. Gerondale is no longer a named petitioner in rule petition 14-02. She may, but is not required to, participate in these matters as an interested person. The Clerk's Office is directed to amend the caption of rule petition 14-02 to read as follows: In re: Proposed Amendment/Dissolution of Wisconsin Statute § 801.54 Discretionary Transfer of Civil Actions to Tribal Court [14-02] filed 07/24/14 by Nona Danforth and four other petitioners.

IT IS FURTHER ORDERED that this court will conduct a public hearing in the fall of 2015 to review the operation of Wis. Stat. § 801.54. See S. Ct. Order 07-11, 2008 WI 114 (iss. Jul. 31, 2008, eff. Jan. 1, 2009) (Roggensack, J., dissenting), as amended, by S. Ct. Order 07-11A, 2009 WI 63 (Jul. 1, 2009) (Roggensack, J., dissenting). On the same date, it will consider rule petition 14-02: Petition to Amend/Dissolve Wisconsin Statute § 801.54 Discretionary Transfer of Civil Actions to Tribal Court.

IT IS FURTHER ORDERED that an order scheduling a public hearing in the above-captioned matters will issue in due course.

IT IS FURTHER ORDERED that notice of this order be given by a single publication of a copy of this order in the official publications designated in SCR 80.01, including the official

publishers' online databases, and on the Wisconsin court system's web site. The State Bar of Wisconsin shall provide notice of this order.

Dated at Madison, Wisconsin, this 17th day of March, 2015.

BY THE COURT:

Diane M. Fremgen
Clerk of Supreme Court

No. 07-11C
No. 14-02