

IN THE SUPREME COURT OF THE NAVAJO NATION

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OFFICE OF THE NAVAJO NATION  
PRESIDENT AND VICE PRESIDENT  
And JOE SHIRLEY, JR., in his capacity as  
President of the Navajo Nation,  
and as an Individual,  
Petitioners – Appellants,

v.

THE NAVAJO NATION COUNCIL, and  
NAVAJO BOARD OF ELECTION SUPERVISORS,  
Respondents – Appellees.

**ORDER OF DISMISSAL**

BEFORE YAZZIE, Chief Justice, and SHIRLEY, Associate Justice.<sup>1</sup>

An appeal of a decision of the Window Rock District Court, concerning No. WR-CV-304-2010, the Honorable Allen Sloan presiding.

Michelle Dotson, Window Rock, Navajo Nation, and Kiersten A. Murphy and Laura E. Antonuccio, Phoenix, Arizona for Appellants; and Franklin Hoover, Kellie A. Peterson, Clyde Halstead, Flagstaff, Arizona for Appellee Navajo Nation Council; and Michael P. Upshaw, Scottsdale, Arizona for Appellee Navajo Board of Election Supervisors.

This matter comes before the Court on a *Notice of Appeal* of an Order denying the application for a preliminary injunction. Pursuant to 7 N.N.C. § 301 and Rule 8 of the Navajo Rules of Civil Appellate Procedure, the Court has jurisdiction to hear appeals from final judgments and other final orders of the District Court of the Navajo Nation. An order denying preliminary injunctions is not considered a final judgment unless the denial results in dismissal of the entire case below. Here, the denial followed a motion hearing, and not a hearing on the merits of the complaint, which remains pending in the trial court. We cannot reach the issue of whether the denial of the preliminary injunction by the trial court was reversible error as the

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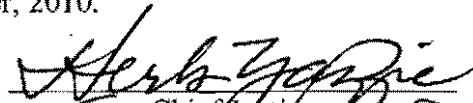
<sup>1</sup> The Court is not restricted in issuing a two-justice opinion where “necessary and proper” as long as the Chief Justice or his or her designate presides in the case. *Benally v. Mobil Oil Corp.*, 8 Nav. R. 365, 368 (Nav. Sup. Ct. 2003).

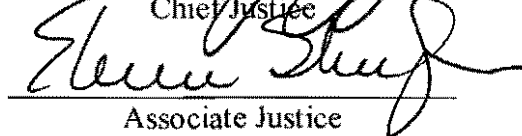
filing of this appeal is premature. The proper method for an interlocutory appeal is an application for an extraordinary writ.

We note that this is an election-related matter for which time is of the essence for disposal of the merits by the trial court.<sup>2</sup> There are only 18 days remaining to the election for which an interim injunction may well be warranted in an election challenge, but the parties are still waiting for a written decision on the denial of the preliminary injunction. However, we cannot reach that issue due to lack of subject matter jurisdiction over this appeal.

The appeal is DISMISSED for lack of jurisdiction.

Dated this 14<sup>th</sup> day of October, 2010.

  
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Chief Justice

  
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Associate Justice

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<sup>2</sup> Rule 65(d), Nav. R. Civ. P., allows a trial judge to advance a hearing on the merits of a petition for preliminary injunction.