

[Appellate ruling supports tribe](#)

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cumberland county

An appeals court has ruled that the Nanticoke Lenni-Lenape Tribal Nation can move ahead with its lawsuit over state recognition.

The decision, issued this week by a three-judge panel, reverses a lower court ruling and allows the tribal nation to continue with its civil rights action against the state attorney general.

"We are deeply grateful and prayerful for the appellate court's carefully considered decision," Mark Gould, tribal co-chief, said about the ruling.

The appellate panel wrote that it was reversing the Superior Court ruling "because we find the court applied the wrong legal standard and incorrectly failed to accept plaintiff's (the Lenni-Lenape's) factual allegations in the complaint as true."

At the heart of the legal battle is official state recognition, according to attorney Greg Werkheiser, founder of the Washington, D.C.-based Cultural Heritage Partners, who is representing the Cumberland County-based tribal nation.

New Jersey had "officially" recognized the Nanticoke Lenni-Lenape in 1982 "as an American Indian Tribe," according to the appellate decision. When the state recognized the Lenni-Lenape, it recognized two other New Jersey tribes as well.

In 1995, the state created a nine-member Commission on Native American Affairs.

But state agencies later tried to undermine the Lenni-Lenape's status, saying New Jersey had no officially recognized tribes, court papers say.

According to Werkheiser, "in 2012 on behalf of the Christie administration, the attorney general took the position that New Jersey has no recognized American Indian tribes.

This abrupt about-face has led to devastating economic and social consequences for the tribe as access to federal programs has been withdrawn or threatened."

That action prompted both state and federal suits by the tribe claiming unlawful discrimination and violation of the members' rights under both the New Jersey and U.S. constitutions.

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One of the important benefits to official state recognition is that it makes the tribal members eligible for “benefits under various federal statutes and programs that are conditioned upon the state’s recognition of it as an American Indian tribe.”

Werkheiser said the tribe, whose population he described as “severely economically distressed,” relied on basic federal benefits tied to its status, including grants for diabetes care and education, and the ability to label their crafts as “Indian made.”

The ruling will allow the tribal nation to move ahead in state courts against the attorney general.

Last fall a judge ruled that a suit against the Attorney General’s Office in federal court could also proceed.

“Five judges in two courts have now told the attorney general in detailed written opinions that if the facts alleged by the tribe are true, the tribe has legitimate claims for constitutional civil rights violations. One wonders how much clearer a message the defendant requires to realize the error of his actions,” said Werkheiser.

A spokesperson for the attorney general said the office had no comment on this week’s court ruling.

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