

FILED

IN THE DISTRICT COURT OF THE CHEROKEE NATION

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RAYMOND NASH, et. al.,)
)
 Plaintiffs,)
)
 vs.)
)
 CHEROKEE NATION)
 REGISTRAR,)
)
)
 DEFENDANT,)

Cases No. CV-07-40, CV-07-41, CV-07-42,
CV-07-43, CV-07-44, CV-07-45,
CV-07-46, CV-07-47, CV-07-48,
CV-07-49, CV-07-50, CV-07-53,
CV-07-56, CV-07-65, CV-07-66,
CV-07-72, CV-07-78, CV-07-85,
CV-07-86, CV-07-99, CV-07-100,
CV-07-112, and CV-07-116

CHEROKEE NATION
DISTRICT COURT
SITTING AT MONCOOYEA
COURT CLERK

ORDER

NOW, on this the 14th day of January, 2011, the above captioned and numbered action comes on for decision after having been taken under advisement to this date.

This matter arises from the above listed individual cases being certified as a class action wherein the Plaintiffs are deemed effected by the passage of an Amendment to the Constitution of the Cherokee Nation by vote of the members of the Cherokee Nation on March 3, 2007 which read as follows, to-wit:

“Notwithstanding any provisions of the Cherokee Nation Constitution approved on October 2, 1975, and the Cherokee Nation Constitution ratified by the people on July 26, 2003, upon passage of this Amendment, thereafter, citizenship of the Cherokee Nation shall be limited to those originally enrolled on, or descendants of those enrolled on, the Final Rolls of the Cherokee Nation, commonly referred to as the Dawes Rolls, for those listed as Cherokees by blood, Delaware Cherokees pursuant to Article II of the Delaware Agreement dated the 8th day of May, 1867, and the Shawnee Cherokees pursuant to Article III of the Shawnee Agreement date the 9th day of June, 1869.”

This Constitutional Amendment was the result of the Order of the Supreme Court of the Cherokee Nation in “Allen v. Cherokee Nation,” JAT-04-09 (March 7, 2006) wherein the Cherokee Nation was directed to begin processing citizenship applications for those individuals who could

establish descendency from individual listed on the Dawes Rolls as "Freedmen." The individual designated as "Freedmen" were, by and large, individuals of African descent who had been freed from slavery pursuant to Cherokee law, or with the advent of the United States Civil War. On the Dawes Rolls, Freedmen were designated separately from those individuals who were characterized as Cherokee (or Delaware or Shawnee) by blood.

By virtue of the passage of the Amendment, the Cherokee Nation (hereafter "Nation") deems the holding of the Supreme Court abrogated by constitutional amendment which, in most instances, would be the correct belief according to law and the Constitution of the Nation.

It has long been held, and continues to be, that there is no prohibition against Indian Tribes making membership determinations based "on blood" and could be interpreted to allow certain blood quantum requirements. This is the current condition as it relates to the Cherokee Nation and shall continue to be unless it is restrained from such determination by limitation of treaty or statute. Such is the case in this instance.

At the conclusion of the American Civil War and the abolition of slavery, the Cherokee Nation, which had allied, for the most part, with the Confederacy, entered into a treaty with the United States of America on July 19, 1866. Article IX of the treaty addressed the status of freed slaves ("Freedmen") within the Cherokee Nation and provided that Freedmen and their descendants "*shall have all the rights of native Cherokees.*" The Constitution of the Cherokee Nation was amended to provide that Freedmen and their descendants were to be citizens of the Cherokee Nation. Various Courts, including the Cherokee Nation Supreme Court, thereafter affirmed the Freedmen's admission in the same manner as Cherokee citizens of Cherokee blood. As a result of the above actions and rulings, the Freedmen were included on the Dawes Commission Rolls.

From time immemorial, the Cherokee Nation, and in its predecessor forms, has entered into agreements or Treaties and honored and complied with the provisions thereof on its part as part of its law and tradition. Upon the entry of the Europeans to the North American continent the Cherokee Nation abided by such agreements made with the different entities be they French, Spanish, English, or, eventually, the United States. In a number of instances, those nations failed to honor their agreements or treaties resulting in loss and harm to the Cherokee people. One of the most egregious, of course, being the seizing of Cherokee property and the removal of the Cherokee people from their ancestral homes to Indian Territory. This does not mean that the Cherokee Nation should descend into such manner of action and disregard their pledges and agreements.

The Cherokee Nation's entry into the hereinbefore mentioned Treaty of 1866 was an agreement which, to this date, has not been modified or abrogated by any action heretofore taken either through Constitutional change or Amendment thereto and the Nation is still bound by such provisions. The Cherokee Constitutional Amendment of March 3, 2007, by virtue of the provisions of the Treaty of 1866 and subsequent actions taken in furtherance thereof, are hereby determined to be void as a matter of law.

The Class Appellants to whom this Order extends are the original enrollees, or descendants of original enrollees, of the Dawes Commission Rolls designated Cherokee Freedmen, or Cherokee Freedmen-Minor Children and shall have the rights as previously entitled prior to the passage of the aforesaid Constitutional Amendment.

By virtue of the entry of the Temporary Order in this matter, the Appellants have been granted and authorized all privileges as previously granted and, therefore, have no further relief to be granted or awarded herein. The applications for citizenship as previously held in abeyance

herein shall begin to be processed by the Nation within thirty (30) days of date of the filing this
Order.

IT IS SO ORDERED.



JUDGE OF THE DISTRICT COURT