

IN THE DISTRICT COURT OF THE CHEROKEE NATION

JIMMY WILLIAMS
Petitioner,

v.

CHEROKEE NATION ELECTION
COMMISSION,
and
DON SCOTT,
Respondents

Case No.

Judge

CV-19-245

Barteaux

CHEROKEE NATION
DISTRICT COURT
KRISTI HONCOOYEA
COURT CLERK

2019 MAR 27 PM 2:00

FILED

PETITION

COMES NOW the Petitioner Jimmy Williams and pursuant to 12 CNCA §1201, hereby petitions this court for a Declaratory Judgment and injunctive relief. The Cherokee Nation Election Commission (the “CNEC”) certified an ineligible candidate for elective office - Defendant Don Scott. The CNEC was negligent in carrying out their duties. Defendant Scott should be decertified and not allowed to run for elective office. Plaintiff offers the following information in support of his petition:

1. Venue is proper under 12 CNCA §1203 which gives this Court the authority to “...determine the construction or validity of...any statute...or governmental regulation...”
2. Pursuant to the requirements of 12 CNCA §1205. A., Petitioner will be affected by the declaration as he is a registered voter in the district where Defendant Scott is running for elective office.
3. On March 18, 2019 Defendant Cherokee Nation Election Commission (“CNEC”) certified Defendant Don Scott as a candidate for Tribal Council.
4. Upon information and belief, including public declarations made by Defendant Scott, Cherokee citizenship of Defendant Scott stems from his ancestor Josephine Haff.

5. Josephine Haff was a citizen of the Cherokee Nation by Delaware blood. (see “Exhibit 1”).
6. The CNEC is “charged with the administration of all Cherokee Nation elections, in accordance with election laws.”¹
7. The duties of the CNEC, include determining the eligibility of all candidates for office pursuant to 26 CNCA §36.C.², which states:

“The Election Commission shall conduct background checks and review all information necessary for a determination of eligibility pursuant to regulations prescribed by the Commission...”

8. CNEC Rules and Regulations require potential candidates to meet Constitutional requirements and “all of the qualification requirements of 26 CNCA §§31, 32, 33 and 34...”³
9. 26 CNCA §§31, 32 33 and 34 list both general and specific requirements, including the requirement that a candidate “shall be a citizen by blood of the Cherokee Nation.”
10. By virtue of his citizenship through Josephine Haff, Defendant Scott is not a citizen by blood.
11. This Court has made it clear that citizens by Delaware blood are citizens by adoption, not by blood, and are therefore ineligible to run for elective office.⁴
12. The CNEC was negligent in the performance of their duties by failing to review the necessary information required to determine the eligibility of Defendant Scott as a candidate for elective office.

¹ Cherokee Nation Constitution of 1999, Article IX., Section 1.

² 26 CNCA §11.C.

³ CNEC Rules and Regulations §2.08.

⁴ In re: Challenge to the Eligibility of Randy Junior White, Candidate for Council, District 11 for the 2017 General Election, SC-2017-01 (2017), page 2, citing Allen v. Cherokee Nation Tribal Council, et al., JAT-04-09 (2006).

13. The certification of Defendant Scott as a candidate for elective office is evidence of their negligence.

The CNEC had a duty to conduct a thorough investigation of Defendant Scott to determine his eligibility. The CNEC breached that duty by failing to verify that he is Cherokee by blood. The CNEC caused an ineligible person to be certified as a candidate in for elective office. The CNEC should have foreseen this outcome. The CNEC caused harm to the other candidates and the voter base, including Plaintiff, who relied upon them to investigate and only certify eligible candidates.

Based on the foregoing information, the Petitioner respectfully moves this Court for an Order of Judgment declaring the CNEC was negligent in their duties.

Petitioner further requests injunctive relief in the form of declaring Defendant Scott ineligible to run for elective office, and any other relief the Court deems fair and just.

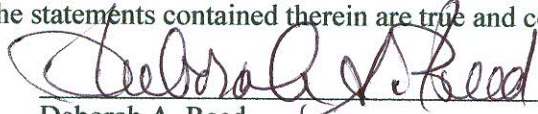
Submitted this 27th day of March 2019.



Deborah A. Reed, CNBA#0407, OBA#30693
3101 N. Hemlock Circle, Suite 112
Broken Arrow, OK 74012
(918) 286-8711 phone
(918) 994-7052 fax
deborah@reedlegalok.com
Attorney for Petitioner

CHEROKEE NATION } ss.

The undersigned, of lawful age, and being first duly sworn states that she has read the above and foregoing Complaint, that this Court is vested with Subject Matter Jurisdiction based on facts contained within the petition, and that the statements contained therein are true and correct to the best of her information and belief


Deborah A. Reed

SUBSCRIBED and sworn to before me this 27 day of March 2019.

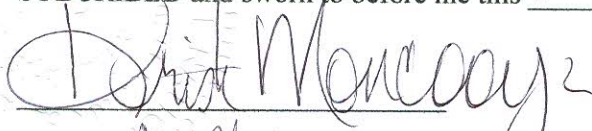

Court Clerk

EXHIBIT 1
consisting of 4 pages

COMMISSIONERS
TAMM BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE,
W. E. STANLEY.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

REFER IN REPLY TO THE FOLLOWING

Delaware 40

ALLISON L. AYLESWORTH,
SECRETARY

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

Tablequah, Indian Territory, December 17, 1903.

Lizzie Richardson,

Vinita, Indian Territory.

Dear Madam:

In carrying out instructions from the Secretary of the Interior, relative to making the Delaware segregation, the Commission desires to ascertain what land, to the extent of 160 acres for each, was selected and occupied by a descendant of said deceased registered Delaware.

Your minor child, Josephine J. Haff, appears upon the Commission's records as an applicant for enrollment as a Cherokee citizen of Delaware blood but not of sufficient age to be upon the Delaware register. Presumably she claims to be a descendant of some ancestor whose name does appear upon that register.

If her ancestor or ancestors were registered Delawares and are now deceased, you are requested to furnish the Commission, on the enclosed blank form and plat, with a separate description of any land selected and occupied by each of said deceased ancestors, not exceeding 160 acres for each, and which land is now held in possession by you for your minor child; and the 160 acres respectively, above referred to, is intended to mean the 160 acres containing the principal improvements made by the deceased ancestor.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I.T. SEPTEMBER 26, 1900.

In the matter of the application of Elizabeth Richardson for the enrollment of her two children, Sarah E. and Josephine J. Hall, as citizens of the Cherokee Nation of Delaware blood; said Richardson, being sworn by Commissioner C. R. Breckinridge, testified as follows:

- Q Give me your name, please? A Elizabeth Richardson.
Q How old are you? A 48.
Q What is your post office? A Vinita.
Q In what district do you live? A I live seven miles southeast of Vinita. Coocooscoowee, I think.
Q Who is it you want to have put on the roll? A My two children.
Q Are you Cherokee? A No, sir, I married a Registered Delaware and he died.
Q And then you re-married? A Yes, sir, but never lived with him.
Q You married a white man? A Yes, sir.
Q You apply for how many children? A Two children.
Q Give me their names please? A Sarah E. Haff.
Q How old is Sarah? A She is 15.
Q And the next one? A Josephine J. Haff, 11 years old.
Q These children both living now are they? A Yes, sir.
Q What is the name of their father? A Joseph Haff.
Q He was a Delaware? A Yes, sir.
Q You say he is dead? A Yes, sir.
Q When did he die? A He has been dead 11 years.
Q When did you marry him? A It has been about 18 years ago since I married him.
Q Where did you marry him? A Eight miles southeast of Vinita.
Q Uncle Charlie Tucker married us.
Q Was he a native Cherokee? A Yes, sir.
Q Did he live in the Cherokee Nation all his life? A Yes, sir, he come from Kansas with the Delawares when they come.
Q Have you a certificate of your marriage to him? A I had one, but I lost it.
Q You lived with him about seven years and then he died? A Yes, sir.
Q Lived all the time in the Cherokee Nation? A Yes, sir.
Q Who here knew you as his wife? A Will Gentry.

William Gentry, being sworn and examined, testified as follows:

- Q Give your name? A William Gentry.
Q How old are you? A 29.
Q What is your post office? A Vinita.
Q In what district do you live? A Delaware.
Q How long have you lived in the Cherokee Nation? A 12 years.
Q You know this applicant here, Mrs. Richardson? A Yes, sir.
Q She has been married before has not she? A Yes, sir.
Q What was the name of her former husband? A Haff.
Q Joseph Haff? A Yes, sir.
Q Did they have children? A Yes, sir.
Q Recognized as children of that marriage? A Yes, sir, two.
Q And they also lived in the community as husband and wife and as their parents? A Yes, sir.

Elizabeth Richardson further testified:

- Q These children lived in the Cherokee Nation all their lives, have they? A Yes, sir.

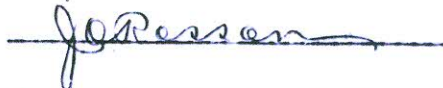
Elizabeth Richardson---2.

1880 enrollment; page 267, #1261, Joseph Haff, Delaware.
1896 enrollment; page 621, #28, Sadie E. Haff, Delaware.
1896 enrollment; page 621, #29, Joserphine J. Haff, Delaware.

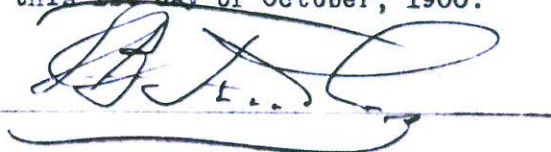
Com'r Breckinridge:--The applicant applies for the enrollment of her two children by a former husband: She does not apply for herself as since the death of her Cherokee husband she has married a white man. She is shown by personal testimony in addition to her own to have been the wife of Joseph Haff, the father of these childre and who is identified on the roll of 1880 as an adopted Delaware. He died some 11 years ago. These two children are identified on the roll of 1896. They are living at this time. They have lived in the Cherokee Nation all their lives and they will be listed now for enrollment as Cherokee Delawares.

---000000000---

J. O. Rossen, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.



Subscribed and sworn to before me this 1st day of October, 1900.



Commissioner.

Residence Adawage District North SJ
Post Office North SJ

Cherokee Nation. Cherokee Roll.

Card No. 311431
Field No. 311431

Serial No.	Name	Sex	Age	M	F	B	W	D	TRIBAL ENROLLMENT		FEDERAL ENROLLMENT		FEDERAL ENROLLMENT OF PARENTS		Name of Mother	Name of Father
									Year	Date	Year	Date	Year	Date		
30934	Koff Sarah E.	F	22						1896		1896		1896		1896	
30935	Josephine Koff	F	22						1896		1896		1896		1896	

No 1 on 1896 Roll as Sarah E. Koff

Marriage of August 22, 1904
between marriage of H. A.
and August 18, 1904 to
William Johnson as now signed
H. A. & 1861

Marriage of August 22, 1904
between marriage of H. A.
and August 18, 1904 to
William Johnson as now signed
H. A. & 1861

On Release Card No 40
old must Sept 28, 1900
on this card must
21, 1900