

IN THE DISTRICT COURT OF THE MUSCOGEE (CREEK) NATION
OKMULGEE DISTRICT

DISTRICT COURT
FILED TK
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NANCY JUKICH
COURT CLERK
MUSCOGEE (CREEK)
NATION

Ron Graham,)	
)	
Plaintiff,)	
v.)	CV 2003-53
)	
Muscogee (Creek) Nation)	
Citizenship Board,)	
)	
Defendant.)	

and

Fred Johnson,)	
)	
Petitioner,)	
v.)	CV 2003-54
)	
Muscogee (Creek) Nation)	
Citizenship Board,)	
)	
Defendant.)	

ORDER

This matter came before the Court for a trial on the merits beginning the 29th day of August, 2005, trial continued the 30th and 31st days of August

and the 2d, 7th and 9th of September with closing arguments completed the 14th day of September, 2005. This Court reviewed the entire trial record and makes the following findings of fact and conclusions of law.

This case constitutes an appeal of an administrative agency decision. Defendant Muscogee (Creek) Nation Citizenship Board denied Certification of Plaintiff's Application for Enrollment as a citizen in the Muscogee (Creek) Nation. Plaintiff's seek relief in this Court asking that the Muscogee (Creek) Nation Citizenship Board decision be overturned.

This jurisdiction has adopted a liberal pleading requirement that Plaintiff has met in this case. Pleadings are designed to give adequate notice to the parties of the allegations and claims to be presented.

Plaintiff's Complaint alleges that the Muscogee (Creek) Nation Citizenship Board erred in its decision denying citizenship to the Plaintiffs.

The Muscogee (Creek) Nation Citizenship Board and the Plaintiff's Application for Enrollment Certification has a lengthy history, which includes more than one denial.

Plaintiff's Complaint put the Muscogee (Creek) Nation Citizenship Board on notice that decisions regarding Plaintiff's citizenship in the Muscogee (Creek) Nation were open to scrutiny.

The Muscogee (Creek) Nation Citizenship Board argues that this Court's inquiry should be limited only to those laws and regulations specifically referenced in Plaintiff's Petition and that this Court should be prohibited from considering any previous actions of the Board.

During the course of this litigation, through sworn testimony and admitted exhibits, it became apparent to this Court that the Muscogee (Creek) Nation Citizenship Board did not follow the Muscogee (Creek) Nation Laws in effect at the time Plaintiff's first presented an Application for Citizenship.

This Court takes judicial notice of The Constitution of the Muscogee (Creek) Nation, Article II, § 1¹, and Article III, §².

This Court also takes judicial notice that in 2001, the Muscogee (Creek) Nation National Council amended the Muscogee (Creek) Nation's

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Each Muscogee (Creek) Indian by blood shall have the opportunity for citizenship in the Muscogee (Creek) Nation

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The Principal Chief shall appoint, subject to majority approval of the Muscogee (Creek) National Council, a Citizenship Board comprised of five (5) citizens who shall be charged with the responsibility of the establishment and maintenance of a Citizenship Roll, showing degree of Muscogee (Creek) Indian blood based upon the final rolls prepared pursuant to the Act of April 26, 1906, (34 Stat. 137), **and other evidence, as prescribed by ordinance.**

law concerning citizenship by passage of NCA 01-135, which became effective August 23rd, 2001.

NCA 01-135 amended NCA 81-06³ restricting the number of outside sources a person can rely on to establish citizenship.

Considering the testimony presented, this Court finds that Plaintiff's sought a citizenship determination from the Muscogee (Creek) Nation Citizenship Board prior to the legislative amendments of 2001. By not considering and failing to apply the laws of the Muscogee (Creek) Nation that were in effect when Plaintiff's Application for Enrollment were initially presented, the Muscogee (Creek) Nation Citizenship Board acted contrary to the law and in an arbitrary and capricious manner.

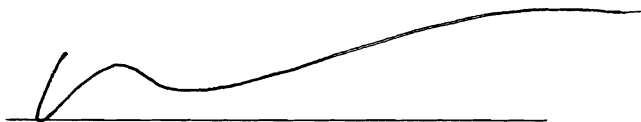
The Muscogee (Creek) Nation Citizenship Board denied Plaintiff's a fair consideration based on the Muscogee (Creek) Nation Law then governing an Application for Enrollment.

Plaintiff's were entitled to have their Applications for Enrollment reviewed by the Muscogee (Creek) Nation Citizenship Board based on the law that was in effect when each Application for Enrollment was presented to the Muscogee (Creek) Nation Citizenship Board. NCA 81-06 was the

Muscogee (Creek) Nation law in effect at that time and should have been applied.

Consistent with trial evidence and the Per Curiam Order of the Muscogee (Creek) Nation Supreme Court in *Citizenship Board v. Todd*⁴, this Court must remand this case to the Muscogee (Creek) Nation Citizenship Board for it to comply with the Muscogee (Creek) Nation Citizenship laws in effect when Plaintiff's initially applied for enrollment.

IT IS SO ORDERED this 17th day of March, 2006.

A handwritten signature in black ink, consisting of a series of connected loops and curves, positioned above a horizontal line.

District Judge

CERTIFICATE OF MAILING

I, Tobie King, Deputy Court Clerk for the Muscogee (Creek) Nation District Court, do hereby certify that on the 17th day of March, 2006, I mailed a true and correct copy of the foregoing **ORDER FOR CV 2003-53 AND CV 2003-54** with proper postage prepaid to each of the following: Selim Fiagome, Esq., P.O. Box 3566, Tulsa, OK 74101; Damario Solomon Simmons, Esq., 601 S. Boulder, Ste. 704, Tulsa, OK 74119 and Kevin Dellinger, Esq., Assistant Attorney General of the Muscogee (Creek) Nation, P.O. Box 580, Okmulgee, OK 74447.


Tobie King, Deputy Court Clerk