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## **In Re: Black Indians Discriminated Against**

To Whom It May Concern:

I am currently serving as co-counsel in litigation against the Muscogee (Creek) Nation that is of grave importance to the African-American community in general and to African-Americans whose ancestry is mixed with Native Americans in particular. The litigation involves the citizenship rights of Creeks of Afrikan descent who were enrolled on the 1906 Dawes rolls as "Freedmen." Specifically, the case is a judicial appeal to review the Muscogee (Creek) Nation's Citizenship Board's decision to not enroll my clients Mr. Fred Johnson<sup>1</sup> and Mr. Ron Graham. This is a complex and fascinating case that requires a good understanding of American history, slavery, and Indian relations to fully appreciate. Unfortunately, such an understanding can only come from a much more voluminous writing than what can be provided today. However, I will briefly summarize the pertinent facts below.

Historically, the Creek "Nation" comprised a confederacy of separate towns, tribes, and peoples. Each town was a complete governmental unit in and of itself. One such tribe was the Yamasee who, according to a nineteenth century United States census report, was "one of a small number of isolated tribes, of dark complexion" reported to have been "immigrants from Africa prior to the European discovery of America."<sup>2</sup> To put this early observation by the United States Department of the Interior into context: different peoples with different cultural and racial backgrounds were "full-blood" Creeks, just as today we have different peoples with different cultural and racial backgrounds who call themselves "full-blood" Americans. In 1832, the United States forcibly removed the Creeks from their traditional homelands (Alabama, Georgia, South Carolina, and Florida) and sent them to live in what is now Oklahoma.<sup>3</sup> The Creeks lived in Oklahoma in relative peace until the Civil War.

<sup>1</sup> See enclosed article about Mr. Fred Johnson's plight entitled "Black Indians' find roots well-hidden."

<sup>2</sup> United States Department of Interior Census Office, Extra Census Bulletin, Washington, D.C.: United States Census Printing Office (1894), p. 27.

<sup>3</sup> The forced removal is known in the history books as the "Trail of Tears."

At the conclusion of the Civil War, the United States government negotiated and signed a new treaty with the Creeks. The Treaty of 1866<sup>4</sup> -- signed by my paternal great-great-great-grandfather, Cow Tom -- among other things outlawed slavery in the Creek Nation and granted citizenship to those formerly enslaved by the Creek Nation. From that point, all Creek citizens lived in relative harmony as one nation until the allotment era of 1898-1906. In fact, Creeks of African descent were an essential part of the Nation, and served in important and high positions throughout the Nation. Again consulting the 1894 U.S. Department of Interior census bulletin, we find that the Creek Nation was "alert and active...largely due to the negro element which fairly controls it." Moreover, the report states "the Creek Nation affords the best example of negro progress. The principal chief, virtually a Negro, comes of a famous family in Creek annals. His name is Lequest Choteau Perryman."<sup>5</sup>

Unfortunately the relative harmony within which the diverse and intermarried members of the Creek Nation lived during the nineteenth century came to sudden halt with the passage of the Curtis Act in 1895. The Curtis Act allowed the United States government to destroy the Creek tribal government by taking away ownership of the land which had been held in common by the tribe and replacing it with individual ownership of 160 acres per Creek citizen. To accomplish the task of allotting the 160 acre parcels, Congress established the Dawes Commission to find, identify, and enroll all members of the Creek Nation eligible for an allotment.

The Dawes Commission created two lists of members of the Creek Nation eligible for allotment: 1) the "Creek Roll" which was purportedly composed of Creek citizens with Creek blood; and 2) the "Freedmen Roll" which was purportedly a roll of those citizens of the Creek Nation who were formerly enslaved Africans and devoid of any Creek blood. However, using the hypo-descent rule<sup>6</sup> -- which was the public policy and practice at the turn of the century (if not today) that mandates "one-drop" of African blood makes a person African or Black -- the Dawes Commission enrolled most Creeks of African descent (especially those with darker complexions) on the Freedmen Roll, regardless whether they or their ancestors were ever enslaved by the Creek Nation or how much "Creek" blood they actually possessed. In fact, noted Dawes Commission expert Kent Carter writes "in cases of mixed freedmen and Indian parents, which was common among the Creeks...the applicant was always enrolled as a 'freedmen'."<sup>7</sup>

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<sup>4</sup> Pertinent part of Treaty of 1866 is enclosed. Cow Tom's name was called Cow Micco. Micco is a Creek word that means "Chief."

<sup>5</sup> United States Department of Interior Census Office, Extra Census Bulletin, Washington, D.C.: United States Census Printing Office (1894), p. 7. It should also be noted that L.C. Perryman was my great-great-great-uncle.

<sup>6</sup> See enclosure entitled Latinos: The Indian Escape Hatch by William Javier Nelson. See also, Plessy v. Ferguson, 163 U.S. 537 (1896)


<sup>7</sup> Carter, Kent. The Dawes Commission and the Allotment of the Five Civilized Tribes 1893-1914. Orem, Utah: Ancestry.com (1999), p. 49.

Without a doubt, the biased and racist actions of the Dawes Commission is the root of today's problems faced by people of mixed African and Creek descent who wish to exercise their rights to be enrolled as members of the modern Muscogee (Creek) Nation. However, it is the Creek Nation that has decided voluntarily to rely on a known racist and flawed enrollment process to deny so-called Freedmen citizenship today. The Creek Nation has even had the audacity to claim that Freedmen do not possess any "Creek" blood, in stark contradiction to their own documents, U.S. History, and volumes of other scholarly and legal documents.<sup>8</sup>

We need your help to let the world know that the Creek Nation's racist policy has disenfranchised and cut off thousands of Creeks of African descent from their birthright and heritage. We need your help to stop the Creek Nation's racially discriminatory practice that bars Creeks of African descent from sharing in the benefits of being a citizen of a federally recognized tribe like the Creek Nation. Such benefits include, but are not limited to, housing stipends, college scholarships, free healthcare, and clothing for school children, and access to gaming revenues, all together totaling in the millions. We need your help to eradicate the racial discrimination that exists against people of African descent on the shores of this continent even in "Indian Country." Some of the ways that you can help include: 1) by writing letters of support<sup>9</sup>; 2) sending emails across the web; and 3) contacting your federal elected officials expressing your outrage at this issue.

In closing, to learn more about the plight of all Black Native Americans from Oklahoma go to [www.freedmen5tribes.com](http://www.freedmen5tribes.com). I pray that God aligns your heart to help in this most difficult, but noble endeavor. I eagerly look forward to working with you to win justice for our clients and all similar situated "Freedmen." If you have any questions and/or comments about this letter, our case, or this issue in general please contact me directly at 918-582-4231 or [dsolo@solomonsimmons.com](mailto:dsolo@solomonsimmons.com).

Sincerely,



Damario Solomon Simmons  
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Enclosures (9)

<sup>8</sup> See Enclosure letter from the Muscogee Creek Nation dated April 18, 1999. Contrast their official stance about Freedmen to the enclosed U.S. Department of Interior Bulletin and scholarly works of Mr. Kent Carter and Dr. Angie Debo.

<sup>9</sup> The Muscogee (Creek) Nation Judicial Branch, P.O. Box 652 Okmulgee, Oklahoma 74447, (918) 758-1400