

1983
ACTING

Muskogee Area Director
Attention: Area Tribal Operations Officer

Interpretation of voting eligibility requirements in the Cherokee Nation

Acting Tahlequah Agency Superintendent

This is in response to your April 19 request which was hand-carried into this office concerning the eligibility of the United Keetoowah Band of Cherokee Indians to run for elective office in the Cherokee Nation.

For information pertaining to this matter, we would like to refer to the October 15, 1982 letter addressed to James L. Gordon, Chief of the United Keetoowah Band of Cherokee Indians, and signed by Theodore C. Krenzke, concerning the delivery of Bureau services. This particular letter makes reference to the January 16, 1980 policy signed by Forrest Gerard, Assistant Secretary - Indian Affairs, with a copy going to Ross O. Swimmer. The letter states in part:

"While we recognize that the United Keetoowah Band of Cherokee Indians is Federally recognized, it has been our understanding that all of its members are also considered members of the Cherokee Nation of Oklahoma. Because of this fact, we have contracted with the Cherokee Nation to provide certain services to all Cherokees, United Keetoowahs as well as all others."

We further wish to quote Article XIV with regard to clans.

"Nothing in this Constitution shall be construed to prohibit the right of any Cherokee to belong to a recognized clan or organization in the Cherokee Nation."

The constitution which was approved for referendum by Morris Thompson, Commissioner of Indian Affairs, on September 5, 1975, does not prohibit dual membership; therefore, because of the constitution being absent of prohibiting dual membership, legally they could not prohibit any other individual from enrolling or participating as citizens as long as they meet the criteria of Article III - Membership.

Article III further mentions the Delaware Cherokees and the Shawnee Cherokee citizens and the agreements making them members of the Cherokee Nation. Two other articles we would like to emphasize in regard to this issue include Article VI - Executive and Article IX - Elections.

In Article VI, both Sections 2 and 3, referring to qualifications of electing the Principal Chief and the Deputy Principal Chief stress "...be a member by blood of the Cherokee Nation of Oklahoma." Article IX, Section 2 lists qualifications for Tribal Council candidates and shows "Any member by blood of the Cherokee Nation" All three sections specifically bring out the

fact that they must be members of the Cherokee Nation by blood. Our interpretation would be that the Cherokee Delawares, Cherokee Shawnees, and Freedmen, who have rights of citizenship, but who do not possess any degree of Cherokee by blood, would not be eligible to participate as a candidate, but would be eligible to vote.

We would like to further point out that Article V - Legislative, Section 7 states in part:

"The Council shall have the power to establish laws which it shall deem necessary and proper for the good of the Nation, which shall not be contrary to the provisions of this Constitution...."

We feel this gives the Council powers to establish laws it deems necessary but not contrary to the provisions of the Constitution; therefore, if any such provisions, ordinances, laws, or resolutions have been adopted by the governing body of the Cherokee Nation concerning the election, they would be invalid.

Article VIII - Judicial so states as follows:

"The purpose of this Tribunal shall be to hear and resolve any disagreements arising under any provisions of this Constitution or any enactment of the Council...."

It is the responsibility of the tribal council which has approved the Election Committee that the constitution is complied with as far as eligibility to vote and hold office.

If you have any further questions, please let us know.

(Signed) Donald G. Moon

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