

IN THE MUSCOGEE (CREEK) NATION SUPREME COURT

MUSCOGEE (CREEK) NATION OF)
OKLAHOMA CITIZENSHIP BOARD,)
Appellant,) **SC 2006-01**
)
vs.)
)
RON GRAHAM,) (CV 2003-53)
Appellee.)
)
AND)
)
MUSCOGEE (CREEK) NATION OF)
OKLAHOMA CITIZENSHIP BOARD,)
Appellant,)
)
vs.)
)
FRED JOHNSON,) (CV 2003-54)
Appellee.)

SUPREME COURT
FILED
FEB 08 2007
SUE ANN NORBY, COURT CLERK
MUSCOGEE (CREEK) NATION

**REQUEST FOR CLARIFICATION
FOR BASIS OF FINDINGS OF FACT**

The Court hereby notes that the District Court, in its March 17, 2006 Order in this matter, issued a critical factual finding that “Plaintiff’s [sic] sought a citizenship determination from the Muscogee (Creek) Nation Citizenship Board prior to the legislative amendments of 2001.” See *District Court Order* at p.4. This finding of fact was not accompanied by any specific reference to the trial court record.

Furthermore, the trial court’s order did not provide any explanation of what the trial court held constituted “seeking citizenship,” nor did it state the respective dates that each individual plaintiff was found to have sought citizenship. Finally, the trial court held that the Muscogee (Creek) Nation Citizenship Board improperly failed “to apply the laws of the Muscogee (Creek) Nation that were in effect when plaintiff’s [sic] application for enrollment were initially

presented.” This finding does not state whether the trial court determined that efforts to “seek a citizenship determination” are synonymous with filing an application for citizenship.

Although the question of what version of our citizenship laws should apply to this case is a matter of law for this Court to decide, additional clarification is needed as to the basis for the District Court’s conclusion that both of the Plaintiffs in this matter sought citizenship prior to the 2001 amendments.

While this Court reviews *de novo* matters of law arising from the trial court, the trial court is accorded a significant amount of discretion to make findings of fact. In order for this Court to properly review a ruling of the District Court, the District Court’s orders should include references to the record that support the District Court’s findings of fact, as well as sufficient reference to authority supportive of its conclusions of law. This requirement that findings of fact should be accompanied by reference to the record and conclusions of law be accompanied by appropriate citation is important and commonplace within both tribal and non-tribal court systems.

In order for this Court to proceed with its review of the District Court’s March 17th Order, this Court requires discrete clarification as to what, if any, evidence presented to the trial court supported the finding that both Plaintiffs had formally sought citizenship prior to the 2001 amendments. Specifically, in reviewing whether or not the Citizenship Board applied the correct law, this Court needs to know the date when the Plaintiffs’ formal Applications for Citizenship were filed with the Citizenship Board – the Applications which were denied and upon which this action is based.

Accordingly, this Court hereby requests from the District Court the following information:

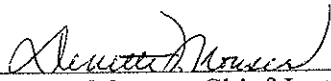
- 1) A clarification of what events or activities, apart from the Plaintiffs' filings of formal citizenship applications *with the Muscogee (Creek) Nation* (as opposed to other entities such as the BIA), did the District Court consider when it held that the Plaintiffs "sought a citizenship determination" prior to the 2001 amendments. This clarification should be specific as to what evidence supports such a finding with respect to *both* individual Plaintiffs.
- 2) If events or activities, outside of the filing of formal citizenship applications with the Muscogee (Creek) Nation, were considered by the District Court in its finding that the Plaintiffs "sought a citizenship determination" prior to the 2001 amendments, a clarification of the respective dates or ranges of dates that both *individual* Plaintiffs in this matter each "sought a citizenship determination."
- 3) A clarification of the dates that each *individual* Plaintiff in this matter actually filed their citizenship applications *with the Muscogee (Creek) Nation* upon which the Citizenship Board denied citizenship.

These clarifications should include specific citations to the trial court record of any and all testimonial and documentary evidence that supports the District Court's findings.

This Court hereby respectfully requests the District Court to submit the above clarifications on or before February 28th, 2007.

Issued this 9th day of February, 2007.

ALL JUSTICES CONCUR



Denette Mouser, Chief Justice

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CERTIFICATE OF MAILING/DELIVERY

I, Sue Ann Sparks, Supreme Court Clerk for the Muscogee (Creek) Nation, do hereby certify that on this 9th day of February, 2007, that I faxed and mailed a true and correct copy of the foregoing Supreme Court's **Request for Clarification for Basis of Findings of Fact** with proper postage prepaid to the following:

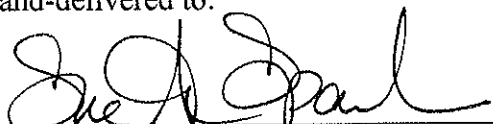
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Additionally, a true and correct copy was hand-delivered to:
Patrick Moore, District Court Judge
Muscogee (Creek) Nation


Sue Ann Sparks, Court Clerk
Mvskoike Nation Supreme Court