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Cherokee Chief Calls for Removal of the Cherokee freedmen from Tribal Membership Status

years and now should not be able to receive the benefits of tribal membership. He stated that the 2 justices who had upheld the Cherokee freedmen citizenship rights had overturned a prior case on the freedmen and had interpreted the constitution different from what many people had been thinking was correct for many years.

He stated that he knew the council was divided on the freedmen issues and named one by one those council members who had not supported the Principal Chief when he proposed filing a lawsuit against the Department of Interior/ Bureau of Indian Affairs last month which had not approved a constitutional amendment which would remove the US government from being able to approve or disapprove any new constitution or constitutional amendment approved by the Cherokee voters.

Cherokee Freedmen are litigating this proposed constitutional amendment because Cherokee freedmen were not permitted to vote on it. The Chief indicated that the Cherokee people had the right to have an all Indian tribe and did not have to have a tribe with all of the classes of citizens as was the makeup of the tribe in prior years.

Marilyn Vann, President of the Descendants of freedmen association, and a plaintiff in the lawsuit Vann et al Versus Norton was personally present during this "state of the nation: speech by the Principal Chief. She has the following statement to give to the press on this matter:

I am amazed that the Principal Chief would propose taking such actions to remove a class of citizens of the tribe who have held citizenship in the Cherokee nation for almost 140 years. Is the Cherokee nation a "race" or a "nation"? The Federal government does not have government to government relationships with "races" but with nations.

It is difficult to conceive that the leadership of the Cherokee nation can embrace as tribal members those individuals who merely based on appearance appear to be Caucasian people but cannot accept a small number of people who are descendants of long time tribal members who have some African blood but most of whom have many documents besides the Dawes Final roll (which did not list "blood quantum" of people listed as freedmen) to prove their Indian ancestry.

And even for those who cannot establish a Cherokee "blood quantum, they have rights as promised under US laws and the laws of the Cherokee nation. As for why the Freedmen received land allotments, they received allotments as did every other tribal member. Regarding the Chiefs beliefs that the freedmen have not built up the Cherokee nation for more than 100 years, the tribe has not been functioning as a tribal nation for most of the last 100 years. For more of that time period, there was a Chief appointed by the US government, no tribal court, no tribal council, and no tribal employees.

And some years the US president did not even appoint a principal Chief. Those Cherokee freedmen tribal members who were employed by the tribal government during the early 1980s were stripped by their jobs by Chief Ross Swimmer when the Freedmen tribal members opposed him for reelection. That is when they stopped "building up the tribe " and it was not their choice to stop doing so. The tribal government has basically only been functioning since 1976.

If Cherokee Freedmen have not used their skills as Doctors, Nurses, CPAs, attorneys and engineers since 1983, it is because they have been kicked out of the tribe and with no voice in the matter. Every day people obtain tribal membership cards in the Cherokee nation who they and their ancestors

have lived in far away states since the early part of the 20th century and have contributed nothing to the Cherokee nation since 1910.

The Cherokee Freedmen people have only asked for their rights as promised by the 1866 treaty and in the 1976 constitution which the freedmen people voted on along with other tribal members. And the JAT has made its decision that the freedmen have been wrongly denied their rights. Would any Chief or former Chief of the Cherokee nation like to have had the rights of Cherokee people to American citizenship put before the voters during the first part of the 20th Century? Or issues regarding terminations of all tribal entities during the 1950s? The American people, not understanding the place of the Indian nations in the US and the promises given to the tribal nations might have voted to terminate all tribes, in spite of the promises made to the Indian nations by earlier US government officials.

The Descendants of Freedmen, those with and without "Indian blood" call for the leadership of the Cherokee nation to keep the promises made to the Cherokee freedmen by earlier tribal leaders. Chief Smith cited the words of Supreme Court Justice Hugo Black taken from the case Tuscarora Power Company in November 2003 in Washington DC "Great nations like great men should keep their word". WE call for the Principal Chief Smith to remember these words. To conclude:

We call on all persons interested in justice to listen to the Principal Chiefs message on the Cherokees nation website in streaming video archived at www.cherokee.org and support the Cherokee freedmen in their fight for self determination. Also We call on All descendants of Cherokee Freedmen to apply for tribal membership and exercise their voting rights.

IN THE JUDICIAL APPEALS TRIBUNAL OF THE CHEROKEE NATION OF OKLAHOMA

ROBIN MAYES,
Petitioner,
v.

Case No. JAT _____

The Election Commission
of the
Cherokee Nation of Oklahoma,
Respondent.

PETITION FOR DECLARATORY JUDGMENT

Comes now Petitioner, Robin Mayes (hereinafter Petitioner), for his cause of action hereby submits the following, to-wit:

PARTIES

1. Petitioner Robin Mayes is a member by blood of the Cherokee Nation of Oklahoma and was a qualified candidate for Principal Chief and on the ballot in the 2003 Cherokee Nation of Oklahoma elections.
2. Respondent Cherokee Nation Election Commission (hereinafter Respondent) is an administrative committee created by the Cherokee Nation Tribal Council through Legislative Act # 7-97 Amended by Legislative Act # 39-05 on Nov. 14, 2005.

JURISDICTION

The Judicial Appeals Tribunal (hereinafter JAT) has original jurisdiction to adjudicate all controversies arising under the Constitution and laws of the Cherokee Nation pursuant to the provisions of the Constitution of the Cherokee Nation of Oklahoma approved by Referendum on June 26, 1976, at Article VII. Petitioner is a member by blood of the Cherokee Nation and is subject to the laws of the Cherokee Nation and the jurisdiction of this Court. Respondent is an entity created through legislative act of the Cherokee Nation Tribal Council and is subject to the laws of the Cherokee Nation and the jurisdiction of this Court.

CAUSE OF ACTION

Petitioner alleges that his rights to due process enumerated in Article II, § 1, of the Cherokee Nation Constitution have been violated by the CNO Election Commission of the 2003 elections. Petitioner makes this charge based on the fact that Cherokee Citizens were denied their rights to participate in the 2003 election.

HISTORY

The CNO Election Commission in 2003 was confronted and made aware that a certain class of Cherokee Citizen known as Freedmen were denied their civil and constitutional right to vote in said election. Since that time the JAT has ruled the Cherokee Freedmen do have the right to vote in CNO elections.

ARGUMENTS AND AUTHORITIES

Petitioner avers that the CNO election of 2003 is in violation of the due process and reserved rights of Petitioner for the following reasons:

1. When all citizens are not allowed to participate in the election process Petitioner and all candidates in the 2003 election have been defrauded.
2. The CNO Constitution as well as the Indian Civil Rights Act of 1968 guarantee the right to due process and fair elections under a democratic process.

PRAYER

Petitioner hereby presents an extreme condition before this Honorable Court that exemplifies that election process in 2003 was fatally flawed and seeks a declaration by this Court that the 2003 CNO election is void and as prescribed by CNO election law a new election must be held as soon as possible. Further Petitioner prays the JAT will declare that all former elected officials prior to 2003 will return to their rightful position until a new election can be accomplished. In addition Petitioner prays the JAT will declare that all questions on the 2003 ballot to be recalled until they can be properly submitted in a new election and any other relief the Judicial Appeals Tribunal deems necessary.

Respectfully submitted this __15__ day of March, 2006.

Robin Mayes

DECLARATION

I, Robin Mayes, do hereby declare that, under the penalties of the Criminal Code, the contents of this Petition are true and correct to the best of my knowledge and belief.

Robin Mayes

CERTIFICATE OF MAILING

I, Jack Robin Mayes, do hereby certify that on the __15__ day of __March_____, 2005, faxed, mailed or hand delivered a true and correct copy of the above Petition to:

Cherokee Nation Election Commission

P.O. Box 948

Tahlequah, OK 74475

(918) 456-0671

Robin Mayes

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