

JAT-02-18-L

October 15 2005 at 2:11 PM Robin Mayes

Response to Dear friend and cousin Robin
Correct on both accounts Oukah, princess and off. The case was never decided I think due to the control Chad has on the JAT especially through Chief Justice Darrel Matlock. I have asked that he recuse several times because he and Chad perpetrated a fraud against the Court and the Cherokee People back in 1995. When they used Bobby Leach to file a lawsuit about residency when we now know that it was always Chad's lack of residency that this lawsuit was to overcome. I point this out because after Justice Leads issued this order below it scared the crap out of Chad and Buel and the result was over a year of stalling until I had to withdraw. Now that Roger Peacock has raised this new issue on Buel Anglen I would like he and David to look at my old case for some evidence they could use now.

IN THE JUDICIAL APPEALS TRIBUNAL OF THE CHEROKEE NATION ROBIN CARTER MAYES,)

In his official capacity as the Principal) Chief of the United Cherokee Nation,)

) Petitioner,)

) vs.) Case No. JAT-02-18-L)

) GINA BLACKFOX, DIANE HAMMONS,)

BUEL ANGLLEN, BARBARA STARR)

SCOTT, TODD HEMBREE, HASTINGS)

SHADE, JULIAN FITE and CHADWICK)

SMITH, all in their individual capacity,)

) Respondents.) ORDER

Petitioner Mayes brings this lawsuit in his capacity as an individual member of the Cherokee Nation of Oklahoma, against various officers and employees of the Nation in their individual capacities. This lawsuit arises out of various alleged improper actions taken in connection with the seating of Buel Anglen in the vacant Council seat for District 8. On the 23rd day of September, 2002, this Court heard oral arguments on Respondents' Motions to Dismiss. Petitioner Robin Mayes appeared in person and pro se. The Respondents Gina Blackfox, Buel Anglen, Barbara Starr Scott and Todd Hembree, appeared by and through attorney D.

Michael McBride. Respondents Diane Hammons, Hastings Shade, Chadwick Smith and Julian Fite appeared by through attorney John Panis, substituting for Diane Hammons, attorney of record.

At oral argument, the Court ordered the parties to submit expedited supplemental briefs to address questions posed by the Court with regard to Cherokee precedent. Specifically, the supplemental briefs were to address the cases Cornsilk v. Tribal Council (JAT-96-15) and Phillips v. Eagle (JAT 98-09) on the issue of standing.

Statement of the Case
Petitioner brings individual-capacity claims against officers and/or employees of the Nation arguing the officers and/or employees exceeded the scope of their authority in performing various improper acts during the process of filling a vacant Council seat. The petition alleges

1 The style of the case lists Petitioner Mayes "in his official capacity as the Principal Chief of the United Cherokee Nation." Nothing in the petition elaborates further as to this title, nor does the petition allege an injury to this "official" capacity. Therefore, this order addresses Petitioner's claims as an "member of the Cherokee Nation of Oklahoma." improper interference with the process of filling the vacancy and also questions the legality of the Council vote approving Buel Anglen as the new member of the Tribal Council for District 8. The Petitioner alleges that he, as a member of the Cherokee Nation of Oklahoma, has been denied the constitutional right of participation in the political process to select a new representative because the new representative was selected outside the legal criteria prescribed by legislative enactments passed pursuant to Article V, Section 2 of the Cherokee Constitution. Specifically, the petition alleges, among other irregularities, that the vote to seat Buel Anglen took place in a special meeting rather than in a regular council session as required by Legislative Act 8-02, to be codified as The Cherokee Nation Tribal Council Vacancy of Office Act (2002). The petition also alleges that the advertisement period for the vacancy was shorter than required by law and that Respondents ignored other qualified applicants in the interview process. The petition also alleges that the separation of powers set forth in the Cherokee Nation was violated by the actions of attorneys for the legislative and executive branches. Finally, it is alleged that members of the executive branch took inappropriate ac-

tions by becoming involved in the legislative process of filling the vacant seat.

The Petitioner seeks injunctive relief prohibiting respondents from further acting outside scope of their positions, declaratory relief voiding the improper actions in filling the vacant seat, injunctive relief prohibiting Anglen from participating in official business, and injunctive relief providing for proper appointment within a reasonable time. The only remedy sought against the Respondents in form of personal monetary damages are any costs the Court might assess.

Failure to State a Claim for Which Relief May Be Granted
Respondent Blackfox filed a Motion to Dismiss For Lack of Standing and Failure to State a Claim/or Which Relief May Be Granted. Respondent correctly argues that Petitioner bases his claim against Blackfox on the issuance of a subpoena in JAT-02-15. Petitioner alleges Blackfox has gone outside the scope of her authority by hiring her own attorney to quash a subpoena. The only relief specifically requested in the petition is injunctive or declaratory relief (and perhaps court costs that might be imposed). Petitioner seeks no money damages or other specific relief from Blackfox.

The only way this Court could remedy the alleged wrong is by ordering Blackfox to comply with the subpoena or make a declaration that Blackfox lacked authority to protect herself from the subpoena by hiring an attorney and seeking to quash the subpoena. It is beyond the scope of the present case to rule on the validity of, or challenges to, subpoenas issued in JAT-02-15. Therefore, Petitioner fails to state a claim for which relief may be granted, with respect to Respondent Blackfox. 2 Standing Respondents Blackfox, Anglen, Scott, and Hembree have filed a Motion to Dismiss/or Lack of Standing asking this Court to dismiss this cause of action. Respondents' Motion and oral arguments relied solely on Mayes v. Thompson with mention that Mayes has been modified by Phillips v. Eagle. The Court, concerned that both Phillips v. Eagle and Cornsilk v.

2 Of the Motions to Dismiss properly before this Court, Respondent Blackfox is the only Respondent to argue dismissal for failure to state a claim. As Such, the ruling is limited to Blackfox. Cherokee Nation, 3 had not been adequately addressed for

continued on page 5

continued from page 1

INDN'S List Blast Off Huge Success

Free, a member of the Choctaw Nation of Oklahoma was the first woman elected District Attorney of Pittsburg and Haskell Counties and has been active in public service in Washington D.C., in her home state of Oklahoma and nationally for 18 years. Free was recently a viable female candidate in the 2004 Oklahoma District 2 Congressional race where she garnered the endorsement of 117 Indian tribes but fell shy of overcoming her democratic opposition Dan Boren, a well known Oklahoma political name.

After that campaign Free said she concluded that Indian candidates must have the same type of grass-roots organization to recruit, train and fund candidates similar to what EMILY's List had provided for women. INDN'S List was hence styled after EMILY's List, the first major group to endorse and support women candidates. The INDN'S List goal is to elect Indian candidates to every level of government.

Free told attendees, "We're on the cusp of something really big here. This is an opportunity to change the face of color and power in America. We've proven that we can turn out Indians to elect non-Indians. Now we need to turn them out to elect Indian candidates."

Free said, "INDN'S List has raised about \$200,000 since its inception in February, but expects to raise much more. The money has come not just from the tribes but from individual donors and organized labor. We want to cultivate big contributors, tiling those who donate \$1,000 or more, members of our "Warriors Circle," she said.

When asked why Minnesota was selected for the camp Free said, "I chose Minnesota because tribal leaders in

Minnesota are visionaries. They have been very progressive in supporting tribal sovereignty across the country."

Free worked in the state during Native Vote 2004 for the Kerry-Edwards campaign.

"Tribes in Minnesota get it," she said. "They've already proven that they can turn out voters. Now we need to get them some candidates."

Headlining the events were former Governor of Vermont and Democratic Party Chairman Howard Dean followed by Saturday Night Live comedian, author and Air America Radio host Al Franken, who is considering a run in Minnesota against U.S. Sen. Norm Coleman in 2008. Both are strong advocates for INDN'S List

Dean made a dynamic speech in support of Indian sovereignty. One absolute statement in his address, which is important for tribal members across America and especially Oklahoma Indians to hear and realize is that the Democratic Party stands in support of Indian rights. Dean said, "The Cobell case needs to be settled and finally paid. This neglect has gone on beyond belief."

The Cobell v. Norton case involves Individual Indians Trust Account Moneys, (IIM), owed Indians for grazing leases and mineral rights on allotment lands. Those moneys are presently the responsibility of a new department entitled Special Trustee of the BIA that is currently headed by Ross O. Swimmer. Swimmer was recently appointed by President Bush at the insistence of now retired Senator Don Nickels from Oklahoma, historically one of the largest recipients of oil and gas contributions in Congress. Swimmer was first appointed by Ronald Regan as Assistant Secretary and head of the BIA,

then over IIM moneys. During his tenure, a CPA working inside the bureau first discovered an estimated \$2.4 billion missing from the accounts in 1986. The most recent discussion over a settlement amount in the Cobell case exceeds \$30 billion.

Other distinguished speakers at the Campaign Camp were Minn. Congressman Jim Oberstar, Calif. Congressman Mike Honda, SD Congresswoman Stephanie Herse and Dr. Ada Deer, the first woman Assistant Sec. and Head of the BIA.

Several upcoming Oklahoma candidates attended the camp including Chuck Hoskin from Vinita, a three term Cherokee Nation Councilman where he is Chairman of both the Education Committee and Emergency Housing Subcommittee. Hoskin also serves on the Executive Finance, Rules, Health and Community Development Committees. Hoskin is considering the race for Oklahoma House of Representatives, District 6 Seat. Scott Bighorse from Pawhuska is the Assistant Director of Osage County Youth Services. Bighorse, will run for House Seat 36, is an Osage and Cherokee, a life long democrat and was the chair of Teenage Democrats of Osage County. David Prater, an Attorney from Oklahoma City attended who has his eye on the District Attorney seat for Oklahoma County plans to announce his candidacy November 1st.

INDN's List's slogan is, "When Indians Vote America Wins." Tribal members considering a candidacy in local, state or national elections along with interested contributors are encouraged to visit their website at www.indnlist.org and contact INDN's List in their Tulsa office at 918-583-6100.

Whenever the people are well informed, they can be trusted with their own government; that whenever things get so far wrong as to attract their notice, they may be relied on to set them to rights. Thomas Jefferson (1743-1826), US Founding Father, drafted the Declaration of Independence, 3rd US President

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DO WE, THE CHEROKEE PEOPLE HAVE A CONSTITUTION?

The Cherokee people need to wake up and get involved. Help stop these kinds of illegal actions.

It is time again in our Cherokee History to rise up and protect the Cherokee Nation from corrupt elected officials.

They are taking the funds that belong to the Cherokee People and using the money against us. They are not using their money.

POWER TO THE CHEROKEE PEOPLE!



From left Kalyen Free presents a gift to Gov. Howard Dean which she called a "friendship blanket" It is Pendleton's newest, titled "Home of the Free". To right Vice-Chairman Glynn Crooks - Shakopee Mdewakanton Sioux Community, Robert Holden- Choctaw Nation of Oklahoma, Frank Lamere - Winnebago, Nebraska - DNC.



From left Chuck Hoskin, Al Franken, Kalyen Free.

State of Sequoyah

The State of Sequoyah was the proposed name for what proved to be an abortive attempt by Native Americans in the early years of the 20th century to establish a U.S. state in the eastern part of what is now Oklahoma.

The proposed state was named in honor of Sequoyah, a renowned member of the Cherokee Nation.

Background
Since 1890, the land that now forms the State of Oklahoma was made up of the Oklahoma Territory (to the west), and the Indian Territory (to the east). Indian Territory, as its name suggests, had a large Native American population; the territory itself had been reduced over time to its then size.

The movement to secure statehood for Indian Territory began in 1902 with a convention in Eufaula, consisting of representatives of the "Five Civilized Tribes". The representatives met again in 1903 to organize a constitutional convention.

The constitutional convention

The Sequoyah Constitutional Convention met in Muskogee, on August 21, 1905. General Pleasant Porter, Principal Chief of the Creek Nation, was selected as president of the convention. The elected delegates decided that the executive officers of the Five Civilized Tribes would also be appointed as vice-presidents: William C. Rogers, Principal Chief of the Cherokees; William H. Murray, appointed by Chickasaw Governor Douglas H. Johnston to represent the Chickasaws; Chief Green McCurtain of the Choctaws; Chief John Brown of the Seminoles; and Charles N. Haskell, selected to represent the Creeks (as General Porter had been elected President).

The convention drafted a constitution, drew up a plan of organization for the government, put together a map showing the counties to be established, and elected delegates to go to the United States congress to petition for statehood.

The convention's proposals were then put to a referendum in Indian Territory, in which they were overwhelmingly endorsed.

Failure to obtain statehood

The delegation received a cool reception in Washington. Eastern politicians, fearing the admission of two more Western states, and no doubt unwilling to admit an "Indian" state, put pressure on the U.S. President, Theodore Roosevelt, who finally ruled that the Indian and Oklahoma Territories would be granted statehood only as a combined state.

The hard work of the Sequoyah State Constitutional Convention was not entirely lost, however. When representatives from Indian Territory joined the Oklahoma State Constitutional Convention in Guthrie the next year, they brought their constitutional experience with them. The Sequoyah Constitution served in large part as the basis for the constitution of the State of Oklahoma, which came into being with the merger of the two territories in 1907.

From Wikipedia, the free encyclopedia.