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Althea Paul at
Admiral checked by blood
Regist woman, Int.

1- N^o 44.

Paul, Althea, et al,

vs

Chickasaw Nation
N^o 86.

Sanborn Dist. Court
N^o

Dawes Commission.

No record.

Query.

1. Was Samuel Paul, Chickasaw
2. Is applicant Samuel Paul illegitimate.

(71) Althea Paul et al.

vs

Paul, Sally, & H.

Court No. 86

Dawes No. 205

Chickasaw Nation.

Notice of appeal was issued by the Clerk of the Court Jan. 9, 1897.

Original application and other papers were received from the Dawes Commission and filed in the Clerk's office Feb. 3, 1897.

Only substituted papers are now on file in the Clerk's office and the substituted application contains the name of Sammie Paul who was admitted to citizenship by judgment of the Court rendered March 12, 1898.

The case has been appealed to, and is now pending in, the United States Supreme Court.

Chick record shows that neither Althea nor Sammie Paul applied —

IN THE UNITED STATES COURT FOR THE
SOUTHERN DISTRICT OF THE INDIAN
TERRITORY SITTING AT ARDMORE.

ALTHEA PAUL, ET AL., PLAINTIFFS.

VS-

CHICKASAW NATION, DEFENDANTS.

NOTICE OF MOTION TO SET ASIDE JUDGMENT.

To Althea Paul and Sammie Paul,

The above named Plaintiffs:

You are hereby notified that we will, on
Monday January 15, 1900, present a motion asking that the
judgment heretofore rendered in said cause be vacated and set
aside.

IN THE CHOCTAW AND CHICKASAW
CITIZENSHIP COURT.

-----oOo-----

Althea Paul and Sammie Paul,-----Plaintiffs,

--VS--

Choctaw and Chickasaw Nations,-----Defendants.

B R I E F
On behalf of Plaintiffs.
-----oOo-----

The undisputed testimony in this case shows this state of facts:

That in the month of July, 1890, Samuel Paul, a one-half breed member of the Chickasaw Tribe of Indians, agreed with the plaintiff herein, Althea Paul, that they should live together as husband and wife; that they did live together as husband and wife, and that the said Sam Paul referred to the said Althea Paul as his wife; that they secured no license, and were never married as provided by the laws of the Chickasaw Tribe of Indians.

The testimony also shows that when this relation first began to exist between the said Sam Paul and the said Althea Paul the said Sam Paul had another wife, but that during the time he was divorced from his other wife, and continued to reside with the said Althea Paul under the conditions before stated.

That there was born of this union the plaintiff, Sammie Paul, and that the said Sammie Paul is a one-fourth Chickasaw Indian. The testimony shows that said Paul acknowledged Sammie Paul as being his child and referred to him as such, and the child was brought into court and made pro-fert. There can be no doubt in the mind of any judge who looks upon him as to his Indian blood.

These being the conceded facts in the case, what is

the status; what is the citizenship of Althea Paul and Sammie Paul. The plaintiffs contend that there was a valid common law marriage between Sam Paul and Althea Paul. That such relation as the testimony in this case shows, under the common law, constitutes a valid marriage, needs no citation of authority. If a marriage between a white woman and a Chickasaw Indian man, according to the laws of the United States, would confer citizenship upon the white woman so married, I respectfully submit to the court that a marriage, as a [✓]common law, would likewise confer citizenship upon the woman. My understanding is that this court has passed upon that proposition; and if it has, I presume the rule announced heretofore would govern in this case, and for that reason I do not care to enter into this branch of the case, but submit it for the decision of the court.

With reference to Sammie Paul, however, I beg to suggest this view:

That, both mother and father being free persons, the common law ^{rule} would ~~make~~ the offspring of free persons follow the condition of the father prevails in determining the status of the offspring of a Chickasaw man and a white woman. This question has been ~~in~~ ably passed upon by the Circuit Court of the United States for the Southern District of California in the case of United States vs. Ward, reported at page 320 in volume 42 of the Federal Reporter by Ross, Judge, that I shall content myself with a quotation from that authority:

"And the question now raised is whether the defendant is an Indian, within the meaning of the act of March 3, 1885. If his parentage was a matter about which there was conflicting evidence, or if the fact in relation to it was not conceded, it would have to be passed upon by the jury, along with all the other facts of the case; but, being conceded, it is useless to go into the circumstances of the alleged offense, if

of the
it be true, as contended by counsel for defendant, that he is not an Indian, within the meaning of the statute upon which the indictment is founded. The statutes of the United States nowhere define an Indian. As a matter of fact, the defendant is no more an Indian than he is a negro, and no more a negro than he is an Indian. In the case of *U.S. v. Sanders*, 486, the court held that the quantum of Indian blood in the veins did not determine the condition of the offspring of a union between a white person and an Indian, but further held that the condition of the mother did determine the question; and the court referred to the common law as authority for the position that the condition of the mother fixed the status of the offspring. In the subsequent case of *Ex parte Reynolds*, 5 Dill. 403, the court said that the first point decided in the *Sanders* Case was sustained by the common law, as also the last point, if applied to the offspring of a connection between a freeman and a slave. But in *Ex parte Reynolds* the court pointed out that--

"By the common law this rule is reversed with regard to the offspring of free persons. Their offspring follows the condition of the father, and the rule, *partus sequitur patrem*, prevails in determining their status. 1 Bouv. Inst. p. 198, par. 502; *Ludlam v. Ludlam*, 31 Barb. 486; 2 Bouv. Law Dict. 147; *Shanks v. Dupont*, 3 Pet. 242. This is the universal maxim of the common law with regard to freemen,-- as old as the common law, or even as the Roman civil law, and as well settled as the rule, *partus sequitur ventrem*, -- the one being a rule fixing the status of freemen, the other being a rule defining the ownership of property; the one applicable to different political communities or states, whose citizens are in the enjoyment of the civil rights possessed by people in a state of freedom, the other defining the condition of the offspring which had been tainted by the bondage of the mother. No other rules than the ones above enumerated ever did prevail in this or any other civilized country. In the case of *Ludlam v. Ludlam*, 31 Barb. 486, the court says: 'The universal maxim of the common law being *partus sequitur patrem*, it is sufficient for the application of this doctrine that the father should be a subject lawfully, and without breach of his allegiance beyond sea, no matter what may be the condition of the mother.' The law of nations, which becomes, when applicable to an existing condition of affairs in a country, a part of the common law of that country, declares the same rule. Vattel, in his *Law of Nations*, (page 101,) says: "As the society cannot exist and perpetuate itself otherwise than by the children of

the citizens, these children naturally follow the condition of their fathers, and succeed to their rights. ##### The country of the father is therefore that of the children, and these become true citizens merely by their tacit consent." Again, page 102, Vattel says: "By the law of nature alone, children follow the condition of their fathers, and enter into all their rights." This law of nature, as far as it has become a part of the common law, in the absence of any positive enactment on the subject, must be the rule in this case."

This case is cited and approved in the case of Keath vs. United States et. al., reported in 58th Pacific Reporter, at page 507. That the common law was in force in the Indian Territory was held in Pyeatt vs. Powell, 51st Federal Reporter, page 551.

I respectfully submit that, in any view of the case, under the law, the plaintiff, Sammie Paul, is entitled to citizenship.

Respectfully submitted,

Attys for plaintiffs.

SUMMONS.

United States of America,

Indian Territory,

SS

Choctaw and Chickasaw Citizenship Court.

The President of the United States of America,

To the United States Marshal for the Indian Territory, Northern District,

GREETING:

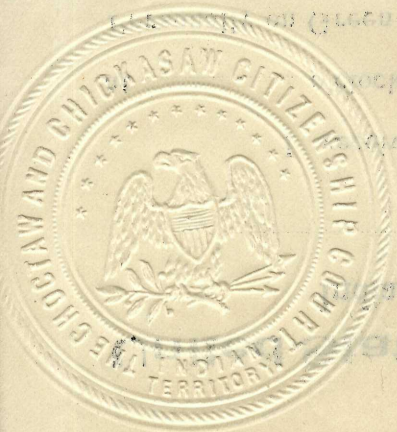
You are hereby Commanded to Summons Green McCurtain, Principal Chief of the Choctaw Nation, to answer on behalf of said nation, in twenty days after the service of this summons upon him, as Principal Chief of said Nation a complaint in Equity filed against the Choctaw and Chickasaw nation in the Choctaw and Chickasaw Citizenship Court, in the Indian Ter-

ritory, at Oshoming, by Althea Paul et al

and warn him that upon his failure as said Principal Chief to answer on behalf of said nation, the complaint will be taken for confessed, and you will make return of the summons instanter;

And you are further commanded to notify said Green McCurtain, Principal Chief aforesaid, that the papers, files and proceedings in the case of Althea Paul et al
File No. 86 in the District Court for the Southern District of the
Indian Territory, has been transferred to the Choctaw and Chickasaw Citizenship Court, and that
the certificate of the clerk of said court for said Southern District, Indian Territory,
has been attached thereto.

WITNESS the Honorable Spencer B. Adams, Chief Judge,
Walter L. Weaver and Henry S. Foote, Associate
Judges, and the Seal thereof, at South McAlester,
Indian Territory, aforesaid, this 21
day of March A. D., 1903.



Gas Blossada Clerk.
By E. L. Bennett Deputy.

MARSHAL'S RETURN.

United States of America,
Indian Territory,
DISTRICT.

I received this summons this of A. D. 1903,
at o'clock m. and served same by copy, as follows:
Personally on Green McCurtain, at Indian Territory,

This day of , 1903, m.

By Deputy.

**SUMMONS
IN EQUITY.**

Althea Paul et al

vs.

Choctaw and Chickasaw Nations.

Summons issued *21* day of
March, 1903. Returnable instant.

Marshal's Fees.

Service	-	-	-	\$
Miles	-	-	-	\$
Expenses	-	-	-	\$
TOTAL				\$

Leabette, Blusett & Thompson
Attorneys for Plaintiff.

Admore Q. S.

SUMMONS.

United States of America,

Indian Territory,

Choctaw and Chickasaw Citizenship Court.

SS

The President of the United States of America,

To the United States Marshal for the Indian Territory, Southern District,

GREETING:

You are hereby Commanded to Summons P. S. Moseley, Governor of the Chickasaw Nation, to answer on behalf of said nation, in twenty days after the service of this summons upon him, as Governor of said Nation a complaint in Equity filed against the Choctaw and Chickasaw nation in the Choctaw and Chickasaw Citizenship Court, in the Indian Ter-

ritory, at Sishomingo, by Althea Paul et al

and warn him that upon his failure as said Governor to answer on behalf of said nation, the complaint will be taken for confessed, and you will make return of the summons instanter;

And you are further commanded to notify said P. S. Moseley Governor aforesaid, that the papers, files and proceedings in the case of Althea Paul et al File No. 86 in the District Court for the Southern District of the Indian Territory, has been transferred to the Choctaw and Chickasaw Citizenship Court, and that the certificate of the clerk of said court for said Southern District, Indian Territory, has been attached thereto.

WITNESS the Honorable Spencer B. Adams, Chief Judge,

Walter L. Weaver and Henry S. Foote, Associate

Judges, and the Seal thereof, at South McAlester,

Indian Territory, aforesaid, this 21

day of March A. D., 1903.

gas B. Lassada Clerk.

E. L. Berritt Deputy.



MARSHAL'S RETURN.

United States of America,
Indian Territory,
DISTRICT.

I received this summons this 21 day of March, 1903, at 2 o'clock m. and served same by copy, as follows:

Personally on P. S. Moseley, at Indian Territory,

This day of March, 1903, at 2 o'clock m.

By Deputy.

the certificate of the clerk of said court for said Indian Territory, has been transmitted to the Choctaw and Chickasaw Citizenship Court, and that the papers filed and proceedings in the case of Althea Paul et al in the District Court for the District of the Choctaw and Chickasaw Nations, and you are further commanded to notify said P. S. Moseley, Governor of the Choctaw and Chickasaw Nations, and you will make return of the summons instantly.

No 44-5

SUMMONS
IN EQUITY.

Althea Paul et al
vs.
Choctaw and Chickasaw Nations.

Summons issued 21 day of
March, 1903. Returnable instant.

Marshal's Fees.

Service	-	-	-	\$
Miles	-	-	-	\$
Expenses	-	-	-	\$
TOTAL				\$

Lealbetter, Blease & Thompson
Attorneys for Plaintiff.
Ardmore D. T.

Althia Paul and Sammie Paul,

Vs. Judgment, Southern District. March 12, 1898.

Chickasaw Nation.

On this 12th day of March, 1898 this cause coming on to be heard upon the substituted pleadings, exhibits, proofs, Master's report and exception filed thereto, and defendant plea to the jurisdiction, the court being well and sufficiently advised upon the whole case, is of the opinion that said report should be in all respects confirmed, except that the same should be corrected to show that the relation shown to have subsisted between plaintiff Althia Paul and one Samuel Paul, a Chickasaw Indian by blood and the father of Sammie Paul, did constitute a valid marriage as in the common law but that such a marriage is not in accordance with the laws of the Chickasaw Nation. It is therefore ordered, adjudged and decreed by the court that the applicant and appellant Sammie Paul, be and he is hereby admitted as a member of the Chickasaw Tribe of Indians by blood, and that he will have all of the rights, privileges, and immunities of a Chickasaw Indian by blood, and that the right of plaintiff and appellant Althia Paul to be admitted as a member of said tribe by intermarriage ~~be denied~~ and is hereby denied.

And the Clerk of this court is hereby ordered to transmit a certified copy of this judgment duly certified to the Commission to the Five Civilized Tribes and said Commission is hereby ordered to place the names of said Sammie Paul upon the roll made out by it for the Chickasaw Tribe of Indians, as a member of said Tribe, and that the name of said Althia Paul be omitted from said roll. To all of which judgment and decreed the Chickasaw Nation by its attorney here and now excepts.

IN THE CHOCTAW AND CHICKASAW CITIZENSHIP COURT, SITTING
AT SOUTH MCALISTER, IN THE INDIAN TERRITORY.

-----oOo-----

Althea Paul and Sammie Paul,	:
Plaintiffs,	:
Vs.	:
	:
The Chickasaw Nation,	:
Defendant.	:

-----oOo-----

PETITION TO THE CHOCTAW AND CHICKASAW CITIZENSHIP
COURT REQUESTING THAT A WRIT OF ERROR BE ISSUED TO THE
UNITED STATES COURT FOR THE SOUTHERN DISTRICT OF THE
INDIAN TERRITORY, REQUIRING SAID COURT TO TRANSFER AND
CERTIFY TO THE SAID CHOCTAW AND CHICKASAW CITIZENSHIP COURT
THE FILES, PAPERS AND PROCEEDINGS IN CITIZENSHIP CASE NO.
86, AND STYLED ALTHEA PAUL, ET. AL., VS. THE CHICKASAW
NATION.

-----oOo-----

Now come the petitioners, Althea Paul and
Sammie Paul, and respectfully show to the court that prior
to the 10th day of September, A.D. 1896, and within the
time prescribed by the Act of Congress approved June 10th,
1896, conferring jurisdiction of citizenship cases upon the
Commission to the Five Civilized Tribes, the petitioners
herein filed their applications with the said Commission to
the Five Civilized Tribes for citizenship and membership
Chickasaw
in the ~~Shantax~~ Tribe of Indians; that in due course of
time, said Commission heard said application and rejected
the same and denied the claim of the applicants herein to
citizenship in the Chickasaw Nation; that thereafter and
within the time prescribed by law, the petitioners herein
appealed from the decision of the Commission to the Five
Civilized Tribes to the United States court for the
Southern District of the Indian Territory, at Ardmore, said
petition being styled in said Court Althea Paul, et. al.,

Vs. The Chickasaw Nation, number 86; that thereafter in the said United States Court for the Southern District of the Indian Territory, at Ardmore, a full, complete and final trial was had of the claim of said petitioners to citizenship in the Chickasaw Nation, and by the judgment and decree of said court entered on the 12th day of March, A.D. 1898, the petitioner herein, Sammie Paul, was adjudged to be a citizen of the Chickasaw Nation, and the petitioner Althen Paul, was rejected and refused citizenship in said Nation; that the petitioner herein, Sammie Paul, ever since said date has been entitled to have his name enrolled upon the official and final citizenship roll of the Chickasaw Nation by the Commission to the Five Civilized Tribes.

Petitioner, Sammie Paul, further shows that by its judgment rendered on the 17th day of December, 1902, in the case of the Choctaw and Chickasaw Nations or Tribes of Indians, vs. J.T. Riddle, et. al., this court adjudged and decreed all judgments and decisions of the United States courts in the Choctaw and Chickasaw Nations admitting persons to citizenship and enrollment as citizens of said Nations upon appeal from the Commission to the Five Civilized Tribes and the Citizenship Committees of said tribes, to be null and void both as to the defendants named in said cause, and all other persons claiming citizenship in the Choctaw and Chickasaw Nations or tribes of Indians by virtue of the judgments rendered in the United States Courts for the Southern and Central Districts of the Indian Territory under act of June 10th, 1896.

Your petitioner, Sammie Paul, states that he was not a party to said case of the Choctaw and Chickasaw Nations or Tribes of Indians, vs. J.T. Riddle, et. al., and is not bound by the judgment rendered therein, and that said court had no jurisdiction or power under the pleadings

and evidence of said case to set aside or vacate the judgment of the United States Court for the Southern District of the Indian Territory, admitting the applicant, Sammie Paul, to citizenship in the Chickasaw Nation, and that said judgment of the United States Court for the Southern District of the Indian Territory is still in full force and effect. But your petitioners state that inasmuch as this court has entered its judgment and decree setting aside all the judgments of the said United States Court for the Southern District of the Indian Territory, wherein persons not specially made parties thereto, but who were similarly situated to the defendants specially named in said suit of the Choctaw and Chickasaw Nations vs. J.T. Riddle, et. al., and the said United States Commission to the Five Civilized Tribes is denying, and will continue to deny the rights of the petitioner, Sammie Paul, to be enrolled as a member of said tribe of Indians, unless the files and proceedings in said cause number 86, and styled Althea Paul, et. al., vs. The Chickasaw Nation, in said United States Court for the Southern District of the Indian Territory, at Ardmore be certified and sent to this court for further proceedings herein. And unless this court, by its decree, finally determine and adjudge said petitioner, Sammie Paul, to be a member of the said Chickasaw Nation, said Commission will refuse to enroll him as such citizen.

Now, wherefore, said petitioner, Sammie Paul, still insisting upon his rights as a member of said tribe, and the validity and finality of the said judgment of the United States Court for the Southern District of the Indian Territory admitting him to citizenship, and without waiving any of the rights adjudged and decreed to belong to him and conferred upon him by law and by virtue of said judgment of the United States Court for the Southern District

of the Indian Territory, said petitioner most respectfully prays that an order be made in the nature of a writ of error, or otherwise, directing the Clerk of the United States Court for the Southern District of the Indian Territory, at Ardmore, to certify and deliver to this court all files, papers, dockets, evidence and proceedings had in this case number 88, and styled Althea Paul, et. al., vs. The Chickasaw Nation, heretofore pending in the United States Court for the Southern District of the Indian Territory, at Ardmore, and that all proper writs or otherwise be issued upon the principle chief of the Choctaw Nation and the Governor of the Chickasaw Nation, in order that said case may be fully and properly lodged in this court for all lawful and proper proceedings therein.

And the said Althea Paul, having been denied citizenship in the Chickasaw Tribe of Indians, as aforesaid, doth pray that an order be made in the nature of a writ of error or otherwise, directing the clerk of the United States Court for the Southern District of the Indian Territory, at Ardmore, to certify and deliver to this court all files, papers, dockets, evidence and proceedings had in this case, and that she be adjudged by this court to be a citizen of the said Chickasaw Tribe of Indians.

Attorneys for Petitioners.

Arthur Paul, et al,

vs

Cherokee & Chickasaw Nations

Petition for appeal.

In the Choctaw and Chickasaw Citizenship Court, sitting at
Tishomingo, in the Southern District of the Indian Territory,
June Term, 1904.

Althea Paul, et al.,

vs.

No. 44.

Choctaw and Chickasaw Nations.

DECREE OF COURT.

On this 24th day of June, 1904, this cause coming on for final decision, the same having heretofore been submitted upon the law and the evidence, and the Court being well and sufficiently advised in the premises, doth find that the plaintiff Sammie Paul or Sammy Paul, is entitled to be declared a citizen by blood of the Chickasaw Nation, and to enrollment as such citizen, and to all the rights, privileges and immunities which flow therefrom; and that the plaintiff Althea Paul or Altha, is not entitled to be deemed a citizen by intermarriage of the Chickasaw Nation, or to enrollment as such citizen, or to any rights whatever flowing therefrom.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the petition of the plaintiff Sammie Paul or Sammy Paul, be granted, and that he be declared a citizen by blood of the Chickasaw Nation, and entitled to enrollment as such citizen, and entitled to all the rights, privileges and immunities flowing therefrom; and that the petition of the plaintiff Althea Paul or Altha Paul, be denied, and that she be not deemed a citizen by intermarriage of the Chickasaw Nation, and not entitled to enrollment as such citizen, and not entitled to any rights whatever flowing

In the Choctaw and Chickasaw Citizenship Court, sitting at
Tishomingo, in the Southern District of the Indian Territory,
June Term, 1904.

Althea Paul, et al.,

vs.

No. 44.

Choctaw and Chickasaw Nations.

DECREE OF COURT.

On this 24th day of June, 1904, this cause coming on for final decision, the same having heretofore been submitted upon the law and the evidence, and the Court being well and sufficiently advised in the premises, doth find that the plaintiff Sammie Paul or Sammy Paul, is entitled to be declared a citizen by blood of the Chickasaw Nation, and to enrollment as such citizen, and to all the rights, privileges and immunities which flow therefrom; and that the plaintiff Althea Paul or Altha, is not entitled to be deemed a citizen by intermarriage of the Chickasaw Nation, or to enrollment as such citizen, or to any rights whatever flowing therefrom.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the petition of the plaintiff Sammie Paul or Sammy Paul, be granted, and that he be declared a citizen by blood of the Chickasaw Nation, and entitled to enrollment as such citizen, and entitled to all the rights, privileges and immunities flowing therefrom; and that the petition of the plaintiff Althea Paul or Altha Paul, be denied, and that she be not deemed a citizen by intermarriage of the Chickasaw Nation, and not entitled to enrollment as such citizen, and not entitled to any rights whatever flowing

therefrom.

.....
Chief Judge.

.....
Associate Judge.

.....
Associate Judge.