I No 126: ~~No 19~~. - 126

See No 125

Mary L. Jennings, et al,

vs

C. & C. Nations.

No 77

Central Dist. Court.

No

Dawes Commission.

Original claimants were

Sarah E. Kizer, et al.

Sarah E. Kizer case has also been transferred.

CORNISH:

Where does your client live.

Foster:

Coalgate. I am not putting it on the ground of residence.

"Reads motion"

I do not put it on the ground of residence, only that I do not see any necessity for two trials in the case, and in fact my client writes me that she knows nothing about the citizenship case; that she is dependent upon her mother and her knowledge of the family . One set of evidence will settle the whole matter. This motion is not verified by affidavit because I have not seen her at all.

This woman writes me that she is sick and she has not a dollar, but I appeal to the record.

Adams:

Motion is to have the case transferred and consolidated.

Cornish:

Our position is the only position that would be reasonable; that the setting of these cases and where they shall be tried and when is a matter entirely in the discretion of the Court, and our idea is to conform to that without a murmer of course, but from the statement of opposing counsel we do not see that there is any reason which would justify this action. The Jennings case is just as important as the Kizer case and the Kizer case is just as important as the Jennings case. Now the Kizer case has been transferred to Tishomingo, upon the showing of the plaintiffs that the persons resided nearer Tishomingo, and the case could be tried there better than elsewhere. Why should this case be sent to Tishomingo for the reason that its companion case has gone to Tishomingo, any more than it should be tried here. Now ~~is~~ the Choctaw and Chickasaw Nations have no objections to the transfer of this case except that it would suit its convenience to try this case here better than it would elsewhere. I do not see that ther is any proper reason that this case

should go there. I do not see that the showing is sufficient to justify the action.

FOSTER:

One trial will settle them both in that way, by the transfer and consolidation. It simply brings together the two prts of the cases as they were before.

CORNISH:

That is all very reasonable and if we should agree that one casex is more important than the other, and some good reason, but this case is here and is just as important as that case which has been transferred.

ADAMS:

Where does your witnesses live?

Foster:

I do not know sir, I have never been able to see them. I do not know where they live, I do not know where they are. She writes that she does not know where they are, and tat she has not a dollar to come and see me with. That is the reason that the motion is not sworn to, and I appeal to the record. The record shows these facts, and of course the Court takes judicial notice of its record. I believe the distance from her resident to Tishomingo is less than to South McAlester. I am not putting it on that ground however, but upon economy.

JUDGE ADAMS:

Wasn't you expecting to try this case to-day.

Foster:

I was not. There is also, I will say this, there is a motion drawn by the husband of this woman, exceuted by her, and he writes me and says on that ground, on the ground that he is unable to attend to the case.

AADAMS:

becau BTBecause he wassick?

JUDGE FOSTER:

Let me read it.

"Reads Motion"

She simply writes me that she knows nothing about the case, but reference here will show that the cases were together, and all the evidence before both the Dawes Commission and the Court is here.

JUDGE FOOTE:

So far as I know, hope you know, that is all the evidence there will be.

JUDGE FOSTER:

I am not responsible for the drawing of that motion, sir.

JUDGE ADAMS:

We will transfer this case for you and will then take up the question of consolidation. I may say that the reason that we are going along here in this way is that we do not intend to finally decide anything or issue any final orders in any proceeding until the Joins case is determined by the Supreme Court. Simply want to take evidence in the cases. Mark the case transferred. This case has been set here for two months now and there has been no evidence introduced.

Foster:

It is unjust to myself that has only been two or three days since I found that Mrs. Jennings knew nothing about her case.

In The Choctaw and Chickasaw Citizenship Court
At South McAlester

Mary L Jennings et al
Vs
The Choctaw and Chickasaw Nations

The Petitioners MaryLEJennings Effie K Jennings Elizabeth F Jennings Frances J Jennings Respectfully show to the Court that they are Ci Citizens by blood of the Choctaw Nation but that their Citizenship is dis puted by said Nation.

That they have heretofore Decree of The United States Court for The CentralDistrict of the Indain Territor and South McAlester been Adjudged toBe Citizens by blood of the Choctaw Nation and Thatsaid Decree was by said Court Rendered in the Cause styled upon the Docket of said COurt Sarah E Kizer Et Als , Vs. The Choctaw Nation No. 77.

That Sad Decree has Been by Decree of this Court on the 17th day of December 1902 Annulled and set aside and Vacated.

Petitioners therefore Pray that said Cause may as to these Petitioners only Be transferred to this Court for further Proceedings According to Law

T N Foster Atty

F.P.Jennings beings being sworn says that he is Husband of Mary L Jennings ; that the matters and things in the above Petition are within his personal knowledge and that the same are true as therein alleged

F P Jennings

Subscribed and Sworn to Before me this 2nd day of February 1903

Clerk Choctaw and Chickasaw Citizenship Court

T.N.Foster being duly sworn upon his oath says that he Personally served the foregoing Petition by delivering a true Copy thereof tr McMurray Mansfield and Cornish Attorneys for the Coctaw and Chickasaw Nations on the 2nd day of March1903

Subscribed and Sworn to before me this 2nd day of march 1903

Clerk

Motion For Continuance

In CitizenshipCourt

~~Sarah cE KISer~~. Et .al ((So Mc Allister CHOCTAWNation
Mary L Jennings ((Sept.Term IND. TER.
VS

Choctaw-Chicasaw Nations.

Now comes the defendents in the above cause and prays the court for acontinuance herein for the following reasons towit

Plaintiff herein respectfully shows to the courtHer husband F.P .Jennings is and has been for several monthssick and physi-disabled from attendind g to her businessconnected with this case and securindg the attendance of her witnesses herein:that said F. P. Jennings is her true and lawful attorney in fact :and that she verrilly b eleives thatby the Ist day of Oct.plaintiffhere i willbe ready for trial in this cause .

That owing to the illness of her husband as aforesaid plaintiff could not secure the attendandof her witnesseshereinand that she has reasonable groundsto beleive shewill be able tosecure the attendance of her witnesses at said October term.

THat this application is not made for delay and that it will not work any hardshipon the defendents herein.

That plaintiff has used all reasonable diligence within her power to get ready for trial at this term :and that the ends or jus tice will be served by a continuancefor this short time

Mary L Jennings
per F.P. Jennings atty in fact
for Plaintiff

Personally appeared before me the undersigned authority F.p Jennig who being by me duly sworn deposes and says that the facts set forth in the above application are true and correct to the best of his knowledge and beleif. F. P. Jennings Atty in fact for Plaintiff

Sworn to and subscribed to before me this day of Sept. I(9o3

J. L. Strange

Notary Public CENTRAL Dist IND. TER.

Mary /L. Jennings Et Al

VS

CHOCTAW)-CHICKISAW NATIONS

.....

In CITIZENSHIP COURT

So. Allister Choctaw Nation

Ind. Ter.

Copy of Motion

.....

Attorneys for Plaintiffs

IN THE CHOCTAW AND CHICKASAW CITIZENSHIP COURT SITTING AT
SOUTH McALESTER, INDIAN TERRITORY, SEPTEMBER
TERM, 1903.

Mary L. Jennings, et al----------Plaintiffs,

vs.

The Choctaw Nation and
the Chickasaw Nation----------Defendants.

MOTION TO MAKE MORE DEFINITE AND CERTAIN.

Come now the Choctaw and Chickasaw Nations, by Mansfield McMurray & Cornish, their attorneys, and move this Honorable Court to require the plaintiffs, Mary L. Jennings et al, to make their "application for admittance and enrollment" filed before the Commission to the Five Civilized Tribes under the act of Congress approved June 10,1896, more definite and certain in this; that they be required to state:

First: Whether they or any, or all, of their alleged ancestors through whom they claim the right to be admitted and enrolled as citizens of the Choctaw Nation complied with the requirements of article fourteen of the treaty of 1830 between the United States and the Choctaw Nation; and if any, or all, so complied, by whom such compliance was made, and how; and

Second: Whether they or any, or all of their alleged ancestors emigrated to the Choctaw Nation, Indian Territory, with the Choctaw Indians residing in the old Choctaw Nation in the State of Mississippi when the treaty of 1830 was entered into, under article 3 of said treaty; and if so the name or names of the person or persons who thus emigrated.

The CHOCTAW NATION,

THE CHICKASAW NATION,

By Mansfield McMurray Cornish
Their Attorneys.

IN THE CHOCTAW AND CHICKASAW CITIZENSHIP COURT SITTING AT
SOUTH McALESTER, INDIAN TERRITORY, SEPTEMBER
TERM, 1903.

Mary L. Jennings, et al----------Plaintiffs,

vs.

The Choctaw Nation and
the Chickasaw Nation----------Defendants.

MOTION TO MAKE MORE DEFINITE AND CERTAIN.

Come the Choctaw and Chickasaw Nations, by Mansfield McMurray & Cornish, their attorneys, and move this Honorable Court to require the plaintiffs, Mary L. Jennings et al, to make their "application for admittance and enrollment" filed before the Commission to the Five Civilized Tribes under the act of Congress approved June 10, 1896, more definite and certain in this; that they be required to state:

First: Whether they or any, or all, of their alleged ancestors through whom they claim the right to be admitted and enrolled as citizens of the Choctaw Nation complied with the requirements of article fourteen of the treaty of 1830 between the United States and the Choctaw Nation; and if any, or all, so complied, by whom such compliance was made, and how; and

Second: Whether they or any, or all of their alleged ancestors emigrated to the Choctaw Nation, Indian Territory, with the Choctaw Indians residing in the old Choctaw Nation in the State of Mississippi when the treaty of 1830 was entered into, under article 3 of said treaty; and if so the name or names of the person or persons who thus emigrated.

The CHOCTAW NATION,
THE CHICKASAW NATION,
By Mansfield McMurray Cornish
Their Attorneys.

Motion of Nations to make more definite & certain

Motion to Make More Def. & Certain

C. T. C. Nations

IN THE CHOCTAW AND CHICKASAW CITIZENSHIP COURT, SITTING AT SOUTH McALESTER, SEPTEMBER TERM, 1903.

Mary L. Jennings, et al, ... Plaintiffs.

vs.

The Choctaw Nation and the Chickasaw Nation, ... Defendants.

DEMURRER.

Come now the Choctaw Nation and the Chickasaw Nation and demur to the application of plaintiffs, for citizenship, and for cause state that it does not state facts which if true, would wrrant this Honorable Court in admitting them as citizens of the Choctaw Nation.

THE CHOCTAW NATION

THE CHICKASAW NATION

BY _____ _____ ATTORNEYS.

Mary L Jennings
v
C C.

Demurrer

Mary L. Jennings,)
) No. 19.
--vs--
)
Choctaw and Chickasaw Nations,)

Comes now Mary L. Jennings, the above named plaintiff and shows to the Court that she is a daughter of Sarah E. Kizer, whose citizenship case has been transferred to Tishomingo for trial, by the Court; that both cases were one on the Docket of the Court below. That the same evidence will be applicable in both cases and both will be settled by one trial. That the above facts appear fully in the record in this case

Plaintiff therefore prays that this cause be transferred to Tishomingo for trial and consolidation with the cause of Sarah E. Kizer vs. The Choctaw and Chickasaw Nations.

T. N. Hosler
Attorney for Plaintiff.

#14

Mary L Jennings
vs
Auctus & Ulcerna
Notions
Motion to trans
fer & Consolidate

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

Mary L. Jennings, et al.,

vs. No. 126.

Choctaw and Chickasaw Nations.

DECREE OF COURT.

On this day of , 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 no judgment in this cause was rendered by the United States Court for the Central District of the Indian Territory, under the Act of Congress approved June 10, 1896, as to the plaintiffs herein, to wit, Mary L. Jennings, Effie K. Jennings, Elizabeth F. Jennings, and Frances J. Jennings, and that this Court has no jurisdiction to determine the rights of the said plaintiffs.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the petition of the plaintiffs, Mary L. Jennings, Effie K. Jennings, Elizabeth F. Jennings, and Frances J. Jennings, be dismissed, for want of jurisdiction.

.....
Chief Judge.

.....
Associate Judge.

.....
Associate Judge.

Mary L. Jennings et al No 126

Mary L. Jennings
Effie K. Jennings
Elizabeth F. Jennings
Frances J. Jennings

Choctaw - No Jurisdiction. Order dismissing)

SUMMONS. Duplicate

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 COMMANDED TO SUMMONS Green McCurtain, Principal Chief of the Choctaw Nation,

on behalf of said Nation,
to answer 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 Nations,

in the Choctaw and Chickasaw Citizenship Court, in the Indian Territory, So McAlester
by Mary L. Jennings et al and warn him that upon his failure to answer, the as said Principal Chief on behalf of said Nation the complaint will be taken for confessed, and you will make return of the summons on the first day of next instanter, Term of said Court.
and you are further commanded to notify said Green Mc Curtain, Principal Chief aforesaid, that the files, papers and proceedings, in case of Mary L. Jennings et al file No. 77 in the District Court for the Central District of the Indian Territory have been transferred to the Choctaw and Chickasaw Citizenship Court, and that the certificate of the Clerk of said Court for said Central 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 Mc Alester, I.T., aforesaid, this 25 day of March, A. D. 1903.

James B. Cassada
Clerk.

By ....., *Deputy.*

THE CHOCTAW AND CHICKASAW CITIZENSHIP COURT. INDIAN TERRITORY.

MARSHAL'S RETURN.

United States of America,
INDIAN TERRITORY, } ss:
..... DISTRICT.

I RECEIVED this summons this ..... day of ....., A. D. 190...., at ..... o'clock ..... m. and served same by copy, as follows:

Personally on ..... at ..... Ind. Ter. this ..... day of ..... 190...., ... o'clock ..... m.
" ..... at ..... Ind. Ter. this ..... day of ..... 190...., ... o'clock ..... m.
" ..... at ..... Ind. Ter. this ..... day of ..... 190...., ... o'clock ..... m.
" ..... at ..... Ind. Ter. this ..... day of ..... 190...., ... o'clock ..... m.
At Residence of ..... at ..... Ind. Ter. this ..... day of ..... 190...., ... o'clock ..... m.
" ..... at ..... Ind. Ter. this ..... day of ..... 190...., ... o'clock ..... m.
" ..... at ..... Ind. Ter. this ..... day of ..... 190...., ... o'clock ..... m.
" ..... at ..... Ind. Ter. this ..... day of ..... 190...., ... o'clock ..... m.

With a member of defendant's family over 15 years of age there residing.

And the other persons named in this Summons are "not found in this District."

.....
U. S. Marshal.

By ....., *Deputy*

No. 19 22

SUMMONS
IN EQUITY.

Mary L. Francis, et al
vs.
Choctaw & Chickasaw Nations

Summons issued the 25 day of March, 1903.
Returnable ~~October Term, 190.~~

Returned and filed ....., 190....

.....
Clerk.
By ....., *Deputy.*

MARSHAL'S FEES.

Services, - - - - $.....
Miles, - - - - $.....
Expense, - - - - $.....
TOTAL, - - $.....

S. M. Tarpley
Attorney for Plaintiff.
Ada, I. T.

5762b5m10-02

Duplicate

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 COMMANDED TO SUMMONS P. S. Moseley

~~Governor of the Chickasaw nation~~

on behalf of said nation
to answer 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 nations

in the Choctaw and Chickasaw Citizenship Court, in the Indian Territory, S. McClesh
by Mary L. Jennings et al and warn him that upon his failure to answer, ~~the~~
as said Governor
on behalf of said nation the
complaint will be taken for confessed, and you will make return of the summons ~~on the~~

first ~~day of next~~ instanter ~~Term of said Court.~~

and you are further commanded to notify said P.S.Moseley, Governor aforesaid, that the files, papers and proceedings in case of Mary L. Jennings et al, file No. 77, in the District Court for the Central District of the Indian Territory, have been transferred to the Choctaw and Chickasaw citizenship court, and that the certificate of ~~said~~ Clerk of said Court for said Central 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, I. T., aforesaid, this 25 day of March, A. D. 1903

James B. Carson
Clerk.

By ....., *Deputy.*

THE CHOCTAW AND CHICKASAW CITIZENSHIP COURT. INDIAN TERRITORY.

MARSHAL'S RETURN.

United States of America,
INDIAN TERRITORY, } *ss:*
_____ DISTRICT.

I RECEIVED this summons this _____ day of _____, A. D. 190___, at _____ o'clock _____ m. and served same by copy, as follows:

Personally on _____ at _____ Ind. Ter. this _____ day of _____ 190___, _____ o'clock _____ m.
" _____ at _____ Ind. Ter. this _____ day of _____ 190___, _____ o'clock _____ m.
" _____ at _____ Ind. Ter. this _____ day of _____ 190___, _____ o'clock _____ m.
" _____ at _____ Ind. Ter. this _____ day of _____ 190___, _____ o'clock _____ m.
At Residence of _____ at _____ Ind. Ter. this _____ day of _____ 190___, _____ o'clock _____ m.
" _____ at _____ Ind. Ter. this _____ day of _____ 190___, _____ o'clock _____ m.
" _____ at _____ Ind. Ter. this _____ day of _____ 190___, _____ o'clock _____ m.
" _____ at _____ Ind. Ter. this _____ day of _____ 190___, _____ o'clock _____ m.

With a member of defendant's family over 15 years of age there residing.

And the other persons named in this Summons are "not found in this District."

_____
U. S. Marshal.

By _____, *Deputy*

DUPLICATE.

No. 19 m

SUMMONS
IN EQUITY.

Mary L. Jones et al
vs.
Charlan & Chickasaw Nations

Summons issued the 25 day of March, 1903
Returnable ~~first Monday in Term, 190~~
Returned and filed _____, 190___

_____ *Clerk.*
By _____, *Deputy.*

MARSHAL'S FEES.

Services, - - - $ _____
Miles, - - - - $ _____
Expense, - - - - $ _____
TOTAL, - - - $ _____

J. M. Tarlton
J. M. McAlester
Attorney for Plaintiff.

5762b5m10-02