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vos Chiercasas $\underbrace{\sqrt{2}}_{\text {NeBl. }}$ ation
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Dawas Comnission.


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## *ODNMOHST



IN THE CHOCTAW AND CHICKASAV CITIZMNSHIP COURT, SITRTING AT TISHOMINGO, I.T.


Brief of Plaintiffs..

Since attormeys for the Nations are not content to sulamit this case without a brief but have seen fit to pile a brief herein, we desire to answer same.

Berring the pompous assertions of counsel for the Nations and the unjustified assaults upon the applioantsand their attorneys, we submit there is nothing serious in the bries.

Counsel for the Nations, by IMUENDO, charge the applicant, J. W. Sparks with falsely swearing and cite the remark of Judge Foote while applicant was on the stand to confirm their conclusions. It is true that Judge Boote remarked from the bench: "The man seems not to be strone either mentally or physically", and we do not contend but that this remark was wholly justified by the facts, yet, we do contend that it is unbecoming in counsel to malign this witness beause Frovidence holds sven him the scourge ofits resentment because of broken laws of nature. The applicant, J. W. Sparks, is a physical wreak, broken down and disfige ured by rhumatism and paralysis, and he was assisted lge up the stairs and to the stand when he testified in this case, as the court will remember. He couldn't talk audibly. If these facts argue that the witness is a 1 iar and unworthy of belief, then the assault is justified, otherwise, we
took to testify that Sarah Colbort was an Indian, but on beine pressed in the cross-examination, he stated that he first met her in about 1865, when she and her fanily were moving into Grayson County, Texas, from the South, and that so for as he she had never lived in Indian Territory prior to daid time. Applicants then introduced a certificete of the Dawes Commission to show the citizenship status of Sarah Hughes, formerly Sarah Colbert, which showed her name on the 1 easod District Pay Roli.

In presenting this certificate to the Court the applicants and their advisers were guilty of an attermpt to mislead and deceive the Court, for they could not have discovered the presence of her name on that roll without zearning at the same time the nature of a clain to a citizenship status. This information applicants stadiously suppressed. Just what an effort J. W. Sperks mado not to surrender his information on the subject can be seen by on examination of his testimony in the record.

The Mations, however, introduced the testimony of Sareh herself, given before the Commission when she appeared before it for enroliment. From her evidence it clemrly appears that she is not an Indian and wess never an applicant ass such, but thet prior to her marriage to Sparks she was married to a Chickasaw Indian of recognized status, and that her only claim to errollment was as an inter-married oftizen.

Therefore, the only question to be decided by
the Court in this case is "Does an Inter-married white woman, who after the death of her Chickasaw husband, marries a white man, confer the rights of Chickasaw oitizenship on such white husband and his white children by hor?

This question we have fully discussed in our brief
in the Joanna Mickle case, No. (2), on the South MeAlester

Docket, and to our briof in that caso we rempoctun2y rafer the Court.

In our opinion these mplifontis aro not ontitled to enrollment and their potition mhould be donied. Respactrujuy ตubaitted,

ATrommys yoz croczan aud Crickanaw matrons.
think not.
Counsel for the Nations say: "In presenting this certificate (referring to the certificate that Sarah Hughes, formerly Sarah Sparks, appears upon the leased district roll) to the court, the applicants and their advisers were guilty of an attempt to mislead and deceivethe court, for they couldnot have discovered the presence of her name on that roll without learhing at the same time the nature of a claim to a citizenship status. This information applicants studiously suppressed." To put ourselves right before the court and to advise the court fully with reference to what knowledge muarase we possessed, as well as the applicants, we attach hereto a letter we received from the Commission to the Pive Civilized Tribes which conveys this information: "You are hereby informed, however, that from said roll it is impracticable to ascertain whether the persons named thereon are citizen's by blood or intermarriage." Unless counsel for the wations have more information and a different roll from that possessed by the Commission to the Pive Civilized Tribes, they certainly made the above statement unadvisedly or with the design on/their part to wilfully mislead the ourt. We take it that the attorneys for the Nations would see to it that the Comission to the Five Civilized Tribes had a correct copy of the leased district pay roll, and that the roll referred to by said Comaission is a correct copy of that possessed by the सations, and we do not believe that counsel for the Nations had any other motive than one to mislead when they made their assertions.

The witness, Fletcher, testified, it is true, that he first met Sarah Kachax Colbert down in Grayson County, Texas during the war; that he said that she came from the Indian Territory and afterwards returned to the Territory
when the war was over; that she was an indian.
The attorney for the Chickasaws, the Honorable W. B. Johnson, in his answer filed in this case when it was tried in the United States Court at Ardmore, admitted that Sarah Hughes, formerly Sarah Sparks, was a member by blood of the Chickasaw Tribe of Indians and there has never been any contention to the contrary until made by the present counsel for the Nations, and when this trial was in progress. It is true the $r$ oof as to her citizenship is not as strong as it might be, but it is certainly sufficient in the face of the Nation's admission heretofore, when the court remembers that the applicants appeared fortrial with the understanding that there had never been any issue made upon this question, Under such eircumstances he would certainly not be required to make that cogent proof which would be required where the controversy hinged mainly upon that issue.

Counsel say that the Nations introduced the testimony of Sarah Hughes hersele before the comission when she appeared before it for enrollment, and that from it it clearly appears that she is not an indian and was never an applicant as suoh, but only olaimed by reason of her intermarriage with Colbert. We were not present when said testimony was offered and this is the first intimation we have had that it had been offered in evidence and we desire to say that if such testimony was offered it was inadmisable and should be disregarded by the court.

In order to make testimony given by a witness since deceased admissable in the cause, the issues and the parties must have been the same. See Presh vs. Gilson, 41 U.S., 327 (10 L. Ed., 982) ; MoTighe va. Herman, 42 Ark., 285; Haslan vs. Campbell, 60 Ga., 650; Poorman vs. Miller, 44 Col., 269; Larshall vs. Hancock, 80 Cal. ., 82 ; Bryan vs.

Malloy, 90 M. C., 508; Tappan vs. Beardesley, 77 U.S., 427 (19 I. Bd., 974).

The Nation has admitted that Sarah Hughes, formerly Sarah Spraks, was an indian by blood in their answer filed in the United States Court at Ardmore, and the records of the Commission to the Pive Civilized Tribes, as shown by the certificate introduced, shows that the name of Sarah Hughes appears upon the Leased District Pay Roll; the evidence shows that she had the appearance of an indian and the witnesses, Sparks and Fletcher, testify that she was an indian while the Nations offer no testimony whatever that she is not.

Under such evidence and upon suoh record, it occurs to us that the applicants should be admitted to citizenship and we have confidence that this court, which is not saturated with the prejudice of the counsel for the Wations, will so decree.

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## United States of America, <br> INDIAN TERRITORY, <br> Choctaw and Chickasaw Citizenship Court. <br> Che President of the United states of America,

Co the United States Marshal for the Indian Cerritorysouthern District,

GREETING:

YOU ARE COMMANDED TO SUMMONS

P. S. Moseley

on behalf of said nation

as Governor of said ration
a complaint in Equity filed against -- the Choctaw and Chickasaw- nations

and you are further commanded to notify said P.S. Moseley, Governor aforesaid that the files, papers and proceedings in the case of 2
sparks elul file No. 37 in the District Court for the sank D District of the Indian Territory, have been transferred to the Choctaw and Chickasaw citizneship court, and that the certificate of the clerk of said court for said sum then District has been attached thereto.

WITness the Honorable Spencer B. Adams, Chief Judge, Walter L.





Returned and filed $\qquad$ 190
$\qquad$
MARSHALS FEES.
Services, $\qquad$
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\$
Expense, $\qquad$



SUMMONS.

## Louplical -

## United States of America, INDIAN TERRITORY, SS: <br> Choctaw and Chickasaw Citizenship Court.

## The President oil the catted states off America.

Co the United States Marshal for the Indian Territory, \#orthermDistrict, GREETING:

YOU ARE -COMMANDED TO SUMMONS Green-Heewrtaing

on behave of said Nation
to answer in twenty days after the service of this summons upon ......ham
ae Principal Chief of said nation
a complaint in Equity filed against ...-. ©he-Cheetaw-me chicleasen-Hetsens
in the Choctaw and Chickasaw Citizenship Court, in the Indian Territory, Céhoncicuy
byfutt \&facks, and warn him that upon his as aid principal Chios en behan of sase Nation
complaint will be taken for confessed, and you will make return of the summons on the eros
afirstcidayoofonexts. instanter
Term se said Courter
my you are further commanded to notify said Green Yecurtaing Principal (in) E aforesaid, that the $5120 s_{0}$ pheres and proceedings, in the caps of Vf L packs a/ al rive $130.3 \%$, in the District court For the sulczucu District or the Indian territory have been trans fared to tho choctaw and Chickasaw citizenship court, and that tho cortisicate of the clerk of said court for said faizfoth District, Indian Territory has bon attached the rote.

Witness the Honorable Spencer B. Adams, Chief Judge, Walter L. Weaver and Henry S. Footer, Associate Judges, and the Seal thereof, at ... South Me.Aleuter, 2. 2. . , aforesaid, this 14 day of March., A. D. 1903.



A ake testinony of Sohu O. Hiecun, Serwern, D. 1 . Wro fuernish cestipeate of Dairo ovimiscion ohowieq that Saroh Sugher wifh of apipheon f wos curoled on roll of 1893 as coteren by intermarriage
J. W. Sparks, et al.

Vs. No. 37 Judgment, Southern Dist. March 12, 1898. Chickasaw Nation.

This day this cause comingon to be heard, upon the pleadings, proof, exhibits, Master's report, and the eseptionssix filed thereto and the court being advised, is of the opinion that the exception filed to the Master's report herein by the applicants should be and the same are hereby sustained, and said report is in all other respects confirmed; and the court being sufficiently advised upon the whole case: Doth order, adjudge and decree, that the applicants, J. W. Sparks, be and he is hereby admitted as a member of the Chickasaw Tribeo of Indians by intermarriage; and that the applicant Cynthia Sparks be and she is hereby admitted as a member of the Chickasaw Tribe of Indians by blood, and that they rach and both have all the rights prizi iges and immunities as members of the Chickasaw Tribe of Indians in the way and manner above indicated.

The Clerk of this court is hereby ordered to transmit $a_{\text {a }}$ certified copy of this judgment to the Commissi on to the Five Civilized Tribes of Indians for their proper enrollment, which said Commission is hereby directed to place their names upon the rolls made out by it for the Chickasaw Nation as members of said tribe of Indians. To this judgment the Chickasaw Nation excepts.

An the Choctaw aud Cheverow Citzenohip Court.

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Theworan dur of Argument
for Niation Su rifly te Brief of applicont
The only evisunce on which applicant secho eurocement
is the proof of the ewarriage of fir Sparks to a waion whore ueme $\alpha \beta$ feas en the thibal socl of $1893 x$

Do wech this tistemony the Hithous introduces the testruainy given by the wanare
herseef whum she eppeies
to the Daves Com for enrollment on the final qoll in fursuance of such tribal eurochuent $f_{x}$

Since the withe clain. rests on the theal stalus of this waman it wice not require authentex to suppert ito cou fitworyx

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IN THE CHOCTAW AMD CHICKASAW CITIZ BMSEIP COURT, SITTING AV SOUTH MCATESTRR, IN THE INDIAN TGRRITORX.
J.w. Sparks, et. al.,....Plaintirfs, V .

The Chickasaw Nation, ... De Pendant.
------000-0---
PETITION TO THE CHOCTAW AND CHICKASAW CITIZENSHIP COURT REQUESTING TH AT A WRIT OT ERROR BE ISSUED TO THE UNITED STATES COURT BOR THE SOUTHERN DISTRICT OT THE INDIAN TeRRITORY, REQUIKIMG SAID COURT TO TRANSFER AND CERT WY TO THE SAID CHOCTAW AMD CHICKASAW CITIZENSHIP COURT THE RILES, PAPERS AND PROCEEDINGS IN CITIZENSHIP CASE 270. 37 AND STYLED J.W. SPARKS, RI. AI., VS. THE CHI CKASAW IT ASTON.
------000-----
Now come the petitioners, J.W. and Synthia Sparks, and respectrialy show to the court that price to the 10 th day of September, A.D. 1896, and within the time presscribed by the act of Congress approved June 10 th, 2896 , conferring jurisdiction of citizenship cases upon the Commission to the Five Civilized Tribes, the petitioners herein filed their application with the $s$ aid commission to the Five Civilized Tribes for citizenship and membership in the Chickasaw tribe of Indians; that in due course of time said Commission hear said application, and admitted said applicants herein to citizenship to the sad Chickasaw Nation or tribe of Indians; that the reafterwards the said Chickasaw Nation or tribe of Indians appealed from the decision of the Commission to the Five Civilized Tribes, to the United States court for the Souther District of the Indian Territory, at Ardmore,

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 Colbert, withat resam or cause thareror, swearsed tha



 have contindealy pesided in the chicliasat Hation; was now reaida thorwit.

Thas in sedt ion to thete Ceets, widel were duay proved botore the aaid comisaicm te the Five civilised


Sta tes Court for the Southern District of the Indian Territ ory, the said Chickasaw Nation If ed an answer in said causs, a part of which is in words and ilguxes as foldows, townit:

> said J.W. Sparks was married to Mrs. Sarah Colbert, an Indian by blood, es alleged in the applieation, and that Synthia Sparks is a child of said anion, and that the said Synthia Sparks is a member of tha said trib of Indians by biood. Bat it denies that the said J. Wp. Sparis is e member of the Chickasam tribe of Indians by intermarriage, for the res son that he, after his marriage with the said Mrs. Sareh colbert, was divorced irom her, and by reason of the said divorce he forieited all rights he had as m member of the Chickasaw tribe of Indi ans by intemarriage."

Petitioners further show that by its judgment rendered on the 27 th day of December, 1902, in the case of the Choctaw end Chickasew Nation or Iribe of Indians, vs. J. T. Riddle, et al, this court adjudged and dacreed a17. Jadgents and decisions of the United States Courts in the Choctaw and Chickasaw Mations admitting persons to citizenship end enrollment as citizons of said Mabions upon appaal from the commission to the Five civilized Fribes To/ the citizenship comeittees of said tribes to be nall and void both as to the defendents named in said cause, and a. 11 other persons claining citizenship in the Choctaw and Chickasaw Nations by virtue of the judanents rendered In the United States Court for the AScuthern and Central Districts of the Indian Torritory under act of June Ioth, 2896.

Xour petitioners state that they were not parties
to said case of the Choctaw md Chickasaw Nations vs. J.T.Riddle, et. al., and are 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 judgent of the United States Court for the Southern District of the Indian Territory,
admitting them to eitizenship in the Chickasaw Nation, and that seid jadgent of the United states court for the Southern District of the Indian Territary is still in full force and effect.

But your petitioners further state that should this courr hold that they are bound by the judgent rondered In the said case of the Choetaw and Chi ckasaw Nations or Trides of Indians, Vs. J. T. Riddle, et. al., and thet the judgrent rendered by the United states Court for the Southerm District of the Indian Territory admitting them to citizenship in the Chickasaw tribe of Indians is null and void and of no effect whatever, then the effect of said decision would be only to annull and vacate the judgment rendered by the United 3 tatas court for the southern District of the Indian Territory, and would leave in full force and effect the original judgnent of the commi ssion to the Five Civilized Pribes admitting these petitioneŕs to citizenship in the said Chickasam Tribe of Indians. Your petitioners therefors state that they insist that this co urt has no jurisdiction whatever, and the authori bify is not conferred upon them under the provisions of sections 31 and 32 of the act of Congress entitled "aN ACT TO RATIEX AND CONTI RE AND AGREIGYISNT WITY THE CHOCTAW AND CHICKASAW TRIBHS OF IMDIANS, AWD TOR OIHER PURPOSTSS, " to pass upon, or in any way interiere with any judgent rendered by the said comeission to the Pive Civilized tribes. And that the decision of this court annulling and vacating the judgnonts of the United states Courts in and for the Southern and Central Districts of the Indian Territory which had be en appealed by the said Nations Iran the judgments rendered by the said comeission to the pive Civilized Tribes admitting applicants to eitizenship, has the effect of leaving said favorable judgnonts by the said





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 the rajn。
Y. Mo. Spanks, at al, CIt C. Nations.

Pelition for appeal.

IN THR CHOCA W AND CHE KASAW CITIZBNSHIP COURT, SITTIVG AT TISHOMINGO, MAY TERM, 1904.
J. W. Sparks, et al,

7s. No. 40 .
Choctaw and Chickasaw Nations, Blanton and Thompson, Attorneys for Plaintiffs. Mansfield, MoMurray \& Cornish, for aDefendants.

Present and presiding the Honorable Henry S. Poote, Assoc iate Judge.

MAY 27, 1904. This day this cause coming on to be heard, both plaintiffs and defend ants being represented by Counsel, the following proceedings were hed, to-wit:

Mr. Blanton:
If the court please Mr. Blanton and myself are in number forty. Some of our witnesses have not got in yet, I was just down to see the ofd man himself, the principal applicent in the case, he is hardly able to walk, and we will be ready after dinner:

JUDGE FOOTE:
You can hear it this morning. I am not going to wait. I don't think you can fix the time when the case will be heard without the permssion of the Court.

Mr . Blanton:
I conferred with Mr. Thompson about it.
JUDGR POOTE:
Where is he.
Mr. Blanton:
He has a case bef ore the Commission.
JUDGE POOTE:
I am not going to postpone my business for the business of the Commission.

Mr. Blanton:

Yes sir.
JUDGE FOOTE:
Have you any witnesses apc that are here now.
Mr, Blanton:
Yes sir.
JUDGR FOOTR:
Bring them uphere.
Mr. BI anton:
I saw my client and they were gettinga hack to bring $h i m$ around here when I left there.

JUDGE TOOTE:
Is it an intermarried case.
Mr. Blanton:
One applicant by bloa.
JUDGE FOOTE:
I have got to go take testimony at Sulphur tomorrow, and while it would be good excuse if your client was not here, the idea of coming in here and saying that the Clerks at the Dawes Commission are trying a $c$ ase and that you will try this case at two oiclock.

Mr. Blanton:
I advised the Court that Mr. Thompson, my assdciate counsel was up there this moming.

JUDGE FOOTR:
How did Mr. Thompson kroxx have any right to suppose that this court would not take anything up until after noon. This Court has been ry patieint and kind, and the idea of coming in here and telling me that the case would be heardtx at two o'c lock.

Mr. Blanton:
I told the court I supposed the case would be taken up

## this afternoon.

JUDGE FOOTE:
You should have made your application in due form.
I propose to postpone my cases for the Clerks of the Dawes Commission. We $h a v e$ the jurisdiction of a circuit Court of the United States. I have got to go off this afternoon for Ravia and then to Sulphur and then to Hickory this afternoon, and you see what an inconvenience it puts $t$ he court to.

JUDGE FOOTR:
We will take a recess until a quarter after eleven. resumed sitting at eleven fifteen. J. W. SPARKS, being c alled as a witness
in his m behalf, after being duly sworn, testified as follows: DIRECT FXXMINATION.

Mr. Blanton:
Q. - State your n ame Mr. Sparks and your age and where you 117e?
A. --Name is J. W. Sparks, my age is sixty-seven the 12 th $d$ ay of January.
Q. - Where do you live?
A. --Ada, Chickasav Nation.
Q. - -Mr. Sparkn, you made application, did you make an application to the Dawes Commission in 1896 for enrollment as an intermarried citizen of the Chickasaw Nation, while they were at Muskogee?
A.--Yes sir.
Q. --Are you the J. W. Sarks mentioned in this petition here, you are the J. Wparks that is complainant are you. Are you the J. W. Sariss mentioned in this petition here?
A. - -Yes sir.
Q.--There is another party, Cynthia Sparks, what relation is
she to yoursolf?
A. $--M y$ daughter.
Q. --When were you married thex to this party through whom you claim your citizenship, and whose name was Sarah Colbert?
$A_{0}$--Year of eighty.
Q. - You know where your original license are that you were married byp
A. - No sir, I don't know I ve them to the judge.
Q. - - What judge did you give them to?
A. - -Bamett.
Q. - Who was he?
A. - -Lawyer at Paul's Valley.
Q. - What has becone of Mr. Bamett:
A. - -He is dead, died four years ago.
Q.--Have you any knowledge now of where your original
license are?
A. - No sir, I haven dt
Q.--Will ask you if you rembe $r$ who married you?
A. - -Yes sir.
Q. - Who was it?
A. - -John E. Anders on, $1 i$ ved here in town.
Q. - What kind of a license did you procure for the ceremony?
A. - Regul ar Chickasav 1icense.
Q.--Who is John E. Anderson? Was he the judge that performed the ceremony?
A.--Yes sir.

Mr. Blanton:

* Want to introduce a certificate of the marriage. Marked Exhibit "A"。
Q. --You were married in Tishomingof
A.--Yes sir, at the Judges house.
Q.--Was there anyone present?
A. -FV s sir.
Q. - Who was it?
A.--Thomas Flatcher.
Q. - Wh at particular place did you procure your original 1icense?
A. - Here in Tishomingo, Mr. Judge Anderson went and got the $m$.

Mr. Comish:
We object to any further oral evidence with reference to the marriege license. If the original was in existence, that would be the best evidence. if the original is not
in existence, then acertified copy, and if the recor $d$ are destroyed, then sec ondary evidence would be admissible.

JUDGE FOOTR:
Objections sustained.
You will simply have to intro
duce the original and if you prove that it waslost you will have to show that you applied for a certified copy. Mr. Bl anton:

I have been trying to see the National Recorder this morning.

Mr. Cornish:
You won't ind it in his custody.. That was brought out in the trial of a case the other day. The clerk of the county is Mr. Harris, who Lives about Mill Creek, the National Recorder's off ice was just crested a year ago.

JUDGE FOOTE:
You will h ave to h ave that in order to complete your

## Mr. Blanton.

If I am not able to produce a certified copy, then this would be admissible, if I had subpoenaed that man to show that suche record is not in existence now. This would only be admissible after that proof has been made. JWGR FOOTE:

What do you want to do about that.
Mr. Blanton:
Imight ask these questions with the understanding that it be strocken out if there is any proof offered showing that such a record is in existence.

JUDGR FOOTR:
No use to encumber the record with that. You will have time within which to get it.

Mr. Blanton:
Yes sir.
JUDGT FOOTE:
I guess the first thing is to show that the woman through whom he claims citizenship was a Chickasaw Indian. Mr. Blanton:

I thoughthe best proof of that fact is that she is on the roll, and I could get a certificate to that effect. I wrote the commissin ten days ago for such certificates, but have not received any reply from them. JUDGE FOOTE:

You can't proceed any further this morning, what do you propose to do. When do you propose to find out whether you can procure that swodidacades certified copy of the marriage license and the certificate of his wife's enrollment.

Mr. Blanton:
I ought to have a reply from the commiss ion at this
time.
JUDGR FOOTR:
Have you anything to offer.
Mr. Comish:
No sir. In these intermarried cases, the Nations are
not in the habit of insisting upon harsh rules, ordinaryily we should ins ist that the case be closed, but I see no
reason why a reasonable time should not be set down in
June, at winch time the case may be closed
JUDGE FOOTR:
You understand what you have to do. You have to have that proof.
Mr. Blanton:

> Yes sir.

JUDGR FOOTR:
What time will suit you。
Mr. Comish:
Any tine, not later than the loth of June.
JUDGR FOOTE:
This case wi li be set for the 7th of June, anf you wil produce the other sidence then.
Mr. Blaton:
I hed a itness, not subpoenaed, he promised to come, and he has not shown up.
JUGGE POOTR:
You br ing him here then.
Mr. Comish:
You expect your client to be back here.
Mr. Blanton:
I wish to show this, he is old and feeble and may not be able to ome back here, wish toshow about a seperation,

I understand there will be some contention about these matters.
Q. - Mr. Sparks, how long did you and this woman Sarah eolbert Iive together as husband and wife?
A. - - Eight months.
Q.--Is Cynthia Sparks the daughter of this woman Sarah Sparks and yourself?
A. - -Yes si $x$.
Q. - What was done at the expiration of this eight months, of which you speak, did you live together any after then?
A. - -No sir.
Q. - What was done then?
A. -- I furmished her money.
Q.-What did she do or what did you do at the e piration of that time.
A.--There was some parties came and tried to getbher away, and did so.
0.-Where did she go?
A. - To her brother-in-law's.
Q. - What did you do with reference to a divoree if anything?
A. --Two years after I come and applied for a divorce.

Mr. Blenton:
We will offer the record themselves.
Q. - -You are the one that procurad the divorce?
A. - Yes sir.

JUDGE FOOTF:
What were the grounds that you procured the divores on? A. - She dinnt appear Iike she wanted to come back, or
didn't want to keep house any more, and I thought we $h$ ad better have a dicorce.
Q.--Get a divorce on the ground of her abandoning you? A."-Tos sir.

Mr. Blanton:
Did she quit you and wouli not come bakk, did she actualIy leave you and would not returm?
A. --Ves sir, she did

GROSS- HE AMIN AT ION.
Mr. Cornish:
Q. - What kin folks did this woman have, wjat brothers and sisters did this woman have?
A. --One to my knowledge.
Q. - -What was this brother nsmed?
A.-"Gl od Blevins.
Q.--Is he living nowK
$A_{4}=-$ NO $s i r$.
Q. - What was her sisters nome?
A.--I don't know anything about he $r$.
Q. - Where was she Living when you married her?
A. $-\cdots$ With her brother in 1 aw.
Q. - Where in the Nation?
A. - Up here beyond Gow mor Harris:
Q. .- How long did you know her before you marrie a her?
A. - Known her about, I guess ten months.
Q.--Had she been married before she married you?
A. - -Yas sir.
Q.--Had she been married more than once?
A. - No sir.
Q. - - Who was her former husband?
A. --Jackson Colbert.
O. $-\cdots$ His name was Jackson?
A.--Yes sir.
Q. - Know thet he was dead?
A.--Yessir.

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Q.--How long before you marriage was it that he died?
A. - - Indeed I can't tell you, several years.
Q. - You had a personal knowledge of his death did you?
A.--Yes sir, there when he vas buried, used to be Governor
    here.
Q. - What was the maiden neme of this woman?
A. - -Her nsme was Blevins.
Q:-- What was her first nama?
A. - - Sarah.
Q.--Sarah Baevins?
A.--Yes sir.
Q. - -Did you know her mother?
A. \(=\)-ITO six.
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\(\Lambda_{0}--I\) sae \(h i m\), not much acquainted \(w\) ith \(h i m\).
Q.--You has one ch 11d. by har?
A.--Tes sir.
Q...-Is she enrolled?
A. - -Ves sir.
Q.--Has your child been recognized as a citizen of the
    Chickasav Notion?
```

Mr. Blanton:
I object to the questions, because it calls for a conclusion of the witness.

JUDGE FOOTE:
It is to your adventage.
Mr. Blanton:
He esked if she had boen recognized, koxaryxox I don't understand that any individual had any power to recognize her.

Mr. Comish:
We should oppose the motion of the applicant to rule
it out. We are simply endeavoring to get at the facts. By recognituon I did not mean the recognition of one member by enother member, I was asking this man if she was recognized in the legal sense, and if she is now recognized.

JUDGE TOOTR:
Fe is helping you.
Mr. Blanton:
We do not object as to facts, but as to the conclusionsJUDGE FOOTR:
I will rule it out.

Mr. Blanton:
I think that the objection is wall taken.
JUDGE FOOTE:
It is to your advantage.
Mr. Cormish:
Q. - Where were you living in 1893 ?
A. - -Paul's valley.
Q. - -Did this child 1 ive with you at that time?
A. $\rightarrow$ No sir.
Q. --Where did sha 1 Ive?
A. - -With her mother.
Q. - -After theseperation, the child Iived with its mother?
A. $=-\mathrm{Yes}$ sir.
Q. --Did this child draw the Leased District money in $1893^{\circ}$
A. - -I can't tel. you.
Q. - When did her mother die?
A.--mour years ago.
Q. - Did her mother remarry?
A. - I think she did.
Q. - Who did she marry?
A. - Man named Hughes.
Q. - Where $d i d$ she live after her remarriage?
A.--At Ardwore, wherr she died.
Q. - If this wrom that you married was a citizen, there are pleanty of people that know it, what prominent citizens of the Chicicasaw Nations that ar e living at this time that know of the citizenship of your wife; who is it that knows absolutely that your wife was a r cognized citizen, give us the names of three or four people that know it, you lived around Ad ?
A. - --Yes sir.
Q.--You know Tandy Walleor?
$A_{0}-$ I x used to know him.
Q.--Do you know Humphries Colbert? You know C. A. Burris, don't you?
A. $-\mathbb{N O}_{0}$ sir, I don't.
Q. - -You know Gove rnor Byrd, don't you?
A. - -No sir, not acquainted with $h$ im.

Mr. Comish:
I insigt that the citizenship of the woman be establined by competent evidence. There is a very serious doubt in my mind that the women wasa recognized citizen at ail.

## JUDGE FOOTE:

Q.-What color was your wif?
A.--Very dark complected, she showed like she was a half breed.
Q. - Halforeed what? What nationality did she look liek?
A.--Always clainoed to me she was a Chickasaw.
Q. - What she said amounts to nothing.
Q.--Has that child of yours been enrolled by the Daves commission?
A.--I dont t know.

Mr. Comish:

The child has been in the suit fro the start.
The Court is aware and op osing counsel are aware that in these cases we endeavor to meet the issues fairly and xugexigex and frankly. The questions in this case are, was this woman an Indian of rocognized status, and the best evidence of that is record avidence. The sec ond requisite is was the law complied ซith, and third did the marriage relations continue without interupttion or abandonment, and if a seperation occured that it was Without the fault of the applicant. It is encumbent upon the applic int to establish these three issues. xwexdrxox If he establishes them, he is entitled to enrollment, and if he does not he is not entitled to enrollment. I have been endeavoring to get at the $f a c t s, b u t$ inasmuch ss the applicant declines to give any information

JUDGE TOOTR:
The man seems not to be strong either mentally or physically.

Mr. Comish:
I mantioned five or six prominentmen in Pontotoc county

## Mr. Blanton:

Q.--He asked you about people that Iived at Stonewaal, did you ever live in the Stonevall country with this wife?
$\mathrm{A},-\mathrm{NO}$ sirr.
Q. --What was your post offie?
A.--Mill Creek.
Q. - Know Governor Harcis?
A.--Yes sir, used to know the old man, after that I moved away.
Q. - Where did you move to?
A.--peul's Talley.
Q.--Lived out in the country there several miles?
A. --Yes sir.
Q. --Tell the Court how this woman looked with reperence to Ind ian blood?
A. --Well. she was very dark, looked I ike she was a half breed probably or more, she had dark eyes, very dark syes, and very dark hair, black hair, and dark complected, very dark complected.
Q.--Did you ever have anything to do with her folkd?
A. - No sir .
Q. --Did you liks close to her folks at any time?
A.--No closer than twelve miles.
Q. - -You stated while sgo that she $h$ ad a half brotherz, do you know whether she had full brothers or sisters or not?
A. - - I can't say.
Q. --Know how many times her father was married?
A.--Married three times, I believe, I have heard that. Mr. Comish:

How long ha ve you been living in the Chickasaw Nation? A.--Been living here ever since the year of eighty.
Q.--You have Iived in this counrty since 2880 , I will ask you this inal question, in order that the record may shom that the Nations are endaavoring to get at the facts, give the stenographer the nemasof three or four prominent persons, who are respectable and credible, who know about the facts of the citizenship of your wife, and know about the Iacts of your seperation from her, give us the names of three or four prminent and respectable persons?
A. - -TKnow Dr. Gillura.
Q. - Where does he Iive?
A. - -This side of Berywn.
Q. - -Citizen?
A. - -Yes sir.

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A. --Intermarried citize?
A. --Yes sir.
Q.--Dr. Tohn O. Gillum?
A.--ves sir. Mrs.Susan Brushing.
Q.---Tive near you when you seperated?
A.--Yas sir.
Q.--Know of the facts && the seperatiom?
A. - NO sir.
Q.--Who elge?
A. --That is a.ll I know i now that know the facts.
Q.--Does he know who this Foman was kin to?
A. --Yes sir.
```

Mr. Comish:
3yy advice would be that you have him hare.
Mr. Blanton:
Q. --You sent after him, didn't you?
A. - - Yes sir.
Q. - -You sent after a Mr. Meeks that is supposed to know it didn't you?
A. - -NO sir.

Mr. Comish:
You had better bring them here. You can get them here by procems of this court. I an anxious to get at the facts in the case. At this time, I am not at all certain this this woman was an Indisn.

JUDGE POOTR:
You are liberty to apply to the court for a subpoena.
Mr. Blanton:
I will ask for a subpoena and in the meantime I will get a certificate

Witness
I was acuqinted with Mr. Oarter.

## Mr. Comish:

C.--Judge B. W. Carter?
A.--Yes sir. He is dead.
Q. - Minis Judge And srgon, who was he?
A. --Lived her when $I$ was married?
Q.--Here in Tishomingo?
A. - -Yos sir. Judge of Tishomingo County.
Q. $=-$ He dead?
A. - -Yes sir, ha is de ad too.
Q. - - Know whore he lived in the town of Tishomingo, you got the $11 . c$ ense from $h i m$ ?
A. - Yes sir.
Q. - Pay any money?
A.--Yes sir'
Q. - How much? What is your best rec oll tion about?
A. - I think it was about the time the license went up.
Q.--How much money did you pay this Judge, what is your
baxt recollection about it?
A.--Been so Ion, I never thought of it afterva ds, I gave ton or fiften dollars.
Q. - Por the Iicense and performing the ceremony?
A.--Yes sir.
Q.omThat vas in 1880 ?
A. - - Yes sir.
Q.--Where did he Iive, you are Ianiliar with the town of Tishom mingo, you know where the Capitol was at that time and Whers Ben Kemp Iivod, Judige Kerp?
A. - I can't tell you.
Q.--You knov where Ben Kemp Lired, Judge Kemp, know whe re the old jail used to be?
A. --Yes sir, go that way and laave it to the right, been so long, and I haven't been here but twice.
Q.--Do you know what a marrisge license is, you sewthat paper this morning, is that a marriage liense, that your marriage license?
A. - No sir, I guess not, I dont know.
Q.--You read the marrege license over, x how did it read, whe $t$ did it contain?
A. - I can't tell you just how that read. I seen his name to it and old mr. Carter.
Q.--What Carter:
A. - - Recorder, signed his name to the certific ats.
Q. - Who signed his name to the cortific ate?
A. - -Mr. Carter.
Q.--What Cartore
A. - Ben carter, Judge Carter, he was necorder at that time on Mill Croek.
Q.--He theman that recordear your marriage license?

A,--Yes sir. Judge of the Court afterwards.
Q.--How long after your marriage was it that it was recorded"
A. - I don't recollect, it wasen't a graat while.
Q.--Get anybody to recomend you for a zarriage license?
A. --Ves sir.
Q.--Who signed your petition?
A. --Dr. Gillum?
Q.--Who else?
A. - Tastman James.
Q.--सe living?
A. - - No sir.
Q.--Who else besides Kastman James?
A. $=-\mathrm{wh}$ ite men, I din't recolle ct.
Q.--others whits men, non-citizers?
A.--Yes sir
Q.--Did you ever marry bsione?
A.--Yes sir.
Q.- Where did you marry and who did you marry before?
A. - Married in Indiana.
Q.--In what year?
A. - - About fif ty-Bight.
Q.--Who did you ma rry?
A.--Iady namad Gardner.
Q. - -What bec ane of her?
$A_{0}$--Died with consumption.
Q. - Tive with her until she died?
A. - - Yes sir.
Q.--TV or married agein bafore you married here?
$\mathrm{A}_{\mathrm{a}}-\boldsymbol{- N o}$ sir.
Q. - Married since the death of this wife you married in this country?
A. - -No sir.
Q.,- In whe $t$ year did this child of yours come back to you?
A. - After hermer died, I thinic it was was years ago this

Spring.
Q.-- The child is living with you now?
A. - - No sir, married.
2. - What is her name now?
A.--Sparks, maried aman named Sparics.
Q. --Any relation of yours?
A. - No sir.
Q.-WNW Mr, Sperks, what kin folks if any has your daughter living in this country, has she ablood relative in this Nation sofar as you know
A. - I donet know.
Q. - - ${ }^{7 n}$ e.t daughter is living now?
A. - -Yes sir.
Q.--HOW old is she?
A. - Bom January 12, 1882.
Q.-NOw you don't know of a single blood relative that she has in the Chickasew Nation?
A. $\cdots$ - 10 sir.
Q. - Among the Indin people?
A. $\rightarrow$ NO $s$ ir, never boen down there.
Q. - This ifest husband of her, colbert, who was he kin to, he was an Indian?
A. - -Yes sir.
Q.--What Colbert ifamy did he belong to, old man, Colbert, Governor colbert, Winchester colbert?
A.--Ies sjir.
Q. - -He was related to Hunphrias Colbert?
A. - Yes sir.
Q. - -This Lirst husb and of your wife was related to Humphries Colbert?
A.,-I think so.
Q. - Finow Georga Colbert that iives up there that is Attomey Goneral of the Nation now?
A. - ${ }^{-N O}$ Six.

JUDGE FOOTR:
Q. - How old is your iaughter now.

Mr. Cormish:

> He responded to enty some odd.

JUDGR POOTE:
Q. - -Know whether she knows anything about he relatives?
A. - I dont lonow whe ther she does or not.
Q.--Ever live with any of then?
A. - -I, ived with her mother untif she died about four or fire
years ago, and then she $c$ ame to me five yoars geo this Spring.

Mr. Blanton:
Q.--Your wifa, remarried a man named Hughes?

A,--Yes sir.
Witness axcused.

WIETCHER, being called as a witness on behalf of plaintiffs, after being duly sworn test if ied as follows:

DIREGT EXAMINATION.
Mr. Blanton:
Q. - What is your name?
A. - Finatcher.
Q.--There do you live?
A.--Tive up near Berwyn.
Q.--know IT. J. W. Sparks?
A. - -Tes sir.
Q.--Know a woman that he maied named Sarah colbert?
$A^{\prime}$--Yes sir.
Q. - We re you present when thoy were married?
A. - -Yes sir.
Q.--State to the Court where it was and what occurred and where ho got the license?
A. --Got the license at Tishomingo. He wes married here at Tishomingo, and I disromember the mans nane he got the license from.
Q.-Who married $h$ in?
A.--John Anderson.
Q.--Rernember when that was?
A. - I won't be positive, eighty or eightymone, I won't be positive.
Q. - - you were present at the time?
A. - -Ves sir.
Q.-- Live up there in the community in which they Iired?

A, --Yes 3 ir.
Q.--Do you know what kind of a license they got?
A. - No sir, I don't know.
Q. --I mean by that, you know wether they got that from the United states authorities or the Indian authorities?
A. - - Indian authorities.
Q. - KKnow this woman syoconxix Serah Colbert, see her about that time?
A. - -Tes sir.
Q. - - Desribe her appearace to the court?
A. - Well sha was dark complected wonan, very daric, that is she was dark compleotad. Dark black hair, strajeht.
Q. - What $d i d$ she look like, what race of ment?
A. $-\cdots$ course she showed. Indian blood considerable.
Q. - What part of Indian blod dil she possession in your opionion?
A.--There is difforent shades.
Q. --Judging irom your experience in that Ine?
A. - I can't get that dow. She sowed considerable Indian blood, beceuse there is Iull bloods a good deal lighter than others, and half breeds bebrothers and one will be 1i ht and the other dark.
Q. --Are you acquainted around Tishomingo?
A. $-\boldsymbol{N}$ No sir.
Q.--Tnow any of the Ohickasaw recognized citizen $\mathrm{B}^{\text {? }}$
A. - No sir.
Q. - Know Dicle Motish at Ardmore?
A. - NO sir.
Q. - Know Charley Carter at Ardmore?
A.--Yes six.
Q.--Was she as daric as Cha rlay Carter?
A. - - Yes sir.
Q.--Any darker?
A. - - Yes sir.
Q.--That prominent indian do you know up your way?

As,-Wrel she was something near as dark as John Thomas.
Q. $-\cdots$ He a prominent Indian.
A. - -Yes sir.
Q. --How Long have you live d in the Chicksaw Nation?
$A_{0}=-$ Deen $I \dot{\text { Ding }}$ here ever since the $f$ all of sixty-five?
CROS $S \rightarrow$ ERXAMINATION.
Mr. Cornish:
Q.--Are $\bar{y}$ u an applicant for citizenship of any kind?
A. $=-7 \pi 0$ si. $r$ 。
Q. - White man?
A. - -Tes six.
Q. - - How long did you know this wamen beiore Irr. Sparks married her?
A.--Known her for several years.
Q.--Before that time?
A. - - Yas sir.
Q.--You had Iived in the sane neighborhood with her?
A.--Yes Sit.
Q.- What kin folks did she have?
A. - I I donst know any but the Blevins.
Q. - What Blevins were they?
A.--Geese Blevins was her fether.
Q.--Living now?

Q. - Whers doas ha live?
A. - - On Blue, betwe on Pennim ton and Blue.
Q. - Indian or $x$ whit man*

A, - -White man, I suppose.
Q.--Was he an intermarried citizen?
A. - -His wife was just like his daughter, she hadcconsiderable Indian blood,
Q. - -His wife was a citizen you say?
A.--Wever claimed any citizenship here, I don't Jenow that. Mr. Blanton:

Are you villing for a statement to go in as to a disposition to claim citizenship.

Mr. Comish:
It would cerarly be competent as brought out on cross axamination, it would not be competent to substantiate a eletra.

Mr. BIanton:
I donpt thinis it should be permitted to go in the record.

JUDGE FOOTE:
Wasen't it hearsay.
Mr. Comish:
It is a declaration against interest.
JUDGE FOOTE:
If thay didn't clatm it of course it mould be competent as ag ainst interest.

Mr. Comish:
That is the point.
JUDGR FOOTE:
Then it would be competant,
Mr, Cornish:
Q.--They didn't ciaim oitizenship hare?

A, - Not that I know of. If they did I never heard of it.

Q．－－you had know then for saveral years？
A．－－Yes sir．
Q．－Where did thay cone from into this country？
A．－－arayson County．
Q．－－Prinat Sta te？
A．- －Toxas．
Q．－TKnow them in Grayson County？
A．－－Yes sir．
Q．－－Was the nother of this women living at that time？
A．‥V郎 sir．
Q．－－How long had you known then in Grayson County，vexas？
A - Up to the time they come over here in the fall of sixty－ ざざ＊。

Q．－－You had known them prior to that time？
A．－－Right along then，they come over．
Q．－－How long had you known then down there？
A．－－Short while．
Q．－－What were they doing dow there？
A，－－Come in there during the war．
Q．－Where did they come irom？
A．－－Territory somewhere。
Q．－－What did they do in Grayson County？
A．－－rade a crop．
Q．－－Whoseplace did they live on？
A．－－Public 1 and．
Q．－－Took up public land
A．－－Yes sir，just settled on 1 and there．
Q．－－Any personal knowledge of where they came from into Grayson County？

A．- －${ }^{\text {No }}$ sir．
Q．－－Q．－－The first time you knew them the $y$ were living in

Grays on County on public 1 end?
A.--Mo sir. Tho first I ever lenew them they were moving.
Q.-Whare?
A. - In Taxas, moving up into Grayson County.
Q. --Bean a 1ittla fuxthar domn in Texas?
A. - Yes sir.
Q.--Coming from the South into Grayson County?
A. --Yes sir.
Q. - Know wineris they had been?
A. $-\mathrm{NO}_{\mathrm{No}}$ sir.
Q. - -Know how long they had been the re?
$A .=-170$ s $\pm x$.
Q. - - Mo knowledge of them previous to the time you suw them moving from the South into Grsyson county?
A. $\rightarrow$ - $\sin$.
Q.--You say tham in the is te sixties, just ofter the war?
$A_{,}-\cdots$ Yes sir. J st sfter the war.
Q. - -Where did they 1ive after that tine ?
A. - - Mroved in here.
Q...-Did you know them from the thme they moved in hore in the

Late sixties up until the present time?
A. --Tes sir.
Q. - -Mroved around from place to place?
A.--Tes sir.
Q. - Whose places have they Ifved on, so far as you know?
A. $=-W 011$ thay lived on place called the Norton farm.
Q. - Who owned that?
A. - Belonged to the heirs of Mrs. Mexish?
Q. - - The Mctish8 were Chdckasaws and this family IIvedon the ir place?
A.--Yes sir, and then they went on this Mrs. Sparies place.

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Q.---She ba d. narried a man named Colbert, who was a Chickasaw?
A.--Yes sir.
Q.--And lived on the placo which he had ovmed?
A.--Yes gir.
Q.--How long did they lime on that place?
A.--I don't remember ham many years.
Q.--Where did they go then?
A. --Up on Blue where they live now.
Q.--Is the mother of this woman living ner?
A.--No sir.
Q.--I mean the wife of Blevins, is Blevins wife living now?
A.--Not the mother of this womm.
Q.--I an x speaking about the mother of the woman that
        Sparks married?
A. -- She is dead.
Q.--When did sho die?
A.--Mrust wocex have beon dead some twenty-eight or twentym
        nine years..
Q.--Did you live about Sparks when they seperated, Iived
    near tham when theys eperated?
A.--y.ss sir.
Q.--Have any personal knowladge of the facts of the
    sorgocx seperation?
A. --No हi.r.
                                    witness excus*d.
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JUDGR FOOTR:
We will hear the rast of the testimony on the 7th of June.

Mr. Comish:
These facts develop a condition which is clear to our mind that thase poopla are not citizans of the Chickasaw

Nation, and it will be impossible to establish to the Court thatsho was acitizen of the Chickassw Nation, our view being as he retof ore stated the first issue is was the woman, the whom the right to enrollmont as a oitizen by intor arriage of the Chootaw or Chickasew Jfations, a citizon of the Choctav or Chiclussm Nations and duly enrolled as such. I don't wndarstand that the court Would have the right to inquire primarily into the richt of the persom through whom $x$ the citizenship is claimed, and if it devaloped that theyw ere Chickasws to admit the parsons for the purpose basis of citizensh ip by intermerriage at this time. The condition developed here is conclusive to our minds that tho woman was not a citizen of the Chlokasav Wation, and so far as further proof in this case is concemed, we will terteckexx insist on the strictm est evidenc*。

TN THIS CHOCTAI AND CHICEASAW CITIZKISHIP COURT, SITMITG AT TISHOMTVGO, JUNE THKM, 1204.
J. W. Sparks, ot al,
vs. $\mathbb{K O} .40$.
Choctav and Chickasaw Nations.
Blanton \& Androws, Attormeys for plaintipfs. Hansitield, Molfurray \& Comish, for Defendants present and pregiding the Honorable Henry S, poote, Assom ciate Judge.

JThF: 7, 2904. This day this cause coming on to be heard, both plaintiffs and defandants being represented by counsel, and both having announced ready for trial, the following proceedings were had, to-wit:

Mr. Rennie:
I am appearing $s$ imply for these lawyers.
JUDGR FOOTE:
Are you ready.
Mr* Rennie:
I wish to present in bela lf of these attorneys a certificate erom the Chairman of the Daves Comission as to the citizenship of Sarah Hughes, It is a certificate to the efrect that she appears on page one tatcrotuentox hund red and
thirty-six of the Least District Pay Rol. of the Chickasaw Nation, opposite number eighteen on said pase, and wish to state to the court as these attorneys requestad me to do, that they have made a search of the records of the County clerk to get oerticicates to introduce in this matter, and they lave not been able to get the certificates on account of not finding the clerk, and they want it to go until the 20th.


#### Abstract

With reference to this certifice to of the Dewas Comnisse ion, the Court is ware that our position is that that a certificste from the Commission to the Dive Civilized Tribes of the citizenship status of some person is not binding upon this court, and in this case in referring to this certificate I wish to stata that the Choctaw and Chickesam Nations deny tias this pargon is a citizen of the Choctaw or Chickasaw Nations, and ask that this certificate be not considered as conclusive and binding upon this court. We object purther for the reas on that it has not been shown by onpetont evidence that the person to whom the applic mit was originally married is the peson wo is mentioned in the oer tificate. Our view is that this woman is not a citizen and not in a position to confer citizes hip upon this man. Our View is that since this certificate is not binding upon the court it is necessayy to show first that this woman was a Chickasaw Indian by blood, and secondly that she was such a Chickasaw Indian by blood as is entitled to enrollment and distribution of the tribal property.


JUDGB FOOTR:
You have not filad a written motion for a continunce. Mr. Cornish:

What is it you want to offer in uddition to that. Mr. Rennie:

My understending isthat it is a cartified copy of the marriage isemse.

JUDGR TOOTE:
Number forty, evidently set for today for further hear
ing. Case is closed except for dooumentary evidence.
Mr. Rennie:
They wish now to ask the court for a surther postponement
that they may have further tine to procure that dooumentary evidence that up to this tine they heve notbeen able to obte in.

## JUDGE FOOXE:

Closed except for that docunontary evidence, and if thay do not have it by the time the oourt reaches it, we will is) $g 0$ on with out it.

# In the Choctow and Chickasow Citizenshio Court, 

 Sitting a, Tishomingo, Ind. Ter, June 24, 1904.J.W. Sparks, et al,
--V5--
No. 40 .
The Choctaw and Caickasav Nations.

June 24, 1904; This day this cause coming o in to be heard before the Hons. Spencer B. Adans, Chief Judge, and Walter L. eqver and Henry S. Foote, Associate Judges of said Court, the Defen ants being represented by their Counsel, the following proceodings were had to-wit;

Mr. Cornish;
We subrit the case with the exception that we will wish to file some documentary evidence with the next few drys.

In the Choctem and Chickasav Citizenship Court, Sitting at Iishomingo, I.T.. June 30, 1904.

> J.W.Sparks, et al,
--VSO- No. 40.
The Choctav and Chickasaw Nations;

June 30, 1904; This day this chuse coming on to be heard before the Hons. Spencer B. Adams, Walter ti. Weaver and Henry S. Foote, Judges of said Court, the Defendants being represented by their Counsel, Mansfield, Meliurray \& Cornish, the following proceedings were had to-wit;

Mr. Cornish;
This case was closed, with the exception that the Nations were given permission to introduce some documentary evidence. I have a certified cooy of the evidence of the woman, through whom this apolicant claims by intermarriage.

This applicant, J.W.Sparks, claims throuph a moman named Sarah Hughes, and he has offered a certificate showing her name to have been on the "Leased District" Rolls of 1893; we now have a certified cony of her evidence before the dommission to the Five Civilized Tribes, in support of her apnlication for enrollment. Ex. "AA".

IN THE CHOCTAW AND CHICKASAW CITIZENSHIP COURT, SITTING AT

> TISHOM INGO, IN THR IND IAN TERRTMORY, NOVKMBTR TRIM, 1904.
J. W. Sparks, et al.,


Choctaw and Chickasaw Nations.

DRCRTR OT COURT.

On this the 28th day of November, 1904, this cause coming on for final decision, the same having heretofore been submitted upon the 1 aw and the evidence, and the court being well and sufficiently dised in the premises, doth find that the plaintifes, J. W. Sparks and Synthia Spariks or Cynthia Sparks, note notitled to be deemed or declared citizens of the Chickasaw Nation, or to enrollment as such, or to any rishts whatever flowing therefrom.

IT IS THERERPORS ORDERKI, ADJUDGRD AND DERRRKD that the petition of the plaintiffs, J. W. Sparks and Synthia Spariss or Cynthia Sparks, be denied, and that they be declared not citizens of the Chickasaw Wation, and not entitled to enrollment as such citizens, end not entitled to any rights whatever flowing therefrom.

Chief Judge.

Assoc iate Judge.

Assoc late Judge.

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vo ChieiCesas $\underbrace{\sqrt{2}}_{\text {No.31. }}$ ation.
fruhter Dist. Caut .
Dawas Comniession.

IN THE CHOCIAN AND CHICKASAN CITIZEMEHIP COUR2, SITMING AT


30. 40.

## MWIORANDUM OF AROWMTMT FOR MATX ONE.

Applicant J. W. Sparke welk, by this procoeding, the onrollment of himself and dianghtor Symthia, en momerg of the Chiokeanw Hation, alleging thet he married with one
 his daxchtor, Synthe a , was the ramit of meid marriage.

Merry esaet trien becore this Court heve murpaegod.
 twion, but nome of them hmvo zese forndetion in fect.

Apylionmts underbooir to prova the Chicleasen blood of Sarnh Colbort. J. W. Eporics toetified that the had the eppanrance of an Indian and when premged sem to deteil. 3 of hor
 Q. mambor of the Conrt fott intutifioc in remanding frem the bench \#Tho man semas not to be strong ofther montomy or phyme cen.2y."

The only other whenee who togtiried oraliy was witnese Fhetcher, put on the stend by gpplicants, whe undern

IN THE CHOCTAW AND CHIGKASAN CITIZRNSHIP COURT, SITPING AT TESHOMINGO, I.T.


## Brief of Plaintiffs..

Since attorneys for the Nations are not oontent to sulbmit this case without a brief but have seen fit to file a brief herein, we desire to answer same.

Barring the pompous assertions of counsel for the Nations and the unjustified assaults upon the applioantsand their attorneys, we submit there is nothing serious in the brief.

Counsel for the Nations, by IMUMNDO, charge the applicant, J. W. Sparks with falsely swearine and oite the remark of Judce Foote while applicant was on the stand to confirm their conclusions. It is true that Judge Poote remarked from the bench: "The man seems not to be strong either mentally or physically", and we do not contend but that this remark was wholly justified by the facts, yet, we do contend that it is unbecoming in counsel to malign this witness beause Providence holds oven him the scourge ofits resentment because of broken laws of nature. The applicant, J. W. Sparks, is a physical wreok, broken down and disfigured by rhumatism and paralysis, and he was assisted by up the stairs and to the stand when he testified in this case, as the court will remember. He couldn't talk audibly. If these facts argue that the witness is a liar and unworthy of belief, then the assault is justified, otherwise, we
took to testify that Sarah Colbort was an Indian, but on beine pressed in the orocs-examination, he stated that he first met her in about 1865, when she and her fanily were moving into Grayson County, Texas, from the South, and that so for as he she had never Inved in Indian Territory prior to Anid time. Applicants then introduced a certificete of the Dawes Commission to show the oitizenkhip status of Serah Hughos, fomeriy Sarah Colbert, which showed her name on the 1eesod District Poy Roli.

In presenting this certificete to the Court the applicants and their advisers were guilty of an attermpt to misloed and deceive the Court, for they comld not have discovered the presence of her nome on that roll without zearning at tho same tine the nature of a claim to a citizenship status. This information applicants stadiously suppressed. Just what an effort J. W. Sperks mado not to surrender his information on the subjeot can be seen by on examination of his testimony in the record.

The Mations, however, introduced the testimony of Sarah hersele, given before the Commission when whe appeared before it for onroliment. From hor ovidance it cloarly appears that she is not an Indien and wes never an applicant as such, but thet prior to her marriase to Sparks she was married to a Chickasuv Indian of rocognizod status, and that her only elaim to enrollment was as an inter-married citizen. Therefore, the only question to be decided by the Court in this case is "Does on Inter-married white woman, who after the death of her Chickesew husband, marries a white man, confer the rights of Chickasaw oftizonship on such white husband and his white children by her?

This question we have fully discussed in our brief in the Jounna Mickle caso, No. $\left(\frac{37}{2}\right)$, on the south McAlester

Docket, and to our brief in that camo wo reapoctruany refer the Court.

In our opinion these apylionants are not ontitled to enrollment axd thoim potition mhould bo donted. Respactruluy muxaitted,

think not.
Counsel for the Nations say: "In presenting this certificate (referring to the certificate that Sarah Hughes, formerly Sarah Sparks, appears upon the leased district roll) to the court, the applicants and their advisers were guilty of an attempt to mislead and deceivethe court, for they couldnot have discovered the presence of her name on that roll without learaing at the same time the nature of a claim to a citizenship status. This information applicants studiously suppressed." To put ourselves richt before the court and to advise the court fully with reference to what knowledge muxuse we possessed, as well as the applicants, we attach hereto a letter we received from the Commission to the Pive Civilized Tribes which conveys this information:日You are hereby informed, however, that from said roll it is impracticable to ascertain whether the persons named thereon are citizen's by blood or intermarriage." Unless counsel for the Nations have more information and a different roll from that possessed by the Commission to the Pive Civilized Tribes, they certainly made the above statement unadvisedly or with the design on/their part to wilfully mislead the court. We take it that the attorneys for the Nations would see to it that the Comission to the Five Civilized Tribes had a correct copy of the leased district pay roll, and that the roll referred to by said Comaission is a correct copy of that possessed by the Mations, and we do not believe that counsel for the Nations had any other motive than one to mislead when they made their assertions.

The witness, Bletcher, testified, it is true, that he first met Sarah zackuax Colbert down in Grayson County, Texas during the war; that he said that she came from the Indian Territory and afterwards returned to the Territory
when the war was over; that she was an indian.
The attorney for the Chickasaws, the Honorable W. B. Johnson, in his answer filed in this case when it was tried in the United States Court at Ardmore, admitted that Sarah Hughes, formerly Sarah Sparks, was a member by blood of the Chickasaw Tribe of Indians and there has never been any contention to the contrary until made by the present counsel for the Nations, and when this trial was in progress. It is true the $r$ oof as to her citizenship is not as strong as it might be, but it is certainly sufficient in the face of the Nation's admission heretofore, when the court remernbers that the applicants appeared fortrial with the understanding that there had never been any issue made upon this question, Under such circumstances he would certainly not be required to make that cogent proof which would be required where the controversy hinged mainly upon that issue.

Counsel say that the Nations introduced the testimony of Sarah Hughes hersele before the comission when she appeared before it for enrollment, and that from it it clearly appears that she is not an indian and was never an applicant as such, but only claimed by reason of her intermarriage with Colbert. We were not present when said testimony was offered and this is the first intimation we have had that it had been offered in evidence and we desire to say that if such testimony was offered it was inadmisable and should be disregarded by the court.

In order to make testimony given by a witness since deceased admissable in the cause, the issues and the parties must have been the same. See Presh vs. Gilson, 41 U.S., 327 (10 L. Ed., 982) ; MeTighe vs. Herman, 42 Ark., 285; Haslan vs. Campbell, 60 Ga., 650; Poorman vs. Miller, 44 Col., 269; Marshall vs. Hancock, 80 Cel. ., 82; Bryan vs.

Malloy, 90 II.C., 508 ; Tappan vs. Beardesley, 77 U.S., 427 (19 I. Bd., 974).

The Nation has admitted that Sarah Hughes, formerly Sarah Spraks, was an indian by blood in their answer filed in the United States Court at Ardmore, and the records of the Commission to the Five Civilized Tribes, as show by the certificate introduced, shows that the name of Sarah Hughes appears upon the Leased District Pay Roll; the evidence shows that she had the appearance of an indian and the witnesses, Sparks and Pletcher, testify that she was an indian while the Mations offer no testimony whatever that she i.s not.

Under such evidence and upon suoh record, it occurs to us that the applicants should be admitted to citizenship and we have confidence that this court, which is not saturated with the prejudice of the counsel for the Wations, will so decree.

Respectfully submitted,


+ U. N. parse
+ Siñ̄nia



## United States of America, <br> INDIAN TERRITORY, <br> Choctaw and Chickasaw Citizenship Court. <br> Che President of the doited states of America,

Co the ZInited States Marshal for the Indian Cerritorysouthern District,

## GREETING:

YOU ARE COMMANDED TO SUMMONS

P. S. Moseley
$\qquad$
on behalf of said nation

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, Weshonsous
 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 files, papers and proceedings in the case of
 V District of the Indian Territory, have been transferred to the Choctaw and Chickasaw citizneship court, and that the certificate of the clerk of said court for said suchecu District has been attached thereto.

WITNESS the Honorable Spencer B. Adams, Chief Judge, Walter L.
Weaver and Henry S. Foote, Associate Judges, and the Seal


5 DUPLICATE
No. $\leftarrow 0 \geqslant$
SUMMONS
in equity.


Summons issued the -- $/ \not-$


Returned and filed $\qquad$ 190
$\qquad$
MARSHALS FEES.
Services, $\qquad$
Miles,
$\$$
Expense, $\qquad$



## United States of America, INDIAN TERRITORY, ss: <br> Choctaw and Chickasaw Citizenship Court.

## The President of the United states of america,

Co the United States Marshal for the Indian Territory, \#onthemDistrict, greeting:

YOU ARE COMMANDED TO SUMMONS Green-HeGustaing
prinelpar chitef-es-the Cheetam- Hat ion,
on behave of said Nation
to answer in twenty days after the service of this summons upon ............
as Principal Chief of said Nation

in the Choctaw and Chickasaw Citizenship Court, in the Indian Territory, Lékensicuc 0
 complaint will be taken for confessed, and you will make return of the summons on the crux
 pan you are further commanded to notify said Green licCurtaingPrincipal (Th) es aforgogid, that the ties, paper and proceeding es, in the case of
 bor the sukurfucc District of the Indian serritory have been trans forced to tho Choctaw and Chickasaw Citisenohip courts and that the certificate of the clerk of enid court for said fauzh if District, Indian Territory hae been attached thereto.

Witness the Honorable Spencer B. Adams, Chief Judge, Walter L. Weaver and Henry S. Foote, Associate Judges, and the Seal





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J. W. Sparks, et al.

Vs. No. 37 Judgment, Southern Dist. March 12, 1898. Chickasaw Nation.

This day this cause comin on to be heard, upon the pleadings, proof, exhibits, Master's report, and the eseptionssx filed thereto and the court being advised, is of the opinion that the exception filed to the Master's report herein by the applicants should be and the same are hereby sustained, and said report is in all other respects confirmed; and the court being sufficiently advised upon the whole case: Doth order, adjudge and decree, that the applicants, J. W. Sparks, be and he is hereby admitted as a member of the Chickasaw Tribeo of Indians by intermarriage; and that the applicant Cynthia Sparks be and she is hereby admitted as a member of the Chickasaw Tribe of Indians by blood, and that they rach and both have all the rights prizi iges and immunities as members of the Chickasaw Tribe of Indians in the way and manner above indicated.

The Clerk of this court is hereby ordered to transmit $a^{*}$ certified copy of this judgment to the Commissi on to the Five Civilized Tribes of Indians for their proper enrollment, which said Comnission is hereby directed to place their names upon the rolls made out by it for the Chickasaw Nation as members of said tribe of Indians. To this judgment the Chickasaw Nation excepts.

An the Chectaw aud Chuckerow Citezenohip Court.

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Plantupe
Choctas rehuckaw reition
Defensacte
Meworan dwn of Argument
for kiations tu replyte Brif of Applicint
The only evisures on which applicant seefo enrocement
is the proof of the ewarriage of fur Sparks to a wavion whore vene $\alpha \beta$ -
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Do wech this tistemony the Hithous introduces the Estrucing giom by the wanane
herseef whur she eppies
to the Dawes Com for enrollment on the fiisal soll in furouavec of such tribal eurschunt $f_{x}$

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States Court or the Southern District of the Indian Territ ory, the said Chickasaw Nation $f 12$ ed an answer in said causs, a part of whi ch is in words and figures as foldows, towwit:
Bor Purther answering, it edmits that the
said J.W. Sparks Was married to Mrs. Sarah Colbort,
an Indian by blood, as alleged in the applieation,
and that Synthia Sparks is a child of said union,
and thet the said Synthia Sparks is a mereber
of tha said trib of Indians by blood. But it
denies that the seid J. W. Sparks is e member of the
Chickasaw tribe of Indians by intermarriage, Por
tine reason that he, after his marriage with tha
said Mrs. Sareh Colbert, was divorced from her,
and by reason of the said divorce he forfeited
all rights he had as a member of the chickasaw
trito of Indians by intemarriage."

Petitioners further show that by its judgment rendered on the 27 th day of December, 1902, in the case of the Choctaw and Chickasaw Nation or Iribe of Indians, vs. J. T. Riddle, et al, this court adjudged and deersed a 17. judgments and decishons of the United States Courts In the Choctaw and Chickasaw Mations admitting persons to citizenship end enrollment as citizons of said Nations upoa appeal from the Comission to the Five Civilized Fribes Soo/ the citizenship comrittees of said tribes to be nall and void both as to the dofendants named in said cause, and a 11 other persons claiming eitizenship in the Choctaw and Chickasaw Nations by virtue of the judgents rendered In the United States Court for the AScuthern and Central Districts of tha Indtan Forritory uncer ect of June Ioth, 1896.

Your petitioners state that they were not parties
to saic case of the Choctaw and Chickasaw Nations vs. J.T.Riddle, et. al., and ere 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 judgent of the United States Court for the Southern District of the Indian Territory,
admitting there to citizenship in the Chickasaw Nation, and that seid judgrent of the United states court for the Soathern Districtof the Indian Territcey is still in fall force and effect.

But your petitioners further state that should this courr hold that they are bound by the judgent rendered in the said ease of the Choctaw and Chi ckasaw Nations or Tribes of Indians, 7 s. J.T.Riddle, et. al., and thet the judgment rendered by the united states Court for the Southern District of the Indian Terxitory adnitting them to citizenship in the Chickasaw tribe of Indians is null and void and of no effect whatever, then the effect of said decision would be only to annull and vacate the judgment rendered by the United states court for the southern District of the Indian Territory, and would leave in full force and effect the original judgment of the Comen ssion to the Five Civilized Tribes admitting these petitioner's to citizenship in the said Chickasam Tribo of Indians. Your petitioners theretore state that they insist that this oo urt has no jurisdiction whatever, and the authori try is not conferr od upon then under the provisions of sections 31 and 32 of the act of Congress entitled "AN ACT TO RATITY AND CONFITK AND AGREIKMINT WITT THE CHOCTAW AND CHICKASAW TRIBHS OF INDIANS, AND FOR OMFYR PUPPOSTS, " to pass upon, or in any way interiere with any judgrent rendered by the said Comaission to the Tive civilized tribes. And that the decision of this court annulling and vacating the judguonts of the United states courts in and for the Southern and Central Districts of the Indian Territory Which had be en appealed by the said Nations ir on the judgnents rendered by the said comeission to the Pive Givilized Tribes admitting applieants to eitizenship, has the effect of leaving said favorable judgnonts by the said






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g. Mo. Sparks, it at, CIt C. Nations.

Pelition for appeal.

IN THR CHOCDA W AND CHE KASAW CITIZENSHIP COURT, SITTIVG AT TISHOMINGO, MAY TERM, 1904.
J. W. Sparks, et al,

Ts. No. 40 .
Choctaw and Chickasaw Nations,
Blanton and Thompson, Attorneys for Plaintiffs. Mansfield, McMurray \& Cornish, for aDefendants.

Present and presiding the Honorable Henry S. Foote, Assoc iate Judge.

MAY 27, 1904. This day this cause coming on to be heard, both plaintiffs and defend ants being represented by Counsel, the following proceedings were hed, to-wit:

Mr. Blanton:
If the Court please Mr. Blanton and myself are in number forty. Some of our witnesses have not got in yet, I was just down to see the ofd man himself, the principal applic ent in the case, he is hardly able to walk, and we will be ready after dinner:

JUDGE TOOTR:
You can hear it this morning. I am not going to wait. I don't think you can fix the time when the case will be heard without the permis sion of the Court.

Mr. Blanton:
I conferred with Mr. Thompson about it.
JUDGR FOOTR:
Where is he.
Mr. Blanton:
He has a case bef ore the commission.
JUDGE POOTE:
I am not going to postpone my business for the business of the Commission.

Mr. Blanton:

Yes sir.
JUDAR POOTE:
Have you any witnesses apc that are here now.
Mr. Blanton:
Yes sir.
JUDGR FOOTR:
Bring them up here.
Mr. Blanton:
I saw my client and they were gettinga hack to bring him around here when I left there.

JUDGE FOOTE:
Is it an intermarried case.
Mr. Blanton:
one applicant by bload.
JUDGE FOOTE:
I have got to go take testimony at sulphur tomorrow, and while it would be a good excuse if your client was not here, the idea of coming in here and saying that the Clerks at the Dawes Commission are trying a $c$ ase and that you will try this case at two ofolock.

Mr. Blanton:
I advised the court that Mr. Thompson, my assdiciate counsel was up there this moming.

JUDGE FOOTR:
How did Mr. Thompson knoxx have any right to suppose
that this Court would not take anything up until after noon. This Court has been ry patisint and kind, and the idea of coming in here and telling me that the $c$ ase would be heardtx at two o'clock.

Mr. Blanton:
I told the Court I supposed the case would be taken up

## this afternoon.

JUDGE FOOTE:
You should have made your application in due form.
I prppose to postpone my cases for the Clerks of the Dawes Comission. We $h$ ave the jurisdiction of a Circuit Court of the United states. I have got to go off this afternoon for Ravia and then to Sulphur and then to Hickory this afternoon, and you see what an inconvenience it puts $t$ he court to.

## JUDGR FOOTR:

We will take a recess until a quarter after eleven. resumed sitting at eleven fifteen. J. W. SPARKS, being called as a witness
in his mbehalf, after being duly sworn, testified as follows: DIRECT EXNMINATION. Mr. Blanton:
Q.--state your name Mr. Sparks and your age and where you 1ive?
A.--Name is J. W. Sparks, my age is sixty-seven the 12th day of January.
0.--Whers do you live?
A. --Ada, Chickasaw Nation.
Q. - -Mr. Sparks, you made application, did you make an application to the Dawes Commission in 1896 for enrollment as an intermarried citizen of the Chickasam Nation, while theywere at muskogee?
A. - Yes sir.
Q.--Are you the J. W. Sarks mentioned in this petition here, you ara the J. W Sparks that is camplainant are you. Are you the J. W. Sarks mentioned in this petition here? A. - -Yes sir.
Q.--There is another party, Cynthia Sparks, what relation is
she to yoursole?
A. -My daughter.
Q.--When were you married thox tothis party through whom you claim your citizonship, and whose name was Sarah Colbert?
A. - - Year of eighty.
Q.--You know where your original license are that you were married by?
A. - No sir, I don't know I ge them to the judge.
Q. - What judge did you give them to?
A. - -Bamett.
Q. - Who was he?
A. - Lawyer at Paul's Valley.
Q. - What has become of Mr. Bamett:
A.--He is dead, died four years ago.
Q.--Have you any knowledge now of where your original
license are?
A. - No sir, I haven dt
Q. --Will ask you if you remembe who married you?
A. - -Yes sir.
Q. - - Who was it?
A. -- John $E$. Anders on, $1 i$ ved here in town.
Q. - What kind of a license did you procure for the ceremony?
A. - Regular Chickasav 11cense.
Q.--Who is John E. Anderson? Was he the judge that performed the ceremony?
$A_{0}-$-Yes sir.
Mr. Blanton:

* Want to introduce a certificate of the marriage. Marked Exhib1t "A"。
Q.--You were married in Tishomingo?
A.--Yes sir, at the Judges houre.
Q.--Was there anyone present?
A. - - Ye $s$ sir.
Q. - Who was it?
A. - - Thomas Fletchar.
Q. - What particular place did you procure your original 1icense?
A. - FHere in Tishomingo, Mr. Judge Anderson went and got the $m$.

Mr. Comish:
We object to any further oral evidence with reference to the marriege license. If the original was in existence, that would be the best evidence. if the original is not
in existence, then a cartified copy, and if the recor $d$ are destroyed, then sec ondary evidence would be admissible.

JUDGE FOOTR:
Objections sustained.
You will simply have to intro-
duce the original and if you prove that it waslost you will have to show that you applied for a certified copy. Mr. Bl anton:

I have been trying to see the National Recorder this morning.

Mr. Cornish:
You won't $f$ ind it in his custody.. That was brought out in the trial of a case the other day. The clerk of the county is Mr. Harris, who Lives about Mill Creek, the National Recorder's office was just crewted a year ago.

JUDGR FOOTF:
You will have to have that in order to complete your

## Mr. Blanton.

If I am not able to produce acertified copy, then this would be admiss ible, if I had subpoenaed that man to show that suche record is not in existence now. This would only be admissible after that proof has been made. JUGR FOOTR:

What do you want to do about that.
Mr. Blanton:
Imight ask these questions with the understanding that it be strocken out if there is any proof offered showing that such a record is in existence.

JUDGR FOOTE:
No use to encumber the record with that. You Will have time within which to get it.

Mr. Blanton:

> Yes sir.

JUDGT FOOTR:
I guess the first thing is to show that the woman through whom ho claims citizenship was a Chickasaw Indian. Mr. Blanton:

I thoughthe best proof of that fact is that she is on the roll, and I could get a certificate to that effect. I wrote the comissin ten days geo for such certificates, but have not received any reply from them. JUDGE FOOTR:

You can't proceed any further this morning, what do you propose to do. When do you propose to find out whether you can procure that oxurdidicates certif ied copy of the marriage license and the certificate of his wife's enrollment.

Mr. Blanton:
I ought to have a reply from the commission at this

## time.

JUDGR FOOTE:
Have you anything to offer.
Mr. Comish:
No sir. In these intermarried cases, the Nations are
not in the habit of insisting upon harsh rules. ordinaryily we should ins is that the case be closed, but I see no
reason why a reasonable time should not be set down in June, at wich time the case may be closed

JUDGE FOOTE:
You understand what you have to do. You have to have tat proof.
Mr. Blanton:
Yes sir.
JUDGR FOOTR:
What time will suit you.
Mr. Comish:
Any time, not later than the loth of June.
JUDGT FOOTF:
This case wi li be set for the 7 th of June, anf you wil produce the other evidence then.
Mr. Blanton:
I hed a itness, not subpoenaed, he promised to come,
and he has not shown up.
JUBGE POOTR:
You br ing h im here then.
Mr. Comish:
You sxpect your cilent to be back here.
Mr. Blanton:
I wish to show this, he is old and feeble and may not be able to ome back here, wish toshow about a seperation,

I understand there will be some contention about these matters.
Q. - Mr. Sparks, how long did you and this woman Sarah golbert live together as husband and wife?
A. - -gight months.
Q.--Is Cynthia Sparks the daughter of this woman Sarah Sparks and yourself?
A. - -Yes six.
Q. - What was done at the expiration of this eight months, of which you speak, did you live together any after then?
A. - No sir.
Q. - What was done then?
A. --I fumished her money.
Q.-What did she do or what did you do at the e piration of that time.
A. - There was some parties came and tried to getbher away, and did so.
Q.-Where did she go?
A. - -To her brother-in-law's.
Q. $=$ What did you do with reference to a divorce if anything?
A.--Two years after I come and applied for a divorce.

Mr. Blanton:
We will offer the record themselves.
Q. - -You are the one that procured the divorce?
A. - Vres sir.

JUDGE FOOTE:
What were the grounds that you procured the divores on?
A. - She dinnt appear like she wanted to come back, or
didn't want to keep house any more, and I thought we $h$ ad better have a dicorce.
Q.--Get a divore on the ground of her abandoning $y$ ou? A. - -Yes sir.

Mr. Blanton:
Did she quit you and wouli not come bakk, did she actual1y leave you and would not return?
A. --Ves sir, she did

GROSS-EX AMIN AT ION.
Mr. Comish:
Q. - - What kin folks did this woman have, wjat brothers and s isters did this woman have?
A. --One to my knowiedge,
Q. - What was this brother named?
A.--Gl ad Blevins.
Q.--Is he living nowk
A. - - No sir.
Q.--What was her sisters name?
A. --I don't know anything about her.
Q. --Where was she Living when you married her?
A. --With her brother in law.
Q.--Where in the Nation?
A.--Up here beyond Gow mor Harris:
Q.--How long did you know her before you marrie d her?
A. --Known her about, I guess ten months.
Q. - Had she been married before she married you?
A. - - Yas sir.
Q.--Had she beon married more than once?
A. - No sir.
Q.--Who was her former husband?
A. --Jackson Colbert.
Q. - His name was Jackson?
A. - -Yes $s$ ir.
Q.--Know thet he was dead?
A.--Yessir.

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Q.--HOw long before you marriage was it that he died?
A.--Indeed I can't tell you, several yeara.
Q.--You had a personal knowledge of his death did you?
A.--Tes sir, there when he vas buried, used to begovernor
        here.
Q.--What was the maiden name of this woman?
A.--Fer nsm* was Blevins.
Q:--What was her first nano?
A.--Sarah.
Q.--Sarah Beevins?
A.--Yes sir.
Q.--Did you know her mother?
A. =-M० six.
Q.--Mnow her & &ather?
A.--I sae him, not much acquainted with him.
Q.--You has one child. by har?
A.--Tes sir.
Q.--Is she enrolled?
A. --Ves gir.
Q.--Has your child been recognized as a citizen of the
        Chickasavm Notion?
```

Mr. Blanton:
I object to the questions, because it calls for a conclusion of the witness.

JUDGE FOOTE:
It is to your adventage.
Mr. Blanton:
He esked if she had boen recognized, woxaryxox I don't understand that any individual had any power to recogniza her.

Mr. Comish:
it out. We are simply endaavoring to get at the facta. By recognituon I did not mean the recognition of one member by mother member, I was asking this mon if she was recognized in the legal sense, and if she is now recognized.

JUIGE FOOTP:
He is helping you.
Mr. Blanton:
We do not object as to facts, but as to the conclus ions-JUDCE FOOTR:

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I will rule it out.
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Mr. Blanton:
I think that the objection is well taken.
JUDGE FOOTE:
It is to your advantage.
Mr. Comish:
Q. - Where were you living in 1893?
A.--Paul's valley.
Q. - Did this child 1 ive with you at that time?
A. $\cdots$ No sir.
Q. --Where did she 1 ive?
A. - - With her mother.
Q.--After theseperation, the child Iived with its mother?
A. - Yes sir.
Q. - Did this child draw the Leased District money in 1893 ?
A. - I can't tel. you.
Q. - When did her mother die?
A. --Four jears ago.
Q. - -Did her mother remarry?
A. - I think she did.
Q. - Who did she marry?
A. - Man named Hughes.
Q.--Where did she live after her remarriage?
A.--At Ardmore, wher she died.
Q. - If this woman that you married as a citizen, there are pleanty of poople that know it, what prominent citizens of the Chickasaw Nations that ar e living at this time that know of the citizenship of your wife; who is it that knovs absolutely that your wife was a $r$ cognized citizen, give us the names three or four people that know it, you lived around Ad a?
A. - -Yes sir.
Q.--You know Tandy Walker?
A. --I $x$ used to know $h$ im.
Q.--Do you know Humphries Colbert? You know C. A. Burris, don't you?
A. - No sir, I don't.
Q.--You know Gove rnor Byrd, don't you?
A. - No sir, not acquainted with $h i m$.

Mr. Comish:
I insist that the citizenship of the woman be ostablihed by competent evidence. There is s very serious doubt in my mind that the women wasa reoognized citizen at ail.

JUDGE FOOTR:
Q. - What color was your wifs?

As--Very dark complected, she showed like she was a half bread.
Q. - Halforeed what? What nationality did she look lisk?

As-Always clairoed to me she was a Chickasaw.
Q. - What she said amounts to nothing.
Q.--Has that child of yours been enrolled by the Dawes commission?
A. - -I dontt know.

Mr. Comish:

The child has been in the suit fro the start.
The Court is aware and op osing counsel are aware that in these cases we endeavor to meet the issues fairly and rogexigex and if rankly. The questions in this case are, was this woman an Indian of recognized status, and the best evidence of that is record avidence. The sec ond requisits is was the law complied with, and
third did the marriage relations continue without interupistion or abendonment, and if a seperation occured that it was Fithout the fault of the applicant. It is encumbent upon the applic int to establish these three issues. xowerofxox If he establishes them, he is entitled to enrollment, and if he does not he is not entitled to enrollment. I have been endeavoring to get at the $f a c t s, b u t$ inasmuch ss the applicant declines to give any information

JUDGE TOOTF:
The man seems not to be strong either mentally or physically,

Mr. Comish:
Imantioned five or six prominentmen in Pontotoc county

## Mr. Blanton:

Q.--He asked you about people that lived at stonewaal, did you ever live in the Stonewall country with this wife?
$\mathrm{A} .-\mathrm{NO}$ sirr.
Q. --What was your post offie?
A.--Mill Creek.
Q.--Know Governor Harcis?
A.--Yes sir, used to know the old man, after that I moved away.
Q. --Where did you move to?
A.--Peul's Valley.
Q.--Lived out in the country there several miles?
A. - -Yes sir.
Q. --Tell the Court how this woman looked with reference to Tnd ian blood?
A. - -Tell. she was very dark, looked 1 ike she was a half breed probably or more, she $h$ ad daric eyes, very dark syas, and very dark hair, black hair, and darik complectod, vexy dark camplected.
Q.--Did you ever have anything to do with her eolks?
A. - -No sir.
Q. --Did you liks close to her folks at any time?
A.--No oloser than twelve miles.
Q.--You stated while ggo that she $h$ ad a half brothers, do you know wether she had full brothers or sisters or not?
A. - - I can't say.
Q.--Know how many times her father was married?
A. -Married three times, I believe, I have heard that. Mr. Comish:

How long ra ve you been living in the Chickasaw Nation? A.--Been living here ever since the year of eighty.
Q.--You have livad in this counrty sinee 2880 , I will
ask you this inal question, in order that the record may shoy that the wations are endaavoring to get at the facts, give the stenographer the nemesof three or four prominent persons, who are respectable and credible, who know about the facts of the citizenship of your wife, and know about the iacts of your seperation from her, give us the names of three or four pr minent and respectable persons?
A. - -Know Dr. Gillum.
Q. - Where does he Iive?
A. - This side of Berywn.
Q. - -citizen?
A. --Yes sir.

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A.--Intermarried citize?
A. --Yes sir.
Q.--Dr, Tohn O. Gillum?
A.--ves sir. Mrs. Susan Brushing.
Q.--Tive near you when you seperated?
A.--Yass sir.
Q.--Know of the facts &f the seperation?
A, - NO sir.
Q.--Who elge?
A. - That is all I know now that know tha facts.
Q.--Does he know who this woman was kin to?
A, --Yes sir.
```

Mr. Cornish:
My advice would be that you have him here.
Mr, Blanton:
Q.--You sent aftor him, didn't you?
A. - -Ves sir.
Q. --vou sent after a Mr. Meaks that is supposed to know it didn't you?
A. - -No sir.

Mr. Comish:
You had better bring them here. You can get them here by procens of this court. I an anxious to get at the facts in the case. At this time, I am not at all certain this this woman was an Indian.

JUDGE POOTR:
You are Itberty to apply to the court for a subpoena.
Mr. Blanton:
I will ask for a suppoena and in the meantime I will get acertificate

Witness
I was acuqinted with Mr. Oarter.

## Mr. Comish:

@.--Judge B. W. Carter?
A.--Yes sir. He is dead.
Q. - This Judge Anders on, who was he?
A. --Lived her when I was married?
Q. - Fere in Tishomingo?
A.--Yos sir . Judgs of Tishomingo County.
Q. - -He dead?
A. --Yes sir, he is de ad too.
Q. - Know where he lived in the town of Tishomingo, you got the $11 . c e n s$ from $h i m$ ?
A. - Yes sir.
Q. - Pay any money?
A. - -Yes sir $r^{\prime}$
Q. - How much? What is your best rec ollection about?
A. - I think it was about the time the license went up.
Q.--How much money did you pay this Judge, what is your baxt recollection about it?
A.--Been so Ion, I never thought of it afterwa ds, I gave ten or fieteen dollars.
Q. - For the Iicense and performing the cermony?
A.--Yes sir.
Q. - W That was in 1880 ?
A. - -ryes sir.
Q.--where did he IIve, you are faniliar with the town of Tishom mingo, you know whero the Capitol was at that time and where Ben Kemp 1 ivod, Judze Kernp?
A. - I can't tell you.
Q.--You know where Ben Kemp Lived, Judge Kemp, know whe re the old jail used to be?
A. --Yes sir, go that way and laave it to the right, been so long, and I haven't been here but twice.
Q.--Do you lenow what a marrisge license is, you sewt hat paper this morning, is that a marriage lionse, that your marriago 1 iconse?
A. - -No sir, I guess not, I don't know.
Q.--You read the marrage license over, $x$ how did it $r e a d$, wia $t$ did it contain?
A. - -I c an't tell you just how that read. I seen his name to it and old mr. Carter.
Q.--What Carter:

A, - Recorder, signed his name to the certificate.
Q. - Who signed his name to the cortilic ate?
A. - -Mr. Carter.
Q.--What Cartore
A.--Ben Carter, Judge Carter, he was recorder at that time on Mill Creek.
Q.--He theman that recordect your marriage license?

A,--ves sir. Judge of the Court afterward.s.
Q.--How long after your marriage was it that it was rem corded?
A. -- I don't recollect, it wasen't a great while.
Q.--Get anybody to recomend you for a zarriage liconse?
A. --Ves sir.
Q.--Who signed your petition?
A. --Dr. Gillun?
Q.--Who alse?
A. - -Bastman Jannes.
Q.--He living?
A. - -No sir.
Q.--Who el se besides Kas man Tames?
A. --White men, I don't recolle ct.
Q.--otherg whits men, non-citizes?
A.--Yes sir
Q., -DDid you ever marry bsiore?
A.--Yes sir.
Q.-Where did you marry and who did you marry bafore?
A. - Mirried in Indiana.
Q. - - In what year?
A. - About fif ty-cight.
Q.--Who did you ma rry?
A. - Iady named Gardnar.

Qu--What becane of hor?
$A_{0}$--Died with consumption.
Q. - LIve with her until she died?
A. - - Yes $s i r$.
Q.-- \#ver married agein before you married here?
A. - NO sir.
Q. - - Mifrried since the death of this wife you married in this country?
A. - No sir.
Q.-- In whe t year did this child of yours come back to you?
A. - - Nter her mother died, I think it was was years ago this Spring.
Q.-- The child is living with you now?
A. -- No sir, married.
Q. - What is her name now?
A.--Spariks, maried a man named Sparks.
Q. - Any relation of yours?
$A_{0}=-N 0$ sir.
Q.-Now Mr. Sperks, what kin folks if any has your daughter
living in this country, has she a blood relative im this Nation so is as you know
A. - - I dont know.
Q. - In et daushter is 1iving now?
A. - - Yes sir.
Q.--How old is she?
A. --Bom Januery 12, 1832.
Q.-Now you don't know of a single blood relative that she has in the Chickasew Nation?
A. $\rightarrow$ NO Eir.
Q. - Among the Indin people?
A. $-\cdots$ No $s$ irs never boen down there.
Q.--This fiest husband of her, colbert, who was he kin to, he was an Indian?
A. - -Yes sir.
Q.-- What Colbert ifmily did he belong to, old man, Colbert, Governor colbert, Winchester colbert?
A. - -Yes sjr.
Q. - He was rolated to Hunphrias Colbert?
A. - Yes sir.
Q. $-\cdots$ mis dirst husb and of your wife was related to Humphries Colbert?
A.--I think 30.
Q. - Finow Georga Colbert that Iives up there that is Attomey General of the सation now?
A. $=-$ No $51 x^{2}$

JUDGE TOOTR:
Q. - How old is your daughtar now.

Mr. Cornish:
He responded twenty some odd.
JUDGR POOTE:
Q. - Know whether she knows anything about her relatives?
A. - I dont lonow whe ther she does or not.
Q. - -Hver live vith any of then?
A. - Lived with her mother untif she died about four or five
years ago, and the $n$ she $c$ ame to me I ive yoars ago this Spring.

Mr. Blanton:

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Q.--Your wife, remarried a man named Hughes?
A.--Yes sir.
            Witness oxcused.
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                                    FIETCHBR, being called as a witness
    on behalf of plaintifes, after being duly sworn test if ied
as follaws:

DIRECT EXAMINATION.
Mr. Blanton:
Q.--What is your nane?
A. - Flatcher.
Q.--Where do you live?
A. --Tive up near Berwyn.
Q.--know Tr. J. W. Spariss?
A. - -Tos sir.
Q.--Know a woman that ha maried named Sarah colbert?

A'--Yes sir.
Q.--Were you present when thoy were married?
A.--Yes sir.
Q. --State to the Court where it was and what occurred and where ha got the license?
A. - -Got the license at Tishomingo. He was married here at Tishomingo, and I disramember the mans nane he got the license from.
Q.--Who married $h$ im?
A. --John Anderson.
Q.--Rerember when that was?
A. --I won't be positive, eighty or eighty-one, I won't be positive,
Q. --you were present at the time?
A. - -Ves sir.
Q.--Live up there in the community in wich they Iired?

A,--Yes 3ix.
Q.--Do you know what kind of a license they got?
A. $-\boldsymbol{N}$ No sir, I don't know.
Q. --I mean by that, you know whether they got that from the United states authorities or the In im authorities?
A. - -Indian authorities.
Q. - Know this woman Succonxim Sarah Colbert, see her about that time?
A.--Yes sir.
Q. - -Destribe her appearance to the court?
A. - Well she was darik complected woman, very daric, that is she was dark compleotod. Dark black hair, straight.
Q. $-\infty$ What did she look like, what race of man?
A. wof course she showed Indian blood considerable.
Q. - What part of Indian blod dil she possession in your opionion?
A.--There is dirierent shades.
Q. --Judging from your experience in that I ine?
A. - I can't get that down. She sowed considerable Indian blood, because there is full bloods a good deal Iighter than others, and half breeds bebrothers and one will be 2i ht and the other dark.
Q. --Are you acquainted around Tishomingo?

A, - - No sir.
Q.-TMow any of the Ohickssaw recognized citizen s?
$\mathrm{A}_{\mathbf{s}}=-\mathbb{N o}$ sir.
Q. - Know Dicle NoLish at Ardmore?
A. - -NO sir.
Q. - Know Charley Carter at Ardmore?

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A.--Ves sir.
Q.--Was she as daris as Cha rlay Carter?
A.--Yes sir.
Q.--Any darker?
A.-\cdotsYes sir.
Q.--What prominent indian do you know up your way?
Ac--Nell she was something near as dark as John Thomas.
Q.--He a prominent Indian.
A.--Yes sir.
Q.--How long have you lived in the Chickasaw Nation?
A.--Peen living hore sver since the fall of slxty-five?
                                    CROS S-EXXAM INATTON.
```

Mr. Cornish:
Q.--Ars $\bar{y} u$ an applicant for citizenship of any kind?
A. - - 170 sir.
Q. - White man?
A.--Yes sir.
Q.--How long did you know this wam before $\mathbb{H r}$. Sparks married her?
A.--Knom her for several years.
Q.--Before that time?
A. - -Tes sir.
Q.--You had lived in the sane neighborhood with her?
A.--Yes sir.
Q.-What kin folks did she have?
A. - I donst know any but the Blevins.
Q.--What Blevins were they?
A.--Geese Blevins was her father.
Q.--Living now?

Aन-स्ध日sssir.
Q.--Whers does he live?
A. --On Blue, betwas Penning ton end Blue.
Q. - Indian or x white man*

A, - white men, I suppose.
Q.--Was he an intemarried citizen?
A. - His wife was just like his daughter, she hadcconsiderable Indian blood,
Q.--His wife was a citizen you say?
A. --Wever clatued any citizonship here, I don't lenow that. Mr. Blanton:

Are you villing for a statement to go in as to a dism position to claim citizenship.

Mr. Comish:
It would cerarly be competent as brought out on cross axamination, it would not be competent to substantiate a eletim.

Mr. BI snton:
I don,t thinis it should be permitted to go in the record.

JUDGR FOOTE:
Wasentt it hearsey.
Mr. Comish:
It is a declaration against intereat.
JUDGR FOOME:
If thay didn't clatm it of course it would be competent as ag ainst interest.

Mr. Comish:
That is the point.
JUDGE FOOTE:
Then it would be competant.
Mr. Cornish:
Q.--They didn't ciaim oitizenship here?

A, - Not thet I know of. If they did I never heard of it.

Q．－wrou had know them for several yaars？
A．－－Yes sir．
Q．－Where did they come ir inm into this country？
A．$-\cdots$ arason County．
Q．$\cdots$－what Sta te？
A．－Toxas．
Q．- －Tnom them in Grayson County？
A．－－ves sir．
Q．－－Was the mothor of this woran living at that time？
A．$\cdots$ Ves sir．
Q．－－How long had you known than in Grayson County，rexas？
A - Up to the time they come over hare in the fall of sixty－ ざざ＊

Q．－－You had know them prior to that time？
A．- －Right along then，thay $c$ cme orer．
Q．－－How long had you known then down there？
A．－－Shart while
Q．－－What were they doing dow there？
A．－－Come in there during the war．
Q．－Whore did thay come erom？
A．- －Tarritory somewhere．
Q．－－What did thay do in Grayson County？
A．－－prade a erop．
Q．－Whoseplace aid they live on？
A．-- Public 1 and．
Q．－wTook up yublic land
A．- Yas sir，just settled on 1 and there．
Q．－－Any personal knowledge of whare they came irom into Grayson County？

Q．- Q．- The first tine you knew them the $y$ were living in

## Grayson Gounty on public 1 end?

A. $\rightarrow-$ No Slr, The first I ever kenew them they were moving.
Q. - Whare?
A. - In Taxad, moving up into Grayson county.
Q. - -Baen a 1 ittla fuxthar domn in Taxas?
A. - Yes sir.
Q.--Coming from the South into Grayson County?
A. - -Yes sir.
Q. - Know wineris they had been?
A. - -NO Sir.
Q.--Know how long they had been the re?
$A_{*}=-2 T 0$ s $\pm r$.
Q.-- 2 To knowledge of them previous to the tian you suw them moving from the South into Grayson County?

Q.--You say them in the is te sixties, just ofter the war?

A,--Yez sir. J st sfter the war.
Q. - Where did they Iivs after that time?
A.-"Moved in here.
Q...-Did you know them srom the time they moved in here in the 2ate sixties up until the present time?
A."-Yes sir.
Q.a-Mroved around from place to place?
A."-Yes sir.
Q.--Whose places have they IIved on, so fer as you know?
A.--Well thay lived on a place called the Norton ferm.
Q. - Who owned that?
A. - Belonged to the heirs of Mrs. MeTish?
Q. - - The Motish8 were Chdckasaws and this family IIvedon the ir place?
A. - Yes sir, and then they went on this Mrs. Sparics place.

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Q.--ghe ha d. narrisd aman nmad Colbert, who was a Chickasaw?
A. --Yes sir.
Q.--And lived on the placo which he ha d ovmed?
A.--Tes gir.
Q.--How long did they lixe on that place?
A.--I don't remember r hor many years.
Q.--Where did they go then?
A.--Up on Blue where they Iive now.
Q.--Is the mother of this woman living ner?
A. --No sir.
Q.--I mean tha wife of Blevins, is Blevins wife living now?
A.--Not the mothar of this womm.
Q.--I an x speaking about the mother of the woman that
        Sparks married?
A.--she is dead.
Q.--When did she dle?
A.--Must muex have beon dead some twenty-eight or twenty-
    nine years..
Q.--Did you Iive about Spariss when they seperated, Iived
    near tham when theys eperated?
A.--yes sir.
Q.--Have amy personal knowladge of the facts of the
    scogows seperation?
A. - NO Bir.
                witness excus*d.
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JUDGE FOOTE:
We will hear the rast of the testimony on the 7th of June.

Mr. Comish:
These facts develop a condition which is clear to our mind that thase poopla are not citizans of the Chickasaw

Nation, and it will be impossible to establish to the Court that sho was a citizen of the Chickasam Nation, our view being as he retof ore stated the first issue is was the woman, the whom the right to anrollmont as a oitizen by inter arriage of the Chootaw or Chickasaw Nations, a citizen of the Choctav or Chickassm Nations and duly en rolled as such. I don't wadarstand that the court Fould have the right to inquire primarily into the right of the persom through whom a the citizanship is clamed, and if it devaloped that theyw are Chickaivs to admit the parsons for the purpose basis of citizensh ip by internerriage at this tire. The condition developed hare is conclusive to our minds thet thw woman was not a citisen of the Chickasaw Nation, and so far as Iurther proof in this case is concemed, we will tortcdaxx insist on the strictest evidencs.

TN THU CHOCTAM AND CHICLASAW CTTIZWNSHIP COURT, STTMIVG AT TISHOATVGO, JUNE THRN, 1204.
J. W. Sparka, ot al,
vs. NO. 40.
Chootav and Chickasew Nations.
31 anton \& Andraws, Attomeys for plaintifes, Mansi ield, Molfurray \& Comish, for Defendants Present and presiding the Honorable Henry s, Poote, Assom ciate Judge.

Juns 7, 1904. This day this cause coming on to be hoard, both plaintiffs and defandants being represented by counsel, and both having announcod ready for trial, the following proceedings were had, to-wit:

Mr. Rennie:
I ampearing stmply for these lawyers,
JUDGE FOOTR:
Are you ready.
Mr. Rennie:
I wish to present in belalf of these attorneys a certificate erom the Chairman of the Daves Comission as to the citizonship of Sarah Hughes, It is a certificate to the efrect that she appears on page one detrotaportork hund red and thirtymsix of the Least District Pay Roll of the Chickasam Nation, opposite number eighteen on said page, and wish to state to the Court as these attorneys requested me to do, that they hava made a search of the records of the County clerk to get oertipicates to introduce in this matter, and they lave not been able to get the certificates on account of not finding the clerk, and they want it to go until the 20th,

With reference to this certifice to of the Dewas Comiss ion, the court is ware that our position is thet that a certificate from the Commission to the Dive Civilized Tribes of the oxtizenship status of some person is not binding
upon this court, and in this case in referring to tinis certificate I wish to stata that the Choctaw and chickasaw Nations deny tiast this pargon is a citizen of the Choctaw or Chickasaw Nations, and ask that this cartificate be not considered ss conclusive and binding upon this court. We object purther for the roas on that it has not been shown by competent evidence that the person to whom the applicmt was originally merried is the peston who is mentioned in the cerw tifleate. Our view is that this woman is not a aitizen and not in a position to confer citizes hip upon this man, our $v i$ ew is that since this certificate is not binding upon the court it is necessayy to show first that this woman was a Chiokasaw Tndian by blood, and secondly that she was such a Chickasaw Indian by blood as is entitied to enrollment and distribution of the tribal progerty.

JUDGE FOOTR:
You have not filed a written motion for a continunce. 3r. Comish:

What is it you want to offor in uddition to that. Mr. Rennie:

Wy understending isthat it is a cartified copy of the marriage iicense.

Junger roort:
Wumber forty, evidently set for today for further hear-
ing. Case is closed except for dooumentary evidence.
Mr. Rennie:
They wish now to ask the court for a further postponement
that they may have further tine to procure that doovosentary evidence that up to this time they heve not been able to obtasin.

## JUDGTS FOONE:

chosed except eor that documontary evidence, and ir thay do not hate it by the time the oourt reaches it, we will If go on with out it.

In the Ghoctow and Chickasaw Citizenshio Court, Sitting at Tishomingo, Ind. Ter, June 24, 1904.
J. W. Sparks, et al,
--V5--
No. 40 .
The Choctaw and Chickasaw Nations.


June 24, 1904; This day this aquse coming o in to be heard before the Hons. Spencer B. Adens, Chief Judeg, and Walter L. esver and Henry S. Foote, Associate Julges of said Court, the Defentants being represented by their Counsel, the follow. ing procoodings were had to-wit;

Mr. Cornish;
We submit the case with the exception that we will wish to file some documentary evidence with the next few days.

In the Choctam and Chickasav Citizenship Court, Sitting at IIshomingo, I.T., June 30, 1904.
J.W.Sparks, et al,
--VS-- No. 40.
The Choctav and Chickasaw Nations;

June 30, 1904: This day this couse coming on to be hoard before the Hons. Spencer B. Adams, Walter ti. Weaver and Henry S. Foote, Judges of said Court, the Defendants being represented by their Counsel, Mansfield, Mellurray \& Cornish, the following proceedings were had to-wit;

Mr. Cornish;
This case was closed, with the exception that the Nations were given permission to introduce some documentary evidence. I have a certified covy of the evidence of the woman, through whom this apolicant claims by intermarriage.

This anplicant, J.W. Soarks, claims through a moman named Sarah Hughes, and he has offered a certificate showing her name to have been on the "Leased District" Rolls of 1893; we now have a certified cony of her evidence before the Gommission to the Five Civilized Mribes, in support of her annlication for enrollment. Ex. "AA".

IN THE CHOCTAW AND CHICKASAW CITIZRNSHIP COURT, SITTING AT

> TISHOM INGO, IN THR IND IAN TERRTMORY, NOVKMBRR TRIM, 1904.
J. W. Sparks, et al.,

Ts. $\mathbb{N O} .40$.
Choctaw and Chickasaw Nations.

DRCRER OT COURT.

On this the 28 th day of November, 1904, this cause coming on for final decision, the same having heretofore been submitted upon the 2 aw and the evidence, and the court being well and sufficiently advised in the premises, doth find that the plaintiffs, J. W. Sparks and Synthia Spariks or Cynthia Sparks, awe not entitled to be deemed or declared citizens of the Chickasaw Nation, or to enrollment as such, or to any rishts whatever fllowing therefrom.

IT IS THREREFORS ORDERRD, ADJUDGRD AND DEGRRKD that the petition of the plaintiffs, J. W. Sparks and Synthia Spariks or Cynthia Sparks, be denied, and that they ba declared not oitizens of the Chickasaw Wation, end not entitled to enroliment as such citizens, end not entitled to any rights whatever flowing therefrom.

Chief Judge.

Assoc iate Judge.

Assoc late Judge.

