

J- N° 91.

Evans, E. A.

vs

Chickasaw Nation
N° 56.

Southern Dist. Court.
N°

Dawson Commission

No record in this case.

W. O. B.

Cherokee

C. A. Evans

No 91

+ Elizabeth Ann Evans

admitted by intermarriage

IN THE CHOCTAW AND CHICKASAW CITIZENSHIP COURT, SITTING

AT SOUTH McALESTER, INDIAN TERRITORY.

E. A. Evans, et al, Plaintiffs,

The Choctaw and Chickasaw Nations, or Tribes of Indians, Defendants.

Now come your petitioners, Elizabeth Ann Evans, for herself, and as next friend to her children, and most respectfully show to the court the following facts, to wit:

That prior to the 6th day of September, 1896, and within the time prescribed by the Act of Congress approved June the 10th, 1896, your petitioners show that E. A. Evans is a citizen of the Chickasaw Nation by intermarriage; that she was lawfully married to the Five Civilized Tribes, petitioners herein filed their application under the tribal law, on the _____ day of _____ with the said Commission to the Five Civilized Tribes for citizenship to one _____ McGuire, a member of the Chickasaw tribe of Indians in the Chickasaw Nation or tribe of Indians. That in due course of time said Commission heard said application and admitted your petitioners as members of the Chickasaw tribe of Indians.

That, thereafter, the Chickasaw Nation appealed from the decision to be enrolled as such; that E. A. Evans is also a citizen by intermarriage of the Chickasaw Tribe of Indians, and entitled to be enrolled as such. said petition being styled in said court; number 56, E. A. Evans, vs. the Chickasaw Nation; that thereafter, in said United States court for the Southern District of the Indian Territory, at Ardmore, a trial was had and by the judgment and decree of said court, entered on the 9th day of March, 1898, petitioners herein were denied their citizenship in the Chickasaw Nation.

That said trial was without the knowledge of petitioners herein; that they had no attorneys in said cause and made no appearance in the same.

Your petitioners further show that by its judgment rendered on the 17th day of December, 1902, in a cause styled the Chickasaw and Choctaw Nations or Tribes of Indians, plaintiffs, vs. J. T. Riddle, et al, defendants, this court adjudged all the judgments and decisions of the United States courts in the Southern and Central Districts, in citizenship matters, upon appeal from the Commission to the Five Civilized Tribes, to be null and void, both as to defendants named in said cause and all other persons claiming citizenship in the Choctaw and Chickasaw Nations by virtue of judgment rendered in said courts, under the Act of June the 10th, 1896.

S. C. Treadwell, being by me first duly sworn, says that he is one of the attorneys for the petitioners in the above and foregoing Chickasaw Nation by intermarriage; that she was lawfully married under the tribal law, on the _____ day of _____, _____, believes.

to one _____ McGuire, a member of the Chickasaw tribe of Indians by blood; that she has never done anything to forfeit her right to citizenship since said marriage; that her children by said McGuire, are citizens by blood of the Chickasaw Nation, and entitled to be enrolled as such; that E. A. Evans is also a citizen by intermarriage of the Chickasaw Tribe of Indians, and entitled to be enrolled as such.

WHEREFORE, your petitioners most respectfully pray that an order be made in the nature of a writ of error or otherwise, directing the clerk of the United States court for the Southern District of the Indian Territory, at Ardmore, to certify and deliver to this court all files, papers, documents, evidence and proceedings had in said cause number 56, styled E. A. Evans vs. the Chickasaw Nation, heretofore pending in the United States court at Ardmore, and that all proper and necessary writs, citations or other process, be

issued by the clerk of this court for service upon the principal chief of the Choctaw Nation, and the governor of the Chickasaw Nation, in order that said cause may be fully and completely transferred and lodged with this court for all proper and lawful proceedings therein, and that your petitioners be decreed to be citizens of the Chickasaw Nation or Tribe of Indians and that they be enrolled as such .

Attorneys for Petitioners.

S. C. Treadwell, being by me first duly sworn, says that he is one of the attorneys for the petitioners in the above and foregoing petition, and that the facts stated therein are true, as he verily believes.

Subscribed and sworn to before me this the _____ day of _____
1903.

Notary Public.

Copy.

E. A. Evans et al. Petrs

vs.

Choctaw & Chickasaw Nations
or Tribes of Indians, Defs

Petition.

Copy of order of Court.

United States of America)
 Indian Territory.) SS
 Southern District.....)

In the United States Court, in the Indian Territory, Southern District, at a term thereof begun and held at Ardmore, in the Indian Territory on the 15th day of November A. D. 1897, and on the 58th day of said term, to-wit: the 9th day of March, Present, and presiding, the Honorable Hosea Townsend, Judge of said Court.

The following order was made and entered of record, to-wit:

E. A. Evans, et al)
 vs.) J U D G M E N T.
 Chickasaw Nation)

On this 9th day of March, 1898, came on to be heard the above cause upon the substitute pleadings and evidence, and the defendants appeared by their attorneys and announced ready for trial, but neither the plaintiffs, nor their attorneys, appeared, but wholly made default. Whereupon it appearing to the Court that this appeal from the decision of the Dawes Commission had been regularly taken; and after hearing the evidence and being fully advised on the whole cause, it is considered by the Court, that the applicants herein should take nothing by their suit, but that their application for enrollment in the Chickasaw tribe of Indians should be denied. It is, therefore, ordered, adjudged and decreed by the Court that the application of the claimants herein, to-wit Elizabeth Ann Evans, Fred Evans and their children be denied, and that they be refused citizenship in the Chickasaw Nation, and that they take nothing by their suit. It is further ordered, adjudged and decreed by the Court that the defendant the Chickasaw Nation do have and recover of the said plaintiffs all their costs in this behalf expended and incurred, for which execution may issue, and that this judgment be certified to said Dawes Commission for their observance.

The above is a true copy from the Record of an Order made by
said Court on the 9th day of March A. D. 1898.

C. M. Campbell,
Clerk.

By _____
Deputy.

(Seal attached)

Indorsed.

Dawes No. 43.

No. 56.

E. A. Evans,

versus

Chickasaw Nation.

Copy of order of Court.

Clerk.

By _____
Deputy.

SUMMONS.

United States of America,

Indian Territory,

ss

Choctaw and Chickasaw Citizenship Court.

The President of the United States of America,

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

GREETING:

You are hereby Commanded to Summons P. S. Moseley, Governor of the Chickasaw Nation, to answer on behalf of said nation, in twenty days after the service of this summons upon him, as Governor of said Nation a complaint in Equity filed against the Choctaw and Chickasaw nation in the Choctaw and Chickasaw Citizenship Court, in the Indian Territory, at Tishomingo, by E. A. Evans et al

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

And you are further commanded to notify said P. S. Moseley Governor aforesaid, that the papers, files and proceedings in the case of E. A. Evans et al File No. 56 in the District Court for the Southern District of the Indian Territory, has been transferred to the Choctaw and Chickasaw Citizenship Court, and that the certificate of the clerk of said court for said Southern District, Indian Territory, has been attached thereto.

WITNESS the Honorable Spencer B. Adams, Chief Judge, Walter L. Weaver and Henry S. Foote, Associate Judges, and the Seal thereof, at South McAlester, Indian Territory, aforesaid, this 23 day of March A. D., 1903.

James B. Cassady Clerk.

By Deputy.

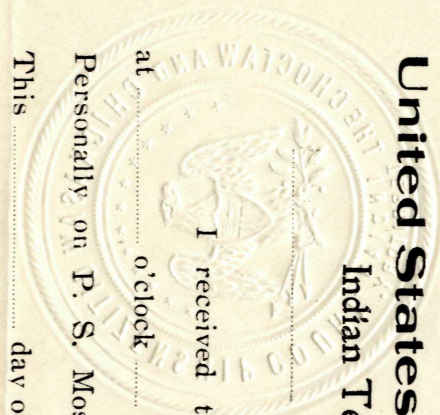


RECEIVED

MARSHAL'S RETURN.

United States of America,
Indian Territory,
DISTRICT.

Deputy.



I received this summons this of A. D., 1903,
at o'clock m. and served same by copy, as follows: stored in the Indian Territory,

Personally on P. S. Moseley, at
This day of , 1903, m.

Witness the Honorable Spencer B. Adams, Chief Judge.

By Deputy.

the certificate of the clerk of said court for said District, Indian Territory,
Indian Territory, has been transferred to the Choctaw and Chickasaw Citizenship Court, and that
file No. 229 in the District Court for the District of the
that the papers, files and proceedings in the case of P. S. Moseley & L
and you are further commanded to notify said P. S. Moseley, Governor, stating
complaint will be taken for confessed, and you will make return of the summons instanter.

Duplicate
No. 917

SUMMONS
IN EQUITY.

E. A. Evans et al
vs.
Choctaw and Chickasaw Nations.

Summons issued 23 day of
March, 1903. Returnable instanter.

Marshal's Fees.

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

S. C. Bradwell
Attorneys for Plaintiff.
Leshonings et al.

Choctaw and Chickasaw Citizenship Court,
Indian Territory,
United States of America,
SUMMONS.

Tishomingo, I. T., May 27, 1900.

M. McVeigh
South McAl

Gentlemen: I should like to get
a trial in the case of Elizabeth
Evans vs Chickasaw Nation
appealed from the Dawes Com.
What time will suit your
convenience? I desire
also to take the depositions
of M. V. Cheadle. I
shall be glad to accommodate
you gentlemen as to the
time. Kindly write me.
What time will suit you?
Very truly
Wm. H. Murray

Tishomingo, I. T., June 15, 1900.

Elizabeth Evans , Applicant for Citizenship
vs.

Chickasaw Nation In the U.S. Court for S. D. at Ardmore.

To Mansfield, Mc.Murray, & Cornish, Attys for the Chickasaw
Nation:

You are hereby notified that on the 28th day of
June a motion will be made before the Hon. Hosea Townsend to have
said cause set down for trial, and that said motion will be made ^{again} to so
set said cause for trial on the 2nd day of July 1900. That the
said motion will be presented to said Court on June 28 ,1900, as afore-
said

Elizabeth Evans,

By

Murray & O'Ryan Her Attorneys.

South McAlester, Indian Territory, June 23, 1900

Hon. Hosea Townsend,

Ardmore, Indian Territory,

Dear Sir:

In re Elizabeth A. Evans vs Chickasaw Nation, citizenship case No. 56:

We are just in receipt of a letter from Attorney Wm. H. Murray, of Tishomingo, advising us that he will, on June 23, 1900, make a motion to have this cause set down for trial on July 2, 1900.

It will not be possible for us to be present at that time, and we therefore address you briefly in regard to the case so that our interests may be protected in the event the matter comes up.

Some two years ago a judgment against these parties, and in favor of the Chickasaw Nation, was entered. At the last term of the Court a motion was filed by Mr. Murray to re-instate the case, upon the ground that the plaintiff had had no notice of the appeal from the Dawes Commission. Said motion was pending when, on June 2, 1900, you set all pending citizenship cases. Mr. Murray was not present, and his motion was overruled, under your general order at that time that the citizenship docket be cleared of all cases and matters not specifically referred to the Master. For your information we herewith enclose a certified copy of the order in this case.

HT 2

Just why it is contended that this case should be opened up, we are unable to understand. The parties were duly served with notice of appeal, as can be shown by the Register Records of the Post Offices, and the affidavit of Mr. W. B. Johnson, all of which we have procured. The case was regularly docketed in your court, and judgment taken in favor of the Nation. If such judgments can be opened, there is no end.

As various other judgments have been recently corrected the attorneys have evidently gotten an idea that these default judgments can also be re-opened. Under the regular rules of the court, and rules of pleading, this judgment has become final.

If the order overruling this motion should not be held to be conclusive, we would ask that the matter go over, and we will undertake to show as a matter of fact that the notice of appeal was regularly served upon these parties.

We present this matter in this informal way, as we were present on June 2, when these matters were regularly set by you; and do not desire to make a trip to Ardmore to take up this motion unless it is absolutely necessary that we should do so.

Very truly yours,

Dictated.

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

-----o-----

MARY ELLIS,.....

vs.

APPLICATION FOR CITIZENSHIP

Chickasaw Nation.

To the applicant, or his attorneys of record,

You are hereby notified that on the 13 day of January, 1897, I will, as attorney for the Chickasaw Nation, file application for an appeal in the above styled cause in the United States Court for the Southern District of the Indian Territory.

W B Johnson

We, _____, attorneys for the applicant, hereby accept notice of the application for appeal in the above styled claim for citizenship in the Chickasaw Nation.

Attorneys for applicant.

Indian Territory,))
Southern District) ss.

I, H Ed Perry constable, being duly sworn, on oath state that I served a true copy of this notice upon _____ on the 19 day of January, 1897; and that I have no interest in this cause.

Subscribed and sworn to before me on this the 19 day of January, A. D., 1897.

H F Howard
Notary Public.



RECEIVED

1908

IN SENATE
JANUARY 15 1908

RECEIVED

IN SENATE
JANUARY 15 1908

Mary Ellis
vs.
Chickasaw Nation.

-- NOTICE OF APPEAL --

Original

P. O.
Kemp J. T.

MARY ELLIS

vs.

CHICKASAW NATION

E. A. Evans

vs

Chickasaw Nation.

Court No. 56

Dawes No. 43

Notice of appeal by the Chickasaw Nation was issued by the Clerk of the Court Jan. 4, 1897.

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

Default judgment parties admitted by the Dawes Commission was rendered by the Court March 9, 1898.

This case has not been appealed to the United States Supreme Court.

See letter filed in James Donis Case

In the United States Court for the
Southern District of the Indian Territory

E. A. Evans

vs.

Chickasaw Nation

W. B. Johnson, after being duly sworn, deposes
and says:

In January 1900, ——— Evans, husband of
the plaintiff E. A. Evans come to see me and
asked me if I still represented the
Chickasaw Nation — He wanted to talk
about setting aside the judgment against
his wife, on the ground that she had
no notice of same —

I asked him if she had not received
the notice served by me on all persons
against whom an appeal was taken by the
Chickasaw Nation —

He replied that they had received
it, but paid no attention to it, as they
thought it an effort from some
lawyer to try to get more money out of
them

W. B. Johnson

Subscribed & Sworn to before me this June 22, 1900
O. M. Campbell Clerk

SUMMONS.

United States of America,

Indian Territory,

Choctaw and Chickasaw Citizenship Court.

ss

The President of the United States of America,

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

GREETING:

You are hereby Commanded to Summons Green McCurtain, Principal Chief of the Choctaw Nation, to answer on behalf of said nation, in twenty days after the service of this summons upon him, as Principal Chief of said Nation a complaint in Equity filed against the Choctaw and Chickasaw nation in the Choctaw and Chickasaw Citizenship Court, in the Indian Territory, at Sishominy, by E. A. Evans et al

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

And you are further commanded to notify said Green McCurtain, Principal Chief aforesaid, that the papers, files and proceedings in the case of E. A. Evans et al File No. 5-6 - in the District Court for the Southern District of the Indian Territory, has been transferred to the Choctaw and Chickasaw Citizenship Court, and that the certificate of the clerk of said court for said Southern District, Indian Territory, has been attached thereto.

WITNESS the Honorable Spencer B. Adams, Chief Judge, Walter L. Weaver and Henry S. Foote, Associate Judges, and the Seal thereof, at South McAlester, Indian Territory, aforesaid, this 23 day of March A. D., 1903.

James B. Curran Clerk.

By _____ Deputy.



MARSHAL'S RETURN.

United States of America,
Indian Territory,
DISTRICT.

I received this summons this _____ of _____ A. D. 1903,
at _____ o'clock _____ m. and served same by copy, as follows:

Personally on Green McCurtain, at _____ Indian Territory,

This _____ day of _____, 1903, _____ m.

By _____ Deputy.

Duplicate
No 91- T-

SUMMONS
IN EQUITY.

E. C. Evans et al
vs.
Choctaw and Chickasaw Nations.

Summons issued *23* day of
March, 1903. Returnable instanter.

Marshal's Fees.

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

S. C. Bradwell
Attorneys for Plaintiff.
Leshanings I.T.

Taken from page 173 "Chickasaw Laws".

"Report of Committee on Claims to Citizenship.

Special Committee Room
October 22, 1885.

Hon. Legislature of the Chickasaw Nation:

We, the committee appointed by the Senate and House of Representatives to investigate all cases of claimants to citizenship in the Chickasaw Nation, respectfully report, That we have had under investigation the following cases: Joe Self and wife; Wm Donal, et al; Mrs. E. Dillard, James Blassingame, Charles Palmer and Fred Evans; and from the nature of the evidence submitted in each case we failed to find sufficient proof to enable the committee to declare either of said claimants entitled to Chickasaw rights; but found ample proof that neither of said claimants has any right whatever as citizens of the Chickasaw (Nation).

For further information as to the disposition of each case you will find by reference to Committee Record. We would further state that there is a number of cases that could not be tried at this term of the Legislature. All of which is respectfully submitted.

GEORGE WILSON,
Chairman Committee.

Attest: Thos. W. Johnson,
Clerk Committee.

Approved October 23, 1885.

JONAS WOLF,
Governor.

IN THE CHOCTAW AND CHICKASAW CITIZENSHIP COURT,
SITTING AT TISHOMINGO, JUNE TERM, 1904.

E. A. Evans, Plaintiff.

vs. No. 91.

Choctaw and Chickasaw Nations, Defendants.

M O T I O N.

Come the Choctaw and Chickasaw Nations and move that they be permitted to withdraw the announcement made on June 17, 1904, that no evidence would be offered on their behalf, and that the case was submitted to the final decision of the Court upon the evidence offered, and in support thereof state:

That such since time they have been informed that the facts alleged by the applicant, that she lived with her Indian husband until his death and did not abandon him are not true, and that they verily believe that testimony can be introduced before this Honorable Court to show that she is not true, but that the applicant abandoned her Indian husband prior to his death.

THE CHOCTAW NATION
THE CHICKASAW NATION,

BY

ATTORNEYS.

IN THE CHOCTAW AND CHICKASAW CITIZENSHIP COURT,
SITTING AT TISHOMINGO, JUNE TERM, 1904.

E. A. Evans,

vs. No. 91.

Choctaw and Chickasaw Nations,

S. C. Treadwell, Attorney for Plaintiff.

Mansfield, McMurray & Cornish, for Defendants.

Present and presiding the Honorable Walter L. Weaver, Associate Judge.

JUNE 17, 1904. This day this cause coming on to be heard, both plaintiff and defendants being represented by Counsel and both having announced ready for trial, the following proceedings were had, to-wit:

ELIZABETH EVANS, being called as a witness in her own behalf after being first duly sworn testified as follows:

DIRECT EXAMINATION.

Mr. Treadwell:

Q.--What is your name?

A.--Elizabeth.

Q.--Elizabeth Evans?

A.--Yes sir.

Q.--Where do you live at?

A.--Down on the Washita.

Q.--In what Nation?

A.--Chickasaw Nation.

Q.--How long have you lived in the Chickasaw Nation?

A.--About twenty-eight or nine years, going on twenty-nine years.

Q.--Were you ever married to a man named Sam McGuire?

A.--Yes sir.

Q.--When were you married to him?

A.--I can't tell you ~~xxxx~~ exactly, I don't recollect.

Q.--Do you know of what nationality Sam McGuire was?

A.--He was Chickasaw.

Q.--Under what law did you marry him?

A.--Now mister I can't tell you ~~xxxx~~ exactly, that is more than I know. Old Robert Bell Missionary married us.

Q.--You didn't get a United License or or any place in Texas to marry Sam McGuire?

A.--No sir, didn't get a United States license.

Q.--Where were you married to him?

A.--Near Mt. Washita.

Q.--On which side?

A.--Territory side.

Q.--Married then in the Chickasaw Nation?

A.--Yes sir.

Q.--You don't claim to be an Indian by blood?

A.--No sir.

Q.--Where is Sam McGuire now, living or dead?

A.--Dead.

Q.--When did he die, do you know?

A.--He has been dead about twenty-eight years, twenty-six, seven or twenty-eight years. I can't tell you exactly.

Q.--Will ask you if after you marriage with Sam McGuire you have received permits from the tax collectors of the Chickasaw Nation?

A.--Yes sir.

Q.--Please examine these and see if those are the ones you received?

A.--Yes sir, they are the ones.

1904
76
1878

Q.--Will ask you if the Chickasaw Courts ever exercised jurisdiction in any case in which you were concerned with reference to holding land in the Chickasaw Nation?

A.--I don't understand.

Q.--To make it a little clearer is this record of a proceeding here certified to by Guy Keel, his hand writing, you have a suit?

A.--Yes sir, me and Frank Colbert.

Q.--Have a suit in the Chickasaw Court?

A.--Yes sir.

Q.--You have no children that are applying have you?

A.--No sir.

Q.--Anyone in this case but yourself?

A.--No sir.

Q.--When this case was pending on the Ardmore, docket, did you go there in person?

A.--No sir, my husband had to go there, I didn't go, I was sick.

Q.--You really didn't have any appearance in the Court at all?

A.--No sir, none at all whatever.

CROSS-EXAMINATION.

Mr. Cornish:

Q.--When you married this man where were you living?

A.--I was in Texas when he came after me at my mothers.

Q.--You ever live in the Territory before that time?

A.--Yes sir, lived at uncle Sam Laws.

Q.--In what County?

A.--Panola County.

Q.--Chickasaw Nation?

A.--Yes sir.

Q.--How long had you lived there?

A.--Lived there with uncle Sam Laws, something near twelve months.

Q.--Where did this man that you married live?

A.--Lived in Pickens County.

Q.--This marriage occurred in June 1872 in Panola County, he lived in Panola instead of Pickens County?

A.--Yes sir.

Q.--You say he was Chickasaw Indian?

A.--Yessi, that is what he claimed.

Mr. Cornish:

Will ask that that be stricken from the record because it is not in response to my question.

Mr. Cornish:

Q.--What was his physical appearance?

A.--He looked to be a native.

Q.--Wat degree of blood did he seem to have?

A.--Seemed like he was about a full blood.

Q.--What kin folks did he have?

A.--Mister his kin folks is all dead except one neice.

Q.--What is her name?

A.--Mrs. Cirley.

Q.--She was his neice.

A.--Yes sir.

Q.--How was she his neice through his mother or father?

A.--Her mother was his sister.

Q.--Her mother was the sister of the man you married?

A.--Yes sir, his sister.

Q.--How long did this man live after you married him?

A.--Didn't live long. We was married in June and he died somewheres about Christmas.

Q.--The same year?

A.--Yes sir.

Q.--Live with him until he died?

A.--Yes sir.

Q.--With him when he died?

A.--Yes sir.

Q.--Any seperation?

A.--No sir.

Q.--Live with him as his wife until he died?

A.--Yes sir.

Q.--When you went to the Dawes Commission and the United States Court the names of your children were in the suit?

A.--No sir, I didn't have any children, nobody but me.

Q.--In this suit you are the only claimant?

A.--Only one.

Witness excused.

JENNIE KEMP, called as a witness on behalf of plaintiff, after being first duly sworn, testified as follows:

DIRECT EXAMINATION.

Mr. Treadwell:

Q.--What is your name?

A.--Jennie Kemp.

Q.--Where do you live?

A.--Banola County.

Q.--Did you know Sam McGuire in his lifetime?

A.--Yes sir.

Q.--You know of what nationality he was?

A.--Chickasaw.

Q.--About what degree of blood was he, full blood?

A.--Yes sir.

Q.--Was he as much Indian as you are?

A.--Yes sir.

Q.--How long did you know him before he died?

A.--Twenty-eight years.

Q.--Where did he live?

A.--Panola County.

Q.--How far from the mouthxxx of the Washita River, he lived in Panola Cou ty?

A.--Yes sir.

CROSS-EXAMINATION.

Mr. Cornish:

Q.--Was he ever married, did Sam McGuire ever marry?

A.--Yes sir.

Q.--Who did he marry what was her name?

A.--Elizabeth.

Q.--She a white woman?

A.--~~xxxx~~ yes sir.

Q.--How long did you know Sam before he died, how long had you known him?

A.--Twenty-eight years.

Q.--Twenty-six odd years?

A.--Yes sir.

Q.--Where was he born?

A.--I don't know.

Q.--Did he live anywhere else except in the Indian Territory?

A.--Yes Panola County.

Q.--Ever live in a State anywhere?

A.--No sir.

Q.--Always lived in the Indian Territory?

A.--Yes sir.

Q.--Was he a quarter breed, half breed or full blood?

A.--Full blood.

Q.--As much Indian as you are?

A.--Yes sir.

Q.--Who was he kin to?

A.--Sallie Corley?

A.--No sir.

Q.--How far did he live from you?

A.--I lived in Pontotoc County.

Q.--Up this way?

A.--Up this way.

Q.--Live close to Palmer Mosely?

A.--Close to George Harkins, down on Blue.

Q.--Did you ever see this woman living with Sam?

A.--No.

Q.--Never about them when they were married?

A.--No sir.

Q.--Don't know anything about his marriage so far as you are concerned?

A.--No sir,

Mr. Treadwell: ~~XXXXXXXXXXXXXXXXXXXX~~

Q.--Did you know Sam McGuire in his lifetime?

A.--Yes sir.

Q.--Do you know what nationality he was?

A.--Full blood Chickasaw.

Q.--Where did he live?

A.--Lived down here in Panola County, little above the mouth of the Washita.

Q.--Know whether he ever lived with this woman as his wife?

A.--Never seen them together, I was told they was married.

Q.--That was the report at that time?

A.--Yes sir, always been recognized as his wife.

Q.--Sam McGuire living or dead?

A.--He is dead.

Mr. Cornish:

Q.--Do you know this woman?

A.--Yes sir.

Q.--What is her name?

Q.--What is her name?

A.--Corley, first husbands name was Harkins.

Q.--She related to this man Sam?

A.--She is his neice.

Q.--This woman who is now in court is the neice of the man whom you saw living as the husband of this white woman Elizabeth?

A.--Yes sir.

Mr. Treadwell:

I offer a certificate from the Commission.

JUDGE WEAVER:

Any question in this case as to the license.

Mr. Cornish:

On behalf of the Choctaw and Chickasaw Nations, the case is submitted to the Court for its final decision upon the evidence offered.

SALLIE CORLEY, being called as a witness on behalf of plaintiff, after being duly sworn testified as follows. (Through interpreter Eli Pitchlyn).

Mr. Cornish:

Q.--Ask her her name?

A.--Sallie Corley.

Q.--Ask her if she knew Sam McGuire?

A.--She knew him.

Q.--Ask her if he was kin to her?

A.--He was her uncle.

Q.--Ask her if he was ever married?

A.--Yes sir.

Q.--Ask her who he married?

A.--Lizzie.

Q.--Ask her if the woman he married is now here?

A.--Yes sir.

Q.--Ask her where she is?

A.--Identified as the applicant.

Q.--Ask her if Sam is dead?

A.--Yes sir.

Q.--Ask her if this woman was his wife at the time he died?

A.--Yes sir.

Q.--Ask her if they lived together from the time of the marriage until his death as husband and wife?

A.--Yes sir.

Q.--Ask her if Sam had ever been married before the time he married this woman?

A.--Yes sir, married.

Q.--Ask her if his wife was living or dead at the time he ~~married this woman~~ married this woman? A.--First wife died and he married this woman. Witness excused.

ELIZABETH EVANS, recalled.

Mr. Cornish:

Q.--Had you been married before your marriage to this man?

A.--No sir.

Q.--That was your first marriage?

A.--Yes sir.

Witness excused.

JUDGE WEAVER:

Mark the case submitted for decision

IN THE CHOCTAW AND CHICKASAW CITIZENSHIP COURT,
SITTING AT TISHOMINGO, JUNE TERM, 1904 .

E. A. Evans,

vs. No. 91.

Choctaw and Chickasaw Nations .

S. C. Treadwell, attorney for plaintiff.

Mansfield, McMurray & Cornish, Attorneys for
defendants.

Present and presiding the Honorable Walter L. Weaver and
Henry S. Foote, Associate Judges.

JUNE 21, 1904.

Mr. Cornish:

On the 17th, the case of E. K. Evans was tried. At that time the Nations announced that they submitted the case to the Court upon the evidence of the plaintiffs.

Since that time some information has come to me that has caused me to conclude that the interests of the Nations would be best protected by taking further evidence, and I ask to withdraw the motion, and that the case be set for testimony on the part of the Nations, as in other cases. The Motion I have filed sets forth what I have stated, and a copy of that has been furnished the attorney for applicant. I will state further that the information which has come to me is now being investigated and in case there is no evidence to be offered, we will announce it in a few days.

Mr. Treadwell:

I was out of town yesterday and didn't see the motion. Mr. Lucas, my partner had to leave this morning, and I have not yet seen the motion.

JUDGE WEAVER:

If after having looked at the motion you desire to be heard, we will hear you.

Mr. Treadwell:

This motion reads: "Reads motion to reopen".

In the files a find an answer of the Nation, marked a substituted answer.

JUDGE WEAVER:

Proceedings in the District Court .

Mr. Treadwell:

Yes sir. There is an admission of ~~exxx~~ the facts sought to be controverted in that motion. "Reads answer of Chickasaw Nation, filed in United States Court".

JUDGE WEAVER:

This Court has held in the Riddle case that all proceedings in the District Court were void, because there was only one Nation a party, when both Nations should have been a party and because the case was tried de novo.

JUDGE FOOTE:

We have held that we do not care anything about the pleadings in that case. We try the case de novo. The act gives us jurisdiction to do that is the written application for transfer and the service upon these two Nations. We adjudicate the questions of law as they arise before us.

Mr. Treadwell:

The motion states that they expect to prove that this woman abandoned her husband, or at least did not live with him until his death. This motion is not good until there is an allegation that Mrs. Evans abandoned her husband without due cause. There is no such allegation in this motion.

JUDGE FOOTE:

In drawing a thing of that kind it is not necessary to set out the probative fact.

Mr. Treadwell:

Those are the only points in the motion I care to call the Courts attention to.

Mr. Cornish;

Under the circumstances, I do not feel that there is much to say. In cases of this character, we have endeavored to proceed with as great liberality as possible, and when this applicant came before the Court and stated on oath that she married a full blood Chickasaw Indian and had not abandoned him and lived with him until his death, we submitted the case. Since that time information has come to me that that statement is not true and that she did ~~xxxxxx~~ abandon her Indian husband.. Desiring to make progress the other morning we stated that the Nations would not have any evidence. Since then that information has come to me. If after investigation we find that the statements of the applicant were not true we desire to introduce that testimony, and if not we will so inform the Court.

JUDGE WEAVER:

It is a matter that is within the discretion of the Court.

Mr. Cornish:

I wasn't required to state the other morning if we desired to take a y testimony, but desiring to make progress we announced that we would not have any testimony.

JUDGE WEAVER:

After consultation with my associate, we are of the opinion that the motion shows sufficient grounds for with-

drawing. Of course the Court will expect and no doubt Mr. Cornish is proceeding with as much diligence as possible to investigate the facts, and as soon as it is you will be informed, and have ample opportunity to submit rebuttal evidence, or any other way you see fit.

M.M.

In the Choctaw and Chickasaw Citizenship Court,
Sitting at Tishomingo, I.T., June 20, 1904.

--o--

A.E. Evans, et al,
~~xxxxxxx~~ Mikkl,

--vs--

No. 91.

The Choctaw and Chickasaw Nations,

--o--

Present and presiding the Hons. Walter L. Weaver and
Henry S. Foote, Associate Judges of said Court.

--o--

This day this cause coming on to be heard the following
proceedings were had to-wit;

Mr. Cornish;

This case was tried on Friday; at that time we stated that
we would submit the case, but after further investigation
the Nations will desire to offer some testimony and we now
withdraw our statement with reference to submitting the case.

Judge Weaver;

I think that would be like any other case, where it
is desired to re-open it. You can prepare your motion.

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In the Choctaw and Chickasaw Citizenship Court, sitting at
Tishomingo, Indian Territory. October Term, 1904.

E. A. Evans,

vs.

No. 91.

Choctaw and Chickasaw Nations.

DECREE OF COURT.

On this 20th day of October, 1904, this cause coming on for final decision, the same having heretofore been submitted upon the law and the evidence, and the Court being well and sufficiently advised in the premises, doth find that the plaintiff, Elizabeth Ann Evans, is entitled to be deemed a citizen by intermarriage of the Chickasaw Nation, and entitled to enrollment as such, and entitled to all the rights, privileges and immunities, personal to herself, flowing therefrom.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED THAT THE petition of the plaintiff, Elizabeth Ann Evans, be granted, and the she be deemed a citizen by intermarriage of the Chickasaw Nation, and entitled to enrollment as such citizen, and entitled to all the rights, privileges and immunities, personal to herself, which flow therefrom.

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Chief Judge.

.....
Associate Judge.

.....
Associate Judge.