

Witnesses.

For Claimants.

M. M. Ingeon ----- Bennington, V.T.

For Notaries.

No. 92.

Mrs. Bettie Stewart. ~~et al.~~

vs

Choctaw Nation

No. 114.

Central District Court.

No.

Daves Commission

Admitted

Feb. 9/04

Bellie Stewart, No 92.

Submit on the record.

Submitted

SP. 06, transcript filled

Green etc. no hundred

Substantive

Feb 27

Bettie Stewart

No. 92

Bettie Stewart admitted
by intermarriage

SUMMONS.

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

The President of the United States of America,

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

GREETING:

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

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 Mrs Bettie Stewart File No. 114 in the District Court for the Central 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 Central District, Indian Territory, has been attached thereto.

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



Gas B. Bassada Clerk.
By E. L. Berwitt Deputy.

MAKSHAT'S BELUBA

MARSHAL'S RETURN.

United States of America,
Indian Territory,
DISTRICT.

I received this summons this _____ day of March 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.

WITNESS the Honorable Sheriff B. Adams, Chief Judge,

By _____ Deputy.

Duplicate

No. 92-M

SUMMONS
IN EQUITY.

Mrs Bette Stewart

vs.

Choctaw and Chickasaw Nations.

Summons issued 27 day of
March, 1903. Returnable instanter.

Marshal's Fees.

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

J. G. Ralls Atoka
Attorneys for Plaintiff. J.T.

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

SUMMONS.

United States of America,

Indian Territory,

Choctaw and Chickasaw Citizenship Court.

SS

The President of the United States of America,

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

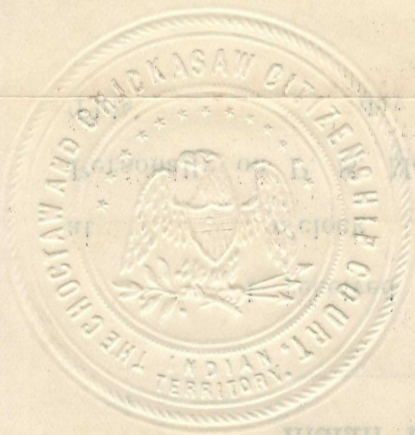
GREETING:

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

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 instant;

And you are further commanded to notify said P. S. Moseley Governor aforesaid, that the papers, files and proceedings in the case of Mr. Bettie Stewart File No. 114 in the District Court for the Central 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 Central District, Indian Territory, has been attached thereto.

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



James B. Bassada Clerk.
E. L. Berritt Deputy.

By

United States of America

MARSHAL'S RETURN

- Q You know whether he voted at the elections? A I think he did. I don't know, I could not tell.
- Q You know whether or not his mother is a citizen? A Yes; she is a citizen.
- Q How much Choctaw blood is his mother? A One-quarter Choctaw.
- Q What was his father a white man or citizen? A Yes, sir.
- Q That would make him one-quarter then? A one-eighth I reckon.
- Q Do you know whether or not his mother is a recognized citizen of the Choctaw Nation? A She is recognized citizen.
- Q How long has she lived in the Choctaw Nation? A She came from Mississippi here when they emigrated to this country.
- Q Has she since her arrival here been recognized as a citizen by the tribal authorities of the Choctaw Nation as a citizen? A Yes, sir.
- Q You don't know of your own knowledge whether she is on the approved list of the Secretary's roll? A No, sir; I do not.
- Q Have you filed on your land yet? A Yes, sir.
- Q You have selected your land? A Yes, sir.
- Q You know whether or not these children have been approved and their lands have been filed on? A Only just hearsay.

Mr. Cornish: Cross examination.

- Q Is the mother of this man living? A Yes, sir.

Now we want to call the court's attention to the fact that it has developed in this examination that the mother of this man is living; record evidence of her adjudicated status is certainly the best character of evidence.

Judge Adams:

Why don't you introduce that evidence instead of oral testimony.

Mr. Cornish:

- Q What is the name of the mother of this man? A Nancy Stewart.
- Q Where does she live? A She lives at Wynnewood.

Mr. Ralls:

We offer a certified copy of an order made by the County and Probate Court of Blue County, Choctaw Nation, during the November term 1896 appointing the applicant in this case as administratrix of the estate of Sam Stewart deceased, which has been certified to by the Clerk of the United States Court.

Mr. Mansfield:

For what purpose do you offer that?

Mr. Ralls:

For the purpose of showing that Sam Stewart was a citizen.

Mr. Mansfield:

The action of these different Probate courts could not bind this court.

Mr. Ralls:

It does not bind the court, it is a circumstance.

Mr. Mansfield:

In this case it has been shown that the mother of this man Stewart is alive, he says her enrollment has been approved. Now if the mother of this man was a Choctaw Indian and her status is fixed as one why all he has to do is to produce a certificate from the Dawes Commission.

Judge Adams:

We have allowed him to prove that she has been enrolled by the Commission. Now it is for him to produce competent evidence.

Mr. Ralls:

We next offer a certified copy of letters of guardianship appointing the applicant guardian for her minor children, of Minnie and Esther, issued by the County and Probate Court of Blue County, Choctaw Nation on the third day of April 1897.

Mr. Cornish:

To which we note the same objections.

Witness excused.....

Bettie Stewart called as a witness in her own behalf after being duly sworn testified as follows:

Direct examination by Mr. Ralls

- Q What is your name? A Bettie Stewart.
Q How old are you? A Thirty-two.
Q Are you a white woman? A Yes, sir.
Q What was the name of your husband? A Samuel F. Stewart.
Q What was the name he usually went by? A Sam.
Q Where were you married to him? A Armstrong Academy.
Q You remember the date? A The 22nd of December 1889.
Q Who married you? A Judge Green Gardner, Judge of the County/
Q Where were you living at the time of your marriage? A Caddo.
Q What was your maiden name? A Hampton.
Q Where was Mr. Stewart living? A At the Academy.
Q How long had you known him before you were married to him? A Personally for eight years.
Q I will ask you to examine this and state whether or not it is your marriage certificate issued to you by Judge Gardner? A Yes, sir.

Mr. Ralls:

We offer the marriage certificate dated December 22, 1888 and recorded in the records of the Choctaw Nation.

- Q Where was you living at the time Mr. Stewart died? A At Caddo.
Q Did you have any children by him? A Two.
Q What was their names? A Minnie Belle Stewart and Ester.
Q How old is Minnie Belle? A Seven.
Q How old is Ester? A Nine.
Q Are they both living with you? A Yes, sir.

- Q Have you resided anywhere else since your marriage but in the Choctaw Nation? A Never did.
- Q Did you live with him until his death? A Yes, sir.
- Q Have you been married since his death? A No, sir.
- Q Were you married before your marriage to Mr. Stewart? A No, sir; I never have.
- Q I will ask you if your children are recognized Choctaws by blood? A Yes; I have filed for my children.
- Q Where? A At Atoka.

Mr. Cornish:

We interpose the same objections heretofore urged.

Judge Adams:

Is there not some record of that.

Mr. Ralls:

Yes, sir.

Judge Adams:

Would that not be the best evidence?

Mr. Ralls:

Yes, sir. I have a certificate of the Dawes Commission showing the enrollment of the two children. I wanted to identify them.

- Q You remember when it was that your children were enrolled and the ages given at that time? A You mean the first time?
- Q Yes? A I don't know exactly but the Choctaw Nation enrolled them.
- Q You mean the Leased District Money in 1893?? A Yes, sir.
- Q In 1896 did you go before the Choctaw board? A Yes, sir.
- Q Was your name placed on the roll then? A Yes, sir.
- Q As a citizen by blood or intermarriage? A Intermarried citizen.
- Q How about the children? A They were enrolled as citizens by blood.
- Q You have no other children? A No, sir.
- Q You know of any other children in that community who are Choctaws and who bear the names and ages of your children? A No, sir; there are no other children by that name and age in that community. They have an uncle who lives in the Chickasaw Nation.
- Q How have you been regarded by the Choctaw authorities since your marriage to Mr. Stewart? A Always recognized as a Choctaw.
- Q You are the same person named in these papers? A Yes, sir.
- Q You were appointed administratrix of the estate of your husband? A Yes, sir.
- Q Also as guardian for your children? A Yes, sir.
- Q Your children don't claim any Choctaw blood except through your husband? A That is all.
- Q You never made any claim to Choctaw blood yourself? A No, sir.

Mr. Cornish:

- Q Had your husband been married prior to his marriage to you? A No, sir.

Mr. Cornish:

The nations can add nothing to what has heretofore been said except that we now ask the court to exclude from this record the evidence which does not go to the issues heretofore stated, that is that it is incumbent upon the applicant to show by the best evidence that the man to whom she claims to have been married was a Choctaw Indian by blood; and we urge that the adjudication of his status by the Dawes Commission or of some living relative is the best evidence.

Witness excused.....

Charlie Gilmore, called as a witness on behalf of the plaintiff, after being duly sworn testified as follows:

Direct examination by Mr. ⁺alls.

- Q What is your name? A Charley Gilmore.
Q How old are you? A Forty-six.
Q Where do you live? A Caddo.
Q How long have you resided there? A About 17 or 18 years.
Q Do you know the applicant Mrs. Bettie Stewart? A Yes, sir.
Q How long have you known her? A -----
Q Has she been living there ever since? A Yes, sir.
Q Has she any children? A Two little girls.
Q What are their names? A Minnie and I forget the other name.
Q Would you remember the name if you heard it called? A Yes, sir.
Q Sammie S? A Yes, sir.
Q You are a Choctaw Indian by blood? A Yes, sir.
Q So recognized? A Yes, sir.
Q Have you filed on your land yet? A Yes, sir.
Q Did you know Samuel F. Stewart? A Yes, sir.
Q Where did he live? A At Caddo.
Q What was he? A A Choctaw by blood.
Q Was he so recognized by the authorities? A Yes, sir.
Q Is he living or dead? A Dead.
Q You know about when he died? A No, sir; I was living next door to him when he died and waited on him when he was sick-- some eight or nine years ago.
Q Did you know his mother? A Yes, sir.
Q What is her name? A Nancy Stewart, I think she was an Impson before she married.
Q What was her nationality? A Choctaw.
Q Where is she now? A She lives at Wynnewood I think.
Q Do you know how Mrs. Stewart has been regarded by the Choctaw authorities? A I understand she was recognized; we always recognized her there.
Q Do you know anything about her children attending Choctaw school? A Yes, sir.
Q State whether or not they have been given the privilege of attending the Choctaw school? A They have gone to school there.
Q Has their right ever been disputed? A Not that I ever heard of.
Q They are living are they? A Yes, sir.
Q Do you know whether or not Mrs. Stewart lived with her husband until his death? A Yes, sir.
Q Since that time has she remarried? A No, sir.
Q You are not related to her? A No, sir.
Q Do you know whether or not she has held farm for her children there? A I think so, yes, she owned one down there.

Q You are not a member of the Choctaw Commission that prepared the 1896 roll? A No, sir.

Mr. Cornish:

We ask that all of the objections heretofore stated apply to this witness.

Mr. Ralls:

We offer the certificate issued July 5, 1897, showing that the name of this applicant was on the roll and that her children are upon the Choctaw roll which roll was prepared by the Choctaw authorities under an act of the Council in 1896; the certificate is dated the fifth day of July 1897, by Wallace Bond, Private Secretary of the Principal Chief.

Mr. Cornish:

We object for the reason that it is incompetent as heretofore stated.

Mr. Mansfield:

A certificate of that kind could not be regarded as competent evidence. An act of Congress was passed creating the Dawes Commission for the express purpose of investigating these rolls and to strike therefrom such names as were placed thereon by fraud or without authority of law. I don't see why counsel should insist in trying to prove the matter in a disputed way when he can prove it easily in an undisputed way. If the certificate is introduced that would end the matter. There would be no further controversy.

Judge Adams:

Why don't you get a certificate from the Dawes Commission showing the name of the mother of this man is on the rolls -- that her status has been adjudicated, that would obviate all of this controversy.

Mr. Cornish:

It is hardly more than fair for us to state the consideration that move us to make these objections. We do not make objections for the sake of making them. Wherever a person comes before this court and is entitled to be admitted we do not state objections. It might be and my information is that this lady is entitled to be admitted; but, the duty which we owe the Choctaw and Chickasaw Nations as affects this case and all other cases is that we see that only competent evidence is introduced; not only for the affect on this case but on all other cases. If this man Samuel Stewart was a Choctaw Indian and had a status and his mother was and his children have an adjudicated status at this and this woman married him in accordance with the Choctaw law, then this court should admit her.

Judge Adams:

Do you think for a moment that this court will consider evidence where an attorney can procure better evidence. We will strike this testimony out at the proper time. We have allowed him to prove by these witnesses facts that are matters of record. If he does

not supply that record that is a matter with him. He says himself that there is better evidence. It is only with him to supply that record. I want to assure you that at the proper time all evidence that is improper will be stricken from the record.

Mr. Ralls:

We offer the original application to the Commission to the Five Civilized Tribes filed there on the 7th day of September 1896 together with the affidavits filed in support thereof.

We offer the answer of the Choctaw Nation filed with the Commission.

We offer the judgment of the Dawes Commission rendered on the 3rd day of December 1896 from which this appeal was taken.

We offer the petition for appeal and the notice of appeal filed in the United States Court on the 30th day of January 1897 and the answer filed by the Choctaw Nation on the 25th of February 1897.

I desire permission to file a certified copy of the enrollment of these children of Mrs. Stewart and also of the mother of her husband if it is a fact that she has been approved; I understand she has been; I have the certificate of these children and I also desire to file, if the Commission will furnish it, a certificate showing that this woman's husband was placed upon the Leased District Roll and drew the Leased District money and also ~~xxxx~~ a certificate showing that her name appears upon the Choctaw Census roll of 1896 at the present time. I can file these in the course of a few days.

Mr. Cornish:

The Choctaw and Chickasaw Nations object to the introduction of the papers that purport to be a part of the alleged records of the Commission to the Five Civilized Tribes and urge that they are not competent evidence in this case for the reason that they are parts of a proceeding had before the Commission to the Five Civilized Tribes which proceeding is void for the reason that both the Choctaw and Chickasaw Nations were the necessary and interested parties and the Choctaw Nation only was made a party. We object to the papers filed and use of in the United States Court for the reason that they are a part of a void proceeding first for lack of proper parties and secondly the court tried the case de novo when it should have confined its action to a review of the record made by the Commission.

Mr. Ralls:

I will endeavor to offer these records on the first of December.

Bettie Stewart case.

December 8, 1903.

Mr. Ralls:

I offer certificate showing that Nancy Stewart has been enrolled as a citizen by blood of the Choctaw Nation, and that her name has been approved by the Secretary of the Interior, and that her name appears upon the approved rolls. This certificate is signed by Tams Bixby. Marked Exhibit " _____ "

Mr. Ralls:

Offer certificate from the Commission, showing that upon the Choctaw census roll of 1896 of intermarried citizens, there appears the names of Stewart, Wiley, page 72, Blue County. Marked Exhibit " _____ "

Mr. Ralls:

Offer another certificate from the Commission to the same date, showing that on the Leased District payment roll of 1893 there appears the name of Samuel Stewart as the head of a family, and that under his two married children there appears the name of Minnie Stewart, and that there was paid Samuel Stewart, \$103.00 and for Minnie Stewart, \$103.00. Minnie Stewart is proven to be the daughter of the applicant in this case.

Marked Exhibit " _____ "

In the Choctaw and Chickasaw Citizenship Court,

Sitting at South Mc Alester, I.T., February 27, 1904.

--o--

Betty Stewart, et al,

--vs--

No. 92.

The Choctaw and Chickasaw Nations,

--o--

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

Mr. Cornish;

In this case the testimony has already been taken and we think it is sufficient to enable the Court to pass on the case.

Judge Adams;

The case will be marked submitted.

--o--

In the Choctaw and Chickasaw Citizenship Court, sitting at South McAlester, in the Central District of the Indian Territory, in the Choctaw Nation, March Term, 1904.

Bettie Stewart,

vs.

Choctaw and Chickasaw Nations.

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No. 92.

DECREE OF COURT.

On this 9th day of March, 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, Bettie Stewart, was, on the 22nd day of December, 1889, lawfully married to one Samuel Stewart, a duly enrolled and recognized member by blood of the Choctaw tribe of Indians, and that she resided with him as his wife in the Choctaw Nation, after said marriage, continuously up to the time of his death, and that she has lived in said Nation continuously ever since, and that by reason thereof, the said Betty Stewart, is entitled to be deemed a citizen by intermarriage of the Choctaw Nation, and to admission to enrollment as such, and to all the rights, privileges and immunities, personal to herself, of other members of said tribe and citizens of said Nation by intermarriage.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the said Betty Stewart is entitled to be deemed a citizen by intermarriage of the Choctaw Nation, and to admission to enrollment as such, and to all the rights, privileges, and immunities,

personal to herself, flowing therefrom.

.....
Chief Judge.

.....
Associate Judge.

.....
Associate Judge.

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

BETTIE STEWART,
Plaintiff.

vs.

THE CHOCTAW AND CHICKASAW
NATIONS,
Defendants.

No. 92.
J. G. Ralls,
For plaintiff.
Mansfield, McMurray & Cornish,
For Defendants.

By Weaver, J.

This case comes into this Court on appeal from the United States District Court for the Central District of the Indian Territory. Plaintiff claims a right to citizenship and enrollment in the Choctaw Nation by virtue of her marriage to one Samuel Stewart whom she asserts was a Choctaw Indian by blood. That she is a white woman and intermarried with said Samuel Stewart in accordance with the marriage laws of the Choctaw Nation on the 22nd day of December, 1889 and continued to live with him in the Choctaw Nation as his wife until he died in 1896, and continuously since. The exact date of his death is not shown, but the said Bettie Stewart was appointed administrator of his estate at the November Term of the ~~Chickasaw~~ County and Probate Court of Blue County, Choctaw Nation in 1896.

The evidence in the case shows that the plaintiff was thus married to him and lived with him as his wife until his death as above stated and continuously since. It also shows that he was a Choctaw Indian by blood, was on the tribal roll of said Nation or Tribe, drew moneys as a member of said Tribe, and was in all respects so treated, recognized and regarded by the Tribe.

I am clearly of the opinion that the plaintiff is entitled to citizenship and enrollment as an intermarried citizen, of the Choctaw Nation.

Judgment will be rendered accordingly.

(Signed) Walter L. Weaver,
Associate Judge.

We concur:

(Signed) Spencer B. Adams,
Chief Judge.

(Signed) H. S. Foote,
Associate Judge.