

Witnesses

For Claimants

Maggie F. Richardson, Velma B.

Nations

J. - N° 108.

P. S. + Rosa Tapp.

vs

Choctaw Nation.

N° 94.

Seaborn Dist. Court.

N°

Dawes Commission.

Descendants of Thomas and  
Jane Fryer.

(see letter in W. Sledge et al.  
vs. Choctaw Nation. J. No. #103)

See Harriett Gordon case also  
7. 106

See Wm Sledge case 5. 103

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

Harriet Gordon, et al.,           No. 106.

P. L. & Rosa Tapp, et al.,       No. 108.

William Sledge, et al.,          No. 127.

Plaintiffs,

vs.

Choctaw and Chickasaw Nations.

Defendants.

MEMORANDUM OF ARGUMENT FOR NATIONS.

All of the applicants in the above entitled cause base their claim to the right of enrollment, on the descent from a common ancestor, Jane Frazer, the daughter of Thomas Frazer, and alleged to be a Choctaw half blood.

All of the testimony in the three cases was taken in the case of Harriet Gordon, et al., No. 106, and consists of the following named witnesses:

Maggie Richardson,

James McFettridge, and

Mr. Loranche.

In addition to the oral testimony of the foregoing witnesses, a certificate purporting to show that the witness Maggie Richardson has been enrolled and such enrollment has been approved by the Secretary of the Interior, was introduced.

Maggie Richardson is shown to be a blood relation of applicants and as she has been enrolled by the Commission to the Five Civilized Tribes, this relationship is offered as the sole evidence of the possession by applicants of Choctaw blood.

Mrs. Richardson testified that she is 45 years of age, (born in 1859), a full sister of Harriet Gordon and a daughter of Jane Frazer; that she was born in Mississippi, but does not know where; that when a baby she was taken to Jefferson County, Illinois; moved from Illinois to Texas, where she lived until she was about grown, and then moved to Indian Territory, reaching here about twenty-six years ago, (1878). This witness further testified that Jane Frazer got her Choctaw blood from Thomas Frazer whom witness says was a recognized Choctaw, but when pressed on cross-examination, she says the Thomas Frazer whose rights were not disputed was not her grand-father, but a cousin whom she saw twelve years ago at San Bois and who lived at Tuskahoma and Talihina; but since she further says she does not know who were the parent or any of the direct relatives of even this Thomas Frazer, ~~XXXX~~ it is clear that she could only have guessed at the relationship from the similarity of names, and since she only saw him once and has absolutely no information about him, it is clear that she could not know whether his claim was or was not disputed.

The descendants of the alleged Jane Frazer are shown at present and for the past two generations, to have been residents of Illinois, Texas, Arkansas and the Cherokee Nation, while the testimony showing a Mississippi origin is of the vaguest.

The earliest habitat which is shown by evidence at all clear or satisfactory is Illinois, and from then on the testimony is reasonably satisfactory. No attempt is made to locate the family at any particular point in Mississippi.

Witnesses McFettridge and Loranche confine their testimony to recent births, marriages and deaths and the material issues in the case are left to stand solely on the testimony of Maggie Richardson.

The case then stands in this attitude, all of the applicants and Maggie Richardson were applicants before the Commission in 1896, and were admitted by the Commission. The Nations appealed as to all except Mrs. Richardson, whose case, doubtless by an inadvertence, was not appealed, and applicants are now seeking to bind this Court by the adjudication of the Commission in another case.

The law as delivered by this Court is that the adjudications of the Commission in 1896, were void because against only one Nation when both were interested. Her judgment became final in 1896 only by an oversight of the Nations' attorneys. The fact that an appeal was taken in the case of Harriet Gordon, the full sister of Maggie Richardson, shows conclusively that an appeal was intended to have been taken in the Richardson case. This, however, has no bearing on the case at bar, and we mention this condition only that the alleged certificate may not be misleading. The issues here are as in all other cases and without reference to what the Commission or any other tribunal has done:

- 1st. Are these applicants Choctaw Indians; and
- 2nd. Are they such Choctaw Indians as under the treaties and laws are entitled to share in the lands of the Choctaws and Chickasaws.

There is not one word of evidence in the record competent to show that applicants, or any of them, are either intermarried, emigrant or Mississippi Choctaws, as defined in our brief in the A. O. Mallory case, No. 60, and in our opinion the petition for a judgment entitling them to enrollment as members of the Choctaw Nation should be denied.

Respectfully submitted,

ATTORNEYS FOR THE CHOCTAW AND CHICKASAW NATIONS.

There is not one word of evidence in the record  
competent to show that applicants, or any of them, are either  
intermarried, migrant or Mississippi Choctaws, as defined  
in our brief in the A. O. Melloy case, No. 60, and in our  
opinion the petition for a judgment entitling them to  
enrollment as members of the Choctaw Nation should be denied.  
Respectfully submitted,

ATTORNEYS FOR THE CHOCTAW AND CHICKASAW NATIONS.

*Brief*



2-

five civilized tribes, held Mrs. Richerson to be a citizen of the Choctaw tribe or Nation of Indians, and we consider his decision renders the matters in connection with her citizenship res adjudicata.. She has been determined by a competent tribunal to be a citizen of the Choctaw Nation by blood. To say that through her veins could flow a strain of Choctaw blood and that her sister, a descendant of the same father and mother is a white woman is puerile and we do not believe that any amount of argument by the over-zealous counsel for the Nations can result in convincing this court that one child may be an Indian and another a white person. To say the least a grave mistake has been made, either by the Secretary of the Interior or counsel for the Nations are badly mistaken. He states in his argument that simply because an oversight on the part of the Nations' attorney this cause was not appealed, stating, however in the same sentence and on the same page that this has nothing, whatever, to do with this case. For what purpose, if he is to be guided by methods of fairness and impartiality, does he call the court's attention to that fact?

Mrs. Richerson, whose demeanor upon the stand we cannot but believe impressed the court favorably, testified that she was a member of the Choctaw tribe or Nation of Indians by blood, gave her reasons for so testifying, corroborating herself by all the proof that was necessary; done everything, in fact, and furnished as much proof as the governors of the Choctaw and Chickasaw Nations could furnish as to their citizenship.

The connection between Mrs. Richerson, a duly enrolled



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and recognized citizen of the Choctaw tribe or Nation of Indians, and the applicants herein has been proven and we believe after an investigation of the record could, in justice to itself and in justice to the applicants, do nothing except to render a judgment admitting them to citizenship.

Respectfully Submitted,

W. D. Gilbert

Attorney For Applicants.

our copy

BEFORE THE CHOCTAW AND CHICKASAW CITIZENSHIP  
COURT, SITTING AT TISHOMINGO.

Harriet Gordon, et al.,           No. 106.  
Rosa Tapp, et al.,                No. 108.  
William Sledge, et al.,         No. 127.

vs.

Choctaw and Chickasaw Nations.

REPLY BRIEF FOR NATIONS.

We have been furnished with a copy of the "Memorandum of Argument for Applicants", and the purpose of this is to make further reference to one point therein raised, to-wit; that Maggie F. Richardson, a sister of the principal applicant in this case, is a citizen of the Choctaw Nation and that therefore they are citizens.

Our position and the contention which we have heretofore urged in connection with this and other cases are so well known that, ordinarily we would not deem further reference thereto necessary; but since the brief on behalf of the plaintiffs gives rise to inferences not justified by the facts and the record, we deem it not improper to reply thereto.

As above stated the sole contention of attorneys for applicants is that because Maggie F. Richardson is a citizen of the Choctaw Nation these applicants are citizens, and should be admitted and enrolled.

Maggie F. Richardson and her family were applicants before the Commission to the Five Civilized Tribes under the Act of Congress approved June 10, 1896 just as the applicants in this case were. The Nations appealed the Gordon, Tapp and Sledge cases, but did not appeal as to her. Since her ancestry

and source of right was identical the inference is conclusive that her case was not appealed through the oversight of the attorneys representing the Nations. According to her own evidence given before this Court her status is exactly the status of the applicants in this case and her application to the Commission to the Five Civilized Tribes was made at the same time and under the same circumstances; and the sole and only reason she claims to be a citizen of the Choctaw Nation at this time and the sole and only reason which the attorney for applicants can urge in this case is that their co-sister, through an oversight of the attorneys representing the Choctaw Nation has a judgment of the Commission to the Five Civilized Tribes in her favor rendered under the Act of Congress approved June 10, 1896.

We quote her evidence on this point:

- "Q. You were never a Choctaw citizen or consider a Choctaw citizen until you applied to the Dawes Commission?— you know what the Dawes Commission is?
- A. Yes sir.
- Q. That is true?
- A. My first husband went to Tushkahoma.
- Q. You were not admitted there?
- A. No sir.
- Q. You applied to the Dawes Commission at the same time Harriet Gordon, Rosa Tapp and William Sledge applied?
- A. Yes sir.
- Q. You were admitted and their case came to the United States Court?
- A. I suppose so.
- Q. That is the basis of your citizenship and that is the basis of this certificate? You are yourself now a Choctaw citizen because you were admitted to citizenship by the Dawes Commission?
- A. Yes sir."

We have set out this evidence showing the facts for the reason that the brief of applicants gives rise to the possible inference that this woman was indeed a Choctaw citizen and duly recognized and enrolled as such. Her evidence shows otherwise. She has no knowledge whatever and does not

pretend to give any information relative to any connection of her ancestors with the Choctaw tribe of Indians in the State of Mississippi or in Indian Territory. Her first recollection was state of Illinois and lived in that State and in Texas and in the Cherokee Nation, renting lands and otherwise conducting herself as other white people of her class. In 1896 she and her family and the applicants in the Harriet Gordon case and the applicants in the Rosa Tapp case and the applicants in the William Sledge case all applied to the Commission to the Five Civilized Tribes and, as above stated the cases of all the applicants now before this Court were appealed and hers was not appealed.

The conditions in this case with reference to the fact that near relatives of the applicants possess what is known as a 1896 judgment of the Commission to the Five Civilized Tribes, parallels in all respects many other cases heretofore passed upon by this Court. In other cases proof has been made that brothers and sisters and uncles and aunts and other relatives were admitted in 1896 and had been enrolled in pursuance thereof. In the trial of such cases, as in this case, we objected to the introduction of such evidence, urging that it was incompetent for the reason that the 1896 proceedings were void, both Nations being necessary and interested parties, and only one Nation having been made a party. The Court, however, in its wisdom permitted the introduction of such evidence as a circumstance, and such has been done in this case. If any proposition of law has been established more clearly than any other proposition of law with reference to citizenship in the Choctaw and Chickasaw Nations in late years it is that no proceeding seeking to affect the joint property of the tribes is of any validity unless both are serv-

ed and made parties thereto. There is and can be no contention that Maggie F. Richardson and her family have any basis for their citizenship claim except their 1896 admission; and that is void, notwithstanding the fact that they may have been enrolled in pursuance thereof.

In the case of P. D. Durant, et al, vs. Choctaw and Chickasaw Nations, number eight on the South McAlester Docket, proof was made that Nancy Lee Cundiff, the full sister of P. D. Durant, had been admitted by the Commission to the Five Civilized Tribes under the Act of Congress of June 10, 1896, and that no appeal had been taken from this decision. Notwithstanding this, the Court made a primary inquiry into the facts with reference to the application of P. D. Durant, and the case was decided without reference to the 1896 admission of his sister.

In the case of Jane Marrs, et al., vs. Choctaw and Chickasaw Nation, number one hundred and nine on the South McAlester Docket, a considerable number of the near relatives of the applicants were admitted by the Commission to the Five Civilized Tribes, under the Act of June 10, 1896 and no appeal was taken; and many others of the same family had been admitted by the Choctaw Council. Notwithstanding this condition the Court made a primary inquiry into the merits of the case before it and denied the applicants.

The same condition was developed in the Askew cases recently tried by this Court. Certain members of the family were admitted by Council and certain other by the Commission to the Five Civilized Tribes in 1896. The Court admitted proof thereof as a circumstance; but after a primary inquiry into the case denied the applicants.

It has been developed in the trial of the case before

this Court that the Nations have always contended and now contend and will contend in the future that admissions by the Commission to the Five Civilized Tribes under the Act of Congress of June 10, 1896 are void; and that persons admitted by these proceedings are not entitled to enrollment or allotment; and Maggie F. Richardson, the sister of the applicants in this case differs in no wise from the many other persons admitted by the Commission in 1896 or by the Choctaw Council where both Nations were necessary and interested parties and only one Nation made a party.

We respectfully urge in this as in all other cases that the claims of these applicants be adjudicated upon their merits, without reference to what may have been done by the Commission to the Five Civilized Tribes, under the Act of June 10, 1896 in connection with their relatives.

The issues in this case as in all other like cases are;

- First: Are the applicants Choctaw Indians; and
- Second: Are they such Choctaw Indians as under the treaties and laws are entitled to admission and enrollment and to participation in the distribution of the tribal property of the Choctaws and Chickasaws.

We shall now briefly address ourselves to the record with a view to ascertaining what has been done by the applicants towards establishing their claim upon its merits.

Their only witness is Maggie F. Richardson above referred to. An examination of the record made up before the Commission to the Five Civilized Tribes and the United States Court will show various affidavits identical as to form, wording and general appearance, signed and sworn to before Thomas

M. Swoot, Notary Public, and varying only as to names, dates and relationships.

In her affidavit filed in the Harriet Gordon case in 1896, Maggie F. Richardson states:

"That she is a sister of the applicant and that she herself has been on the Choctaw rolls for the past ten years and that she has always drawn her annuity and enjoyed all the privileges, rights and immunities that pertain to such citizenship."

It is only necessary to refer to her oral testimony taken before this Court, above quoted, wherein she stated that her husband went to Tushkahoma, but that she was not admitted, that she applied to the Dawes Commission at the same time Harriet Gordon, Rosa Tapp and William Sledge applied and that her admission by the Dawes Commission at that time is the basis of her citizenship, to show that she is unworthy of belief. Even if her testimony had touched upon the essential issues in the case this contradiction would we submit be sufficient to render it impossible to find any issue of fact upon it. It is not contended in this case and it has not been and could not have been shown that the name of this woman has ever been placed upon any one of the tribal rolls of the Choctaw Nation or that she has ever received any recognition whatever from the tribal authorities. As above stated and as shown from her own testimony the basis and the only basis of her citizenship claim is the void admission by the Commission in 1896. We refer to the false statement contained in the affidavit used in 1896 as the same bears upon her credibility as a witness at this time.

It will not do for attorneys for applicants to urge that we are inconsistent about affidavits which according to our view were parts of a void proceeding. They are void insofar as they may be offered in support of issues before this Court; but it is competent and proper for us to show by them that ap-

plicants made false statements at that time as the same bears upon their credibility as witnesses at this time.

Affidavits were esteemed in those days and were perhaps not close scrutinized; but conflicts and false statements by applicants in this proceeding develop the methods employed by them in these citizenship cases just as clearly as oral evidence before the Court at this time and bear and should bear as forcibly on their credibility as witnesses in their own behalf.

In the same affidavit of Maggie F. Richardson, appears the following:

"Affiant further states that she has no interest in the prosecution of the claim of the said James McPhetridge....."

It is only necessary to refer to her oral testimony before this Court to show that she was a member of the same family, an applicant before the same tribunal, alleging the same ancestry and that the claim was prosecuted under the same circumstances.

It may be said that this statement is immaterial and that she may be excused on the ground that her case bore a different style and number. That may be true but her statement that she not interested in the disposition of the claim of James McPhetridge, from a practical standpoint, is absolutely false and the opposite cannot and will not be contended. The proper explanation is perhaps, that the affidavits were loosely prepared and the applicants had no clear idea of what they contained, but simply signed and swore to them, because it was necessary so to do to make out the case. We are perfectly willing for Mrs. Richardson to make that explanation.

The substance of her testimony before this Court is that she and the applicants in the consolidated case before this Court are the descendants of a woman named Jane Frazer,



that Jane Frazer was her mother, that a certain Tom Frazer was a child of her mother's brother; that Tom Frazer's right to citizenship had never been disputed. On Cross examination she stated that she was forty-five years old, that she was born in Mississippi, that she had no knowledge of where in Mississippi she was born, that she was living in Illinois when she was a little baby, that her husband went to Tushkahoma, but that she was not admitted there, that she made application to the Commission to the Five Civilized Tribes and was admitted, and that is the basis of the citizenship claim; that she moved to the Territory about twenty years ago, that she and her husband lived around on various places in the Choctaw Nation belonging to Choctaw citizens; that she lived in Texas before moving to the Territory; that she does not know the name of her grandmother, nor where she lived nor anything about her, nor where any of her ancestors lived; that she never saw the Thomas Frazer alleged to have lived in the Choctaw Nation and to be a citizen but one time and then at Sans Bois about twelve years ago; that she does not know the names of any of his children, that she does not know the name of his mother or father, and that she does not know the names of his grandmother or grandfather. When pressed by the following question:

"Q. Now upon that statement to the Court you can or can you state that you know anything about Thomas Frazer"

she answered:

"I did not really know him only just through people mostly."

when asked:

"What people"

she answered:

"My husband"

when asked further:

"Your husband went to see him"

she answered:

"Yes sir".

She then goes on to give the names of various other children of her mother and to show that their descendants are scattered throughout the States of Illinois, Texas and Arkansas and the Cherokee Nation and have never made application for Choctaw citizenship.

We are not required to depend entirely upon speculation as to how this case arose. The evidence of Maggie F. Richardson, coupled with a knowledge of citizenship matters as they were conducted ten years ago develops the early history of the case. This person whose name is now Maggie F. Richardson was living, with her husband, in the neighborhood of Sans Bois. As to how they got the idea of Choctaw citizenship, neither the record nor the testimony discloses. It does disclose however that they did get the idea, and that acting upon that idea the husband went to see this man Thomas Frazer who lived in the neighborhood of Tushkahoma. Mrs. Richardson never saw him but once; but her husband went to the Choctaw Council. She states however that she was not admitted by Council. She was therefore not as fortunate as scores of others who pursued the same methods at that time. Not having been successful before the Choctaw Council and still having in her mind the ambitions planted two or three years before that time when the Commission to the Five Civilized Tribes was vested with citizenship jurisdiction, she and the applicants in this case made application. The most critical examination of her testimony will show that she does not state a single fact or circumstance, by way of personal knowledge, family tradition or otherwise which would connect her family with that of the alleged Indian, Thomas Frazer, who resided at Tushkahoma.

On the contrary it develops that she has no knowledge which would connect the families. She states positively and unequivocally, when pressed upon cross-examination that she has no knowledge whatever of the names of any of the ancestors of Thomas Frazer; and that she saw him only once, and then only for a short time and that after her husband had journeyed to Tushkahoma; and neither has she given a single fact or circumstance which shows or tends to show that any of her ancestors ever lived in the Choctaw country, either in the State of Mississippi or in Indian Territory.

The claim of the applicants is that they are descendants of Jane Frazer, that Frazer was her maiden name and that she married Carroll Tucker.

If the ancestress was a Choctaw Indian of recognized status in the State of Mississippi the records of the government of the United States ought to show it. This Court is in possession of Volume Seven of the American State Papers and of the printed records of the Net Proceeds suit of the Choctaw Nation vs. the United States in the Court of Claims. We have made an examination thereof and find ample record of the fact that there was a Choctaw Indian woman of the name of Jane Frazier. We find further however that it is <sup>only</sup> ~~not~~ necessary to refer to such records to show that she was not and could not have been the ancestress of these applicants. Instead of being the daughter of Thomas Frazer and the wife of Carroll Tucker she was the daughter of Charles Frazier and the wife of a half blood Chickasaw Indian, and that after her marriage she moved up into the Chickasaw country.

Maggie F. Richardson gives the names of her mother's brothers and sisters as Tom, Cy and Nancy, whereas the records of the government of the United States show the brother of the Jane Frazier of record ~~was~~ to have been Andrew, Mary, Maxwell

and Emily.

For the information of the Court we quote from pages 839, 840 and 841, of the printed record of the Net Proceeds suit of the Choctaw Nation vs. the United States, in the Court of Claims:

"No. 86.

"Charles Frazier, of Yallobusha County, states that on the 27th Sept., 1830, he was the Choctaw head of a family, residing on the water of Loosa Schuma, in the Choctaw country, in Miss.; that within six months after the ratification of the late Choctaw treaty he signified to Col. Ward, agent for the Choctaws, his intention to remain 8 years, become a citizen of the State, & take lands under the 14th art. of said treaty; that his name was duly registered by said agent but cannot now be found on the register of claimants under said article; that he then belonged to Capt. Turnbull's company, & lived on lands now embraced in section 16, township 24, Range 7 east, where he had an improvement, & where he still continues to live and that he had living with him at the time of the treaty four unmarried children, over ten years of age, named Jane, Andrew, Mary, & Maxwell, & one child under ten years of age named Emily.

A. A. HALSEY,

Att'y for Claimants.

No. 86.-- Charles Frazier, a quarter blood Choctaw, aged 50 years, being interrogated, says his name is Charles Frazier; that he resides in Yallobusha County, Mississippi, 8 eight miles east of Coffeeville, on Loosa-schuna Creek, on the north side, about a mile and a half from the creek; at the date of the treaty he had five children living with him, the eldest named--

1. Jane, a female, born in 1811, is not certain if she was unmarried at the time of the treaty; she married about that time a half blood Chickasaw, does not recollect his name; went immediately on her marriage to live in the Chickasaw country; previous to her marriage, after the death of her mother, she lived sometimes with her grandmother She-la-cha-colbert, about 2 miles south of the Chickasaw old fields, in the Chickasaw country, and sometimes with him; after the death of her mother, Jane resided the principal part of her time with her grandmother to avoid the sickness in the Chickasaw country until her marriage.

2. Andrew, gone west of the Mississippi last fall with his grandfather, George Colbert; he is now 22 or 23 years of age; was married at the time of the treaty, staid most of his time with his grandmother in the Chickasaw country after the death of his mother until his marriage; after his marriage he resided with his mother in law, on Wolf River, in the Chickasaw country.

Mary, now with her grandmother in the Chickasaw country, now about 20 or 21 years of age, unmarried at the time of the treaty; has lived almost entirely with her grandmother since the death of her mother.

All of the above bears upon the allegation of the applicants that they are possessed of Choctaw Indian blood. Our view is that there is no competent evidence which shows or tends to show that the applicants are possessed of Choctaw Indian blood of any degree.

There is no allegation either in the pleadings or in the evidence that the applicants or their ancestors have complied with any of the requirements of the treaty of 1830, under which the lands in which an interest is sought to be established were acquired. There is neither allegation nor proof which shows or tends to show that their ancestors emigrated to the Choctaw Nation Indian Territory as required by article three of the treaty of 1830 or that they remained behind under the fourteenth article thereof.

We ask that the petition of the plaintiffs be denied.

Respectfully submitted,

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ATTORNEYS FOR CHOCTAW AND CHICKASAW NATIONS.

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 Leihomungo, by Mrs. Rosa Lapp 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 Mrs. Rosa Lapp et al File No. 94 - 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 24 day of March A. D., 1903.

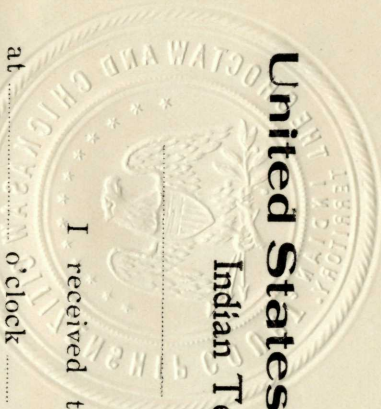
James B. Cassin Clerk.  
By \_\_\_\_\_ Deputy.



MARSHAL'S RETURN

MARSHAL'S RETURN.

United States of America,  
Indian Territory,  
DISTRICT.



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

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

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 \_\_\_\_\_ Indian Territory, has been transferred to the Choctaw and Chickasaw Citizenship Court, and that  
File No. \_\_\_\_\_ in the District Court for the \_\_\_\_\_ District of the  
that the papers, files and proceedings in the case of \_\_\_\_\_  
And you are further commanded to notify said P. S. Moseley, Governor aforesaid,  
complaint will be taken for confessed, and you will make return of the summons instantler;

Duplicate  
No 108-T

SUMMONS  
IN EQUITY.

Mrs. Rosa Lapp et al  
vs.  
Choctaw and Chickasaw Nations.

Summons issued 24 day of  
March, 1903. Returnable instantler.

Marshal's Fees.

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

Gilbert and Gilbert  
Attorneys for Plaintiff.  
Sumner S. T.

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

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 Teshonungo, by Mrs Rosa Lapp 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 Mrs Rosa Lapp et al File No. 94- in the District Court for the Southem 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 Southem 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 24 day of March A. D., 1903.

James B. Casvada Clerk.  
By \_\_\_\_\_ Deputy.





MARSHAL'S RETURN.

United States of America,

Indian Territory,

DISTRICT.

I received this summons this 24 day of March A. D. 1903, at 10 o'clock m. and served same by copy, as follows: Personally on Green McCurtain, at Indian Territory,

This day of 1903,

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 the papers filed and proceedings in the case of and you are further commanded to notify said Green McCurtain, Principal Chief aforesaid, complaint will be taken for confessed, and you will make return of the summons instanter;

Duplicate  
No 108-7

SUMMONS  
IN EQUITY.

Mrs. Rosa Lapp et al

vs.

Choctaw and Chickasaw Nations.

Summons issued 24 day of March, 1903. Returnable instanter.

Marshal's Fees.

Service	-	-	-	\$	.....
Miles	-	-	-	\$	.....
Expense	-	-	-	\$	.....
TOTAL				\$	.....

Gilbert and Gilbert

Attorneys for Plaintiff.

Duncan S. T.

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

Indian Territory as  
Southern District

Before me, the undersigned authority, this day appeared  
To the Commission to the Five Civilized Tribes, at Vinita, Ind. Ter.  
P. L. and Rosa Tapp  
vs Application.  
The Choctaw Nation.

Your petitioner, Rosa Tapp, would most respectfully  
represent that she is 25 years of age and a resident of Velma, I.T.,  
and has been for about 24 years. That she and her children are entitled  
to enrollment in the Choctaw Nation, and as Choctaw Indians by blood.  
That she is a daughter of Harriet Gordon, and a niece of Maggie F.  
Richerson, a recognized Choctaw Indian. That she is the mother of the  
following children, to-wit: Albert Tapp, and Oney Tapp, who together with  
her husband, Perry L. Tapp, she prays may be enrolled by your Honorable  
Commission, as Choctaw Indians.

Subscribed and sworn to before me this the \_\_\_\_\_ day of \_\_\_\_\_, 1896.

THOMAS SMOOT, NOTARY PUBLIC.

Before me this day appeared P. L. Tapp, who being duly sworn to  
tell the truth, the whole truth, and nothing but the truth, said that he  
is one of the applicants in the above styled cause, and that the forego-  
ing is a true and correct copy of the original one filed with the Dawes  
Commission.

P. L. Tapp.

Subscribed and sworn to before me this 1st day of January 1898.

W. H. GILBERT.

Notary Public.

Indian Territory      ss  
Southern District

Before me, the undersigned, authority, this day appeared Maggie F. Richerson, who being duly sworn says that she is acquainted with Rosa Tapp, one of the applicants in the above styled case, and that she knows her to be the identical person that she represents herself to be in her application for citizenship in the Choctaw Nation. That the applicant is her niece, being a daughter of her sister, Harriet Gordon. Affiant states that she is a Choctaw Indian by blood, and as such has been recognized for years- that she has drawn her annuity, and enjoyed all the rights, privileges, and immunities, that in any way pertain to a right in the said Nation. That her right as an Indian has never been disputed. She would further state that she is a daughter of Jane Frazier, a half blood Choctaw Indian, and that this fact could be plainly seen from her personal appearance. She would further state that she has no interest in the result of this application, further than that justice may be done to all parties.

Subscribed and sworn to before me this 1st day of January, 1898.6

Thomas M. Smoot

Notary Public .

Before me, the undersigned authority, this day appeared Harriet Gordon, who being duly sworn, says that the above and foregoing is a true and correct copy of the original filed with the Dawes Commission.

Harriet Gordon.

Subscribed and sworn to before me this 1st day of January, 1898.

W. I. Gilbert.

Notary Public.

7108

Eastern Territory  
Southern District

Before us, the undersigned, authority, this day appeared  
Margaret P. [Name], who being duly sworn says that she is acquainted  
with **P. L. and Rose Tapp,**  
**vs** **Master's Report.**  
**Choctaw Nation.**

I find that Rosa Tapp, is a Choctaw Indian by blood, and  
resides in the Indian Territory and that she has two children,  
Albert Tapp, and Oney Tapp, who are also Choctaw Indians by blood.

I recommend that Mrs. Rosa Tapp and her \_\_\_\_\_ children, Albert  
Oney  
Tapp, and ~~Rosa~~ Tapp, be admitted and enrolled as members of the  
Choctaw Tribe of Indians by blood. I recommend that P. L. Tapp,  
husband of Rosa Tapp, be not admitted.

W. H. L. Campbell.  
Master, in Chancery.

Subscribed and sworn to before me this 1st day of \_\_\_\_\_ 1898.  
Thomas H. Moody

Notary Public

Before us, the undersigned authority, this day appeared [Name]  
[Name], who being duly sworn, says that the above and foregoing is a true  
and correct copy of the original filed with the Pawsa Association.

Farrist Green.

Subscribed and sworn to before me this 1st day of January 1898.  
[Name]  
Notary Public.

P. L. & Rosa Tapp,

vs. No. Southern Dist. Judgment, Nov. 15, 1897.

Choctaw ~~Nation~~.

On this the 20th day of January, 1898, came regularly on to be heard the above entitled case on the pleadings, evidence, exhibits, Master's report and the entire record in the cause and the Court having heard the evidence and being well and truly advised in the premises finds that Mrs. Rosa Tapp, Albert Tapp, and Aney Tapp are Choctaw Indians by blood, residing in the Indian Territory and are entitled to be admitted and enrolled as members of the Choctaw Tribe of Indians. It is therefore by the Court considered, ordered, adjudged and decreed that Mrs. Rosa Tapp, Albert Tapp and Aney Tapp be and they are hereby admitted and enrolled as members of the Choctaw Nation and as admitted and enrolled as members of the Choctaw Nation and as members of the Choctaw Tribe of Indians with all the rights, privileges and immunities pertaining to such relation.

It is further ordered that the Clerk of this Court certify to the Commission to the Five Civilized Tribes a true copy of this decree and said Commission is hereby directed to enroll the above named parties as members of the Choctaw Tribe of Indians.

(Signed)

Hosea Townsend,

Judge.

Hoobaw  
Denny

Rosa Papp no 108

~~Rosa Papp~~ Rosa Papp  
Albert Papp  
Onley Papp or Aney Papp

---: IN THE CHOCTAW AND CHICKASAW CITIZENSHIP COURT :--

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Mrs. Rosa Tapp, et al,  
Plaintiffs,

vs.

The Choctaw and  
Chickasaw Nations,  
Defendant.

---: P E T I T I O N :--

Now come the petitioners, Mrs. Rosa Tapp, Albert Tapp and Onley Tapp, and respectfully represent and show to the court:

That they, and each of them, are now, and have been at and since all the dates and times hereinafter mentioned residents of the Chickasaw Nation, Indian Territory. That they are each and all citizens and members of the Choctaw Nation or Tribe of Indians.

That on the 9th day of September, 1896, and within the time prescribed by the Act of Congress approved June 10, 1896, conferring jurisdiction in citizenship cases upon the Commission to the Five Civilized Tribes, petitioners herein filed their application with the said Commission to the Five Civilized Tribes for citizenship and membership in the Choctaw Tribe or Nation of Indians. That, in due course of time, said Commission heard said application and rejected the same and denied the claim of petitioners herein to citizenship in the Choctaw Nation.

That thereafter, and within the time prescribed by law, these petitioners appealed from the decision of the said Commission to the Five Civilized Tribes to the United States Court for the Southern District of the Indian Territory, at Ardmore, wherein said appeal was docketed in a cause styled "P.L. and Rosa Tapp, et al, vs. Choctaw Nation, No.94".

That thereafter, in said United States Court for the Southern District of the Indian Territory, at Ardmore, a full, complete and final trial was had of said cause No.94, styled as aforesaid, and said court therein determined and adjudged these petitioners, each and all,

to be citizens and members of the Choctaw Tribe or Nation of Indians, and ordered and directed the said Commission to the Five Civilized Tribes to place the names of petitioners upon the roll of citizenship of the Choctaw Nation or Tribe of Indians, as members thereof; which said judgment was rendered by and entered of record in said court on the 20th day of January, 1898.

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

Your petitioners state that they were not parties to said cause of "The Choctaw and Chickasaw Nations or Tribes of Indians, plaintiffs, vs. J.T.Riddle, et al, defendants", and are not bound by the judgment rendered therein; and that this court had no power or jurisdiction, under the pleadings and evidence in said cause, to set aside or vacate the judgment of the United States Court for the Southern District of the Indian Territory admitting them to citizenship in the Choctaw Nation; and that said judgment of said United States Court for the Southern District of the Indian Territory is still in full force and effect.

But petitioners state that, in as much as this court has entered its judgment and decree setting aside all the judgments of said United States Courts for the Southern and Central Districts of the Indian Territory, wherein persons not specially made parties thereto, but who



were similarly situated to the defendants ~~named~~ specially named in said suit of "The Choctaw and Chickasaw Nations or Tribes of Indians, plaintiffs, vs. J.T.Riddle, et al, defendants", ~~and~~ the said United States Commission to the Five Civilized Tribes is denying and will continue to deny the right of petitioners herein to be enrolled as members of said tribe of Indians, unless the files and proceedings in said cause No.94, P.L.and Rosa Tapp, et al, vs. Choctaw Nation, in said United States Court for the Southern District of the Indian Territory, at Ardmore, be certified and sent to this court for further proceedings herein, and unless this court should, by its decree, finally determine and adjudge said petitioners to be citizens and members of said Choctaw Nation or Tribe of Indians, said Commission will refuse to enroll them as such : - - -

N O W, T H E R E F O R E, said petitioners, still insisting upon their rights as members of said tribe and the validity and finality of said judgment of the United States Court for the Southern District of the Indian Territory, at Ardmore, admitting them to citizenship, and without waiving any of the rights adjudged and decreed to belong to them and conferred upon them by law under and by virtue of said judgment of the said United States Court for the Southern District of the Indian Territory, at Ardmore said 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, ~~proceedings~~ evidence and proceedings had in said cause No.94, styled P.L.and Rosa Tapp vs. Choctaw Nation, heretofore pending in said United States Court at Ardmore; and that all proper and necessary writs, citations and otherwise 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 trans-

ferred and lodged with this court, for all proper and lawful proceedings therein.

Gilbert & Gilbert

Attorneys for Petitioners.

No.....

IN THE CHOCTAW AND CHICKASAW  
CITIZENSHIP COURT.

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RODA TAPP, ET AL,  
vs.  
The Choctaw and  
Chickasaw Nations.

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PETITION FOR WRIT OF ERROR.

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Gilbert & Gilbert,  
Duncan, I.T.,  
Attorneys for Petitioners.

Rosa Tapp et al.

No 108

vs

Choctaw + Chickasaw  
Nations

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Rosa Tapp

Albert Tapp

Onley Tapp or Onley Tapp.

{ file this in lieu of  
Carbon copy of Decree.