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

Hiram Lancaster, et al, ... Plaintiffs.

vs.

The Choctaw and Chickasaw Nations, ... Defendants.

MEMORANDUM OF ARGUMENT FOR NATIONS.

Hiram Lancaster, on behalf of himself and his children, applied to the Dawes Commission for enrollment as members by blood of the Choctaw Nation, alleging, that "his father, grandfather and great grandfather were each of Choctaw blood and that he himself is at least one-eighth Choctaw."

In support of these allegations he presented the affidavits of Mary Hill, Jas. W. Mitchell, T. B. Mitchell and Adeline Newson. These affidavits we contend are incompetent for any purpose, but as applicants have seen fit to offer them for the consideration of the court, we shall briefly comment upon them.

These affidavits are taken in the form of interrogatories and answers. The interrogatories are identical, while the answers are the same in substance. These four witnesses state that they have known claimant, Hiram Lancaster all his life; that they knew his mother, Sarah L. Lancaster, nee Lee and his father Hiram Lancaster; they knew claimant's paternal grandfather Thomas Lancaster and his paternal grandmother Minna Lancaster, nee Minna Peoplesp they knew his maternal grand father and grand mother Joel Lancaster and Sallie Gardner; that they knew other ancestors

of claimant to be George Lancaster and Jane Lancaster, nee Riti, in South Carolina; that they knew claimant Hiram Lancaster to be one eighth Choctaw; that they knew ancestors of claimant to possess Indian blood as follows: George Lancaster, one half; Jane Riti, wife of George Lancaster, a full blood; Thomas Lancaster a three-quarter; and his wife Minna Leflore, a one quarter; Hiram Lancaster, one quarter, and his wife Sarah Lee one sixth.

It will be noted that each of these witnesses is a claimant to Choctaw blood.

It will be noted that while these witnesses are able to make identical answers to the questions propounded three of them live in Tallahatchie County and one still further North in Panola County, while Hiram Lancaster was born and raised over a hundred miles South in Choctaw County, Mississippi.

When this case was appealed to the United States Court, additional testimony was taken in theform of depoditions and for the first time the principal applicant testified in his own behalf and gave the line of descent upon which he bases his claim, which is in substance as follows: His great grandfather was Michael Leflore, a three quarter blood Choctaw, does not know whether his wife was Indian or not; was born, raised and died in Mississippi; had one child named Minna Leflore who married Thomas Lancaster, a three fourth blood Choctaw; they were married in Missiasippi and had a son named Hiram Lancaster who married Sarah Lee, a one sixteenth Choctaw, and as a result of said marriage the principal applicant was born.

To further strengthen his claim he called to his

aid our old friends, Rev. D. D. Durant and Samuel Perry and one Henry N. Perkins, the last named not being so well known to the court as the two former, but judging from his effort in this case he was a man who possessed all the qualities necessary to produce an able affidavit maker.

When before this court Hiram Lancaster became a witness in his own behalf and from his testimony it appears that his whole life in Mississippi as well as the lives of his immediate ancestors was spent in Choctaw County.

Witness evidently believing that he might as well be killed for a sheep as a lamb, undertakes to claim Choctaw blood from his Lancaster ancestor, but disproves his statement by admitting that the Lancaster family originated in South Carolina.

Never, perhaps, did a witness show a more amazing lack of the requirements of moral decency than Hiram Lancaster. He admits that the four affidavits taken by him in Tallahatchie County, Mississippi, contained statements of a material character which were untrue; that he discovered these misstatements in time to have corrected them, but that instead of doing so he filed them with the Commission and has offered them as evidence to this court. That a man in the face of such testimony should ask a court to place any faith in his statements shows a hardihood that one would not expect to find in a person who had even a rudimentary idea of truth and true speaking.

Not content with the perjuries they had caused to be committed in the earlier stages of this case applicants continued them in this court by placing on the stand William C. Thompson, who testified to seeing Michael Leflore

at Grenada, Mississippi in 1858 or 1859, at which time said Leflore was twenty-five or thirty years of age and that he had the appearance of an Indian and yet Hiram Lancaster who was born in 1855 claims him for his great grand father.

James R. Rogers, a witness for applicants testified to having seen Michael Leflore, an Indian Chief, at "Holly Springs, Choctaw County, Mississippi", in 1852, at which time he thinks Leflore was about sixty years old. Holly Springs is in Marshall County some six or eight Counties North and a little West of Choctaw County.

Joe Freeman, a witness for applicants, a typical negro witness, old, ignorant, easily imposed on and evidently corrupt, testified to having known Michael Leflore; that they lived within a few miles of each other in Marshal County, Mississippi; that Leflore was often at his master's house and witness often at Leflore's house; that Leflore w as an Indian; that he remembers one of Leflore's daughters, Mima, but does not remember the names of any other children and is unable to recall the names of any other member of the family.

Willie McCaskel, the mail carrier, is perhaps the most impossible of all the witnesses offered, but as his testimony is wholly immaterial we shall pass it without further comment than to say that he, as well as witnesses Thompson and Rogers, is an applicant for citizenship and is probably acting on the theory that one good turn deserves another, and he confidently expects applicants to rush to his assistance in his time of need.

Jesse Kemp is of the same class as Joe Freeman and his perjury is as useless. He places Michael Leflore, in Pontotoc County, Mississippi; says he was a half breed

Choctaw, and strange to say this witness remembers only two of Leflore's children, one named Mima, and one named Tom.

Michael Leflore, it appears from the testimony of Charles Leflore, was a Frenchman who married into the Choctaw Nation.

Michael Leflore was provided for in the supplement to the treaty of 1830, under which section twelve, in township fifteen, Range three East was set apart for him, (Court of Claims Record, page 29), and by reference to the may it appears that this section is in Holmes County, Mississippi, which agrees with the well known fact that Michael Leflore was connected with the Choctaw tribe, while all of applicants testimony locates their ancestors in Marshall and Pontotoc Counties in the Chickasaw Nation.

That Michael Leflore had no daughter named Mima is also established by thettestimony of Charles Leflore and by the records of the "Net Proceeds" payment.

All of the witnesses for applicants who testify in regard to Michael Leflore make him an Indian and place him in the old Chickasaw Nation.

The descendants of Michael Leflore and Louis Leflore are among the most prominent citizens of the Nation. From these families have sprung several of the Nations best known Chiefs, and if applicants were members of these families they would not be compelled to rely on the testimony of such witnesses as Sam Perry and D. D. Durant, both of whom have freely confessed before this court the unreliability of their evidence, or on the evidence of such witnesses as Mrs. Mary Hill, James W. Mitchell, T. N. Mitchell and Adeline Newsome, whose affidavits Hiram Lancaster himself says are untrue and that he knew them to be untrue when he filed them.

There is nothing in this case to lend probability to applicants claim and everything to cast suspicion on it.

In our opinion the proof of claimants Choctaw blood has utterly failed, and as they have neither alleged nor proved a compliance with the provisions of the treaty of 1830, their application must be denied.

Respectfully submitted,

ATTORNEYS FOR CHOCTAW AND CHICKASAW NATIONS.

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

CHARLES GOODALL, ET AL., PLAINTIFFS,	:	
VS.	:	No. 52.
CHOCTAW AND CHICKASAW NATIONS, DEFENDANTS.	:	

MEMORANDUM OF ARGUMENT ON BEHALF OF NATIONS.

The applicants in this case are Charles Goodall, his wife, and their descendants and their families.

Charles Goodall for himself and the other applicants, applied to the Commission to the Five Civilized Tribes in 1896, alleging himself to be the son of William Goodall, and Betsy Goodall, nee Phelps (or Felps); that said Betty formerly lived in Mississippi; "that the mother of said Betsy Phelps was a full blood Choctaw Indian, being the daughter of Loy Lucas and Styphony, his wife, both of whom were full blood members of said Choctaw Tribe of Indians."

This application was supported by a number of affidavits filed before the Commission but the Commission denied the petition and rejected the applicants.

Thereupon an appeal was taken to the United States Court for the Southern District of the Indian Territory, sitting at Ardmore, where the case was tried de novo on the affidavits previously filed and on certain new testimony

taken in the form of depositions; and applicants were admitted.

The judgment in the United States Court having been set aside and declared void by the decision of this Court in the "Test Case", proceedings were begun in this Court.

The testimony taken and used before the Commission and the United States Court is incompetent for the reason that the same is ex-parte as to the Chickasaw Nation, but as it forms a part of the record in this case in this Court we think it can be properly examined for purposes of impeachment.

The affidavit of Rhoda Howell taken in 1893, was filed with the Commission, in which said affidavit she is made to say that she knew Betsy Phelps in 1830 in Mississippi; that she knew Looy Lucas and Styphony, full blood Choctaws and the grand-parents of said Betsy.

So important did this evidence seem to applicants that certificates of four persons were filed vouching for the good character of the witness. We have no reason to doubt that Mrs. Howell fully deserved the good character given her.

When the case reached the United States Court applicants, for good reasons, which will appear later, failed to produce Mrs. Howell, but did take the testimony of her son John T. Howell who repeated with greater detail the statements contained in his mother's affidavit basing all of his evidence on what he claims his mother told him.

On the trial in this Court the Nations placed Mrs. Howell on the stand and she testified that she never knew Betsy Phelps and never heard the name until "Goodall told me". And further that Louie Lucas was witness' mother's uncle, his wife being named Stoyhona and the only daughter

of whom witness has any information being named Keziah. The witness denies all knowledge of the Goodalls until after their removal to Indian Territory and in all things repudiates the alleged affidavit of 1893.

Another witness whose affidavit was used before the Commission was Isom Flint who claimed to have known Betsy Phelps in the Chickasaw country, Mississippi; that she was the niece of the late ex-Governor of the Choctaw Nation and that she married a man named Wm. Goodall.

The Nations also put this witness on the stand and it appears from the evidence that this witness never lived in Mississippi and could not have possibly known any of the facts contained in the affidavit. The witness was born in Alabama near Mobile and came from there direct to the Choctaw Nation, Indian Territory.

These two witnesses were readily available to us and their evidence is an eloquent indictment of the frauds and perjuries by which applicants hoped to acquire a part of the property of these tribes; and it seems not unreasonable to presume that their evidence is a fair sample of all the evidence used on the previous trials of this case.

When the case came on for trial in this Court applicants have seen fit to forego the benefit of the testimony of the witnesses previously used and rely solely on the testimony of Charles Goodall, the principal applicant, thus confirming us in the view that the testimony used before the Commission and the United States Court was known by them to be false and unavailable in a contested proceeding.

The testimony of Charles Goodall does not, under the rules of evidence as laid down by the United States Supreme Court and so often declared by this Court, touch a

single material issue.

The only residence of witness' mother to which he testifies is in the State of Tennessee and also in the State of Illinois where witness' parents both lived until he enlisted in the Mexican War in 1846. It is apparent that witness after the war was over returned to Illinois and married there. As showing the utter lack of moral perception we call the Court's attention to his testimony on that point. He says: "I started here to establish my citizenship, but was too poor to get here and stopped" in Duncan County, Missouri, and that after being there for about two years he went on to Ft. Worth, Texas, going through Texarkana. He does not attempt to explain why if he had started from Illinois to "establish my citizenship" as a Choctaw and was prevented only by his poverty from reaching his destination, he should have gone completely past the Territory and landed over one hundred miles south in Texas, but on being pressed does say he did not at that time know "anything about the Choctaw Nation".

The testimony of Mrs. Rhoda Howell explains the real inwardness of this case. It must be remembered that John Howell prepared this case for trial before the Commission and was himself a witness before the United States Court and it was doubtless from him that applicants secured the names of Louie Lucas his wife and daughter, and the further fact that the daughter married a man named Phelps, forin her testimony Mrs. Howell states that Louie Lucas was her mother's uncle. A knowledge of the fraud which has been perpetrated on Mrs. Howell also explains why John Howell and not his mother was used as a witness on the trial before the United States Court. For securing the testimony of Mrs. Howell John Howell was doubtless paid the $200.00 as

testified to by the principal applicant. The Court having refused to hear the dying declaration of John Howell, the record will now never show just what part he played in the fraud and trickery with which this cause abounds, but there is sufficient shown to demonstrate the lengths to which applicants have gone and are willing to go to secure property and rights to which they are not entitled and to bolster up a fraudulent claim.

Applicants have neither alleged nor proved a compliance on the part of themselves or their ancestors with the provisions of the treaty of 1830 and, under the law and the evidence, their application should be denied.

Respectfully submitted,

ATTORNEYS FOR CHOCTAW AND CHICKASAW NATIONS.

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and rights to which they are not entitled and to polarize up
a fraudulent claim.

Applicants have neither proved a compliance on the part of themselves or the protestors with the provisions of the treaty of 1850 and under the law and the evidence, their application should be denied.

Respectfully submitted,

Brief

ATTORNEYS FOR PROTESTORS MALTOCHO AND WATOCHO

IN THE CHOCTAW AND CHICKASAW CITIZENSHIP COURT,

SITTING AT TISHOMINGO?

Louis Hill, et al.,

vs. No. 132.

Choctaw and Chickasaw Nations.

Identical with the case of Z. T. Bottoms, et al., vs. Choctaw and Chickasaw Nations, No. 75 on this Docket. See opinion in that case.