

IN THE SUPREME COURT OF THE CHEROKEE NATION

In re: Effect of *Cherokee Nation v. Nash and Vann v. Zinke*, District Court for the District of Columbia, Case No. 13-01313 (TFH) and Petition For Writ of Mandamus Requiring the Cherokee Nation Registrar to Begin Processing Citizenship Applications.)

Case No. SC-17-07

CHEROKEE NATION SUPREME COURT KENDALL BRIDGES COURT CLERK

2018 JAN 26 PM 12:42

FILED

SPECIAL LIMITED ENTRY OF APPEARANCE AND MOTION TO DEEM PETITIONERS' LIMITED ENTRY OF APPEARANCE AND OBJECTION CONFESSED

Cherokee Nation ("Nation") and Cherokee Nation Attorney General, Todd Hembree ("AG Hembree") ("Petitioners"), by and through the undersigned counsel, appear specially and for the limited purpose of this filing only, and without waiving any positions or defenses and/or objections, and appears only for the purposes of moving this Court to deem Petitioners' Limited Entry of Appearance and Objection confessed because Proposed Intervenors failed to file a timely response. In support, Petitioners show the Court as follows:

1. On December 11, 2017, Cherokee Nation citizens Twila Pennginton, Randy White, Marcus Thompson, Norman Crowe Jr., Vickie Bratton, Kathy Robinson, Harley Buzzard and David Walkingstick (collectively, "Citizens") filed a *Motion to Intervene, For Writ of Mandamus, and To Set Aside Preliminary Order* ("Pleading") in the above-captioned matter.
2. In response, on December 29, 2017, Petitioners filed a *Special Limited Entry of Appearance and Objection* ("Objection") alleging *inter alia* that: Movants failed to identify any legal authority which provides a right to intervene in the matter; the Court lacks subject matter jurisdiction over Movants' claims; Movants' lack standing; Movants failed to state a claim for which relief may be granted; and that the Court properly the September 1, 2017 Preliminary Order.

3. Cherokee law is silent with regard to the exact time Citizens' had to reply to Petitioners' Objection; however, a party must respond promptly and within such time as not to delay the proceedings.¹ To the extent Cherokee law is silent; the Court may apply the Federal Rules of Civil Procedure for guidance. CN Supreme Court Rule 103. Rule 12(a)(1)(C) of the Federal Rules of Civil Procedure provides, "[a] party must serve a reply to an answer within 21 days after being served with an order to reply, unless the order specifies a different time."
4. Petitioners filed their Objection on December 29, 2017. (Obj. at 1.) On the same day, Petitioners mailed Citizens a copy of the Objection with postage fully prepaid. (Certificate of Mailing, Obj. at 16.) Accordingly, the Court should find Citizens had until January 22², 2018 to reply to the Objection. To date, Citizens have failed to file a reply. Any attempt to file a reply after the date of this filing would be neither prompt nor diligent and will certainly cause an unnecessary delay in this proceeding. Therefore, the Court should deem the Objection confessed.

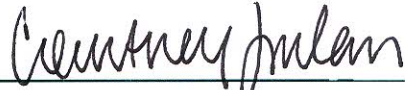
CONCLUSION

For the reasons discussed above, the Court must deem Petitioners' Objection confessed and deny Movants' Motion to Intervene, dismiss the Petition for Writ of Mandamus, deny Movants' Motion to Set Aside the September 1, 2017 Preliminary Order and grant any other relief deemed necessary and proper.

¹ Rule 40 of the Rules of the Cherokee Nation Supreme Court Rules provides, "unless otherwise provided in these rules or by order of the Supreme Court, motions and responses thereto shall be filed promptly and within such time as not to delay the proceedings. Promptness and diligence are favored in all filings in the Supreme Court."

² This time computation allows three additional days for service since Petitioners served the Objection via mail.

Respectfully submitted,

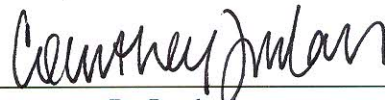


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CERTIFICATE OF MAILING

I hereby certify that on the 26th day of January, 2018, a true and correct copy of the above document was hand delivered, emailed or mailed with proper postage fully prepaid thereon, to the following:

John E. Parris
220A East 2nd St.
Sand Springs, OK 74063



Courtney R. Jordan