

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

**MARILYN VANN, RONALD MOON,
DONALD MOON, CHARLENE WHITE,
RALPH THREAT, FAITH RUSSELL,
ANGELA SANDERS, SAMUEL E. FORD,
and THE FREEDMEN BAND OF THE
CHEROKEE NATION OF OKLAHOMA,**

Plaintiffs,

v.

**KEN SALAZAR, Secretary of the United
States Department of the Interior;**

**UNITED STATES DEPARTMENT OF THE
INTERIOR;**

**CHADWICK SMITH, Individually and in His
Official Capacity;**

**S. JOE CRITTENDEN, Individually and in
His Official Capacity; and**

**John Does, Individually and in Their Official
Capacity,**

Defendants.

Case No: 1:03cv01711 (HHK)

Judge: Henry H. Kennedy

Docket Type: Civil Rights

(non-employment)

FREEDMEN PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION

Pursuant to Fed. R. Civ. Pro. 65, the Freedmen Plaintiffs, by and through their counsel, respectfully move for entry of a preliminary injunction enjoining the Cherokee Nation Defendants from denying Plaintiffs and the other Freedmen their full citizenship rights and from holding any election as to which Plaintiffs and other Freedmen are denied the right to vote based solely upon their status as Cherokee Freedmen. The Freedmen Plaintiffs also respectfully request that this Court enjoin the Federal Defendants from taking the following actions until the Cherokee Nation restores full citizenship rights to the Freedmen and complies with the Principal

Chiefs Act, which requires that the Federal Defendants review the Cherokee Nation's election procedures and ensure that they comply with all legal requirements, including the Cherokee Freedmen's right to vote: (1) distributing funds to the Cherokee Nation; (2) recognizing any Cherokee Nation election; and (3) recognizing the government-to-government relationship with the Cherokee Nation.

The grounds for this motion, as more fully set forth in the accompanying memorandum of points and authorities, are that in the absence of a preliminary injunction, Plaintiffs will suffer immediate and irreparable harm by being deprived of their rights as citizens of the Cherokee Nation of Oklahoma, including their right to vote in the election scheduled for September 24, 2011, and their right to participate in vital government-funded benefit programs. By contrast, the Cherokee Defendants will suffer no harm if they are enjoined from depriving Plaintiffs of their full rights as citizens of the Cherokee Nation of Oklahoma, and the Federal Defendants will suffer no harm if they are enjoined from funding programs that illegally discriminate against Plaintiffs.

Plaintiffs are likely to prevail on the merits, and at a minimum, they have raised serious and substantial questions that are a fair ground for litigation regarding the Cherokee Defendants' actions to deny Plaintiffs of their rights as citizens and the Federal Defendants' failures to fulfill their duties to Plaintiffs. Finally, the public interest favors entry of a preliminary injunction.

This motion is based upon the Fourth Amended Complaint filed in this action, the accompanying memorandum of points and authorities, the exhibits thereto, and all of the pleadings and papers on file in this case.

Pursuant to Local Civil Rule 7(m), Plaintiffs' counsel discussed the relief sought in this motion with counsel for the Cherokee Nation Defendants and counsel for the Federal Defendants

in a good faith effort to determine whether the Defendants opposed the relief sought by Plaintiffs. The Cherokee Nation Defendants oppose Plaintiffs' motion, and the Federal Defendants do not yet have a position on the relief sought by Plaintiffs. Counsel were unable to narrow the areas of disagreement.

WHEREFORE, Plaintiffs respectfully request that the Court grant this motion and enter a preliminary injunction in the form submitted herewith.

Dated: September 2, 2011

Respectfully submitted,

/s/ Cynthia Cook Robertson

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