

**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,

VS.

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

UNITED STATES DEPARTMENT OF
THE INTERIOR;

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

JOHN DOES, Individually and in their Official Capacities,

Defendants.

Case No. 1:03-cv-01711 (HHK)

Judge: Henry H. Kennedy

Docket Type: Civil Rights
(non-employment)

JOINT MOTION FOR ENTRY OF PROPOSED ORDER

Plaintiffs 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, Defendants Ken Salazar and the U.S. Department of the Interior, and Defendant S. Joe Crittenden, Acting Principal Chief of the Cherokee Nation, through counsel, jointly seek entry of the attached proposed Order.

As represented to the Court at the September 20, 2011 hearing, this proposed Order resolves the Plaintiffs' Motion for Preliminary Injunction (Docket No. 146). It would be entered without prejudice to the parties' pending motions, including the pending motions to dismiss.

Dated: September 21, 2011

Respectfully Submitted,

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(non-employment)

[PROPOSED] ORDER

On September 2, 2011, the Plaintiffs filed a motion and brief in support of a preliminary injunction in this action and in Cherokee Nation v. Nash, Case No. 1:10-CV-1169 (HHK). Defendants Ken Salazar and the U.S. Department of the Interior, and Defendant Acting Principal Chief S. Joe Crittenden, filed responses to this motion. The Court heard argument on the motion on September 20, 2011. At that hearing, the parties informed the Court that an agreement in principle had been reached between the parties regarding the relief sought in Plaintiffs' Motion

for Preliminary Injunction. The parties have submitted a joint motion for entry of this proposed Order.

Having considered the parties' joint motion, Defendant Acting Principal Chief of the Cherokee Nation is ORDERED, notwithstanding any provision of tribal law to the contrary, to:

- (1) Pending disposition of the case or further order of the Court, ensure that all Cherokee Freedmen who were enrolled as citizens as of August 22, 2011, are recognized as citizens of the Cherokee Nation.
- (2) Ensure that all Cherokee Freedmen who were recognized as Cherokee citizens and entitled to vote prior to the August 22, 2011, Cherokee Supreme Court decision are permitted to vote in the upcoming election for Principal Chief in the same manner as all other Cherokee citizens, without intimidation or harassment, and to have their votes counted on the same basis as all other Cherokee citizens.
- (3) Notify all registered Cherokee Freedmen voters, in a letter sent via overnight mail no later than September 21, 2011, that:
 - a. They are citizens of the Cherokee Nation, and will be entitled to vote in the upcoming Principal Chief election and to have their vote counted in the same manner as all other Cherokee citizens;
 - b. They may vote in the September 24, 2011 Special Election at their precinct site on September 24, 2011, on a walk-in basis at the Election Commission Headquarters on at least two additional designated dates between September 24 and October 8, 2011, or by absentee ballot as described in paragraph (4) below.

- (4) Provide, in a letter sent via overnight mail no later than September 21, 2011, to all registered Cherokee Freedmen voters who requested an absentee ballot prior to August 12, 2011, a non-provisional absentee ballot and notification that this ballot will be accepted and counted if received by October 8, 2011.
- (5) Secure, safeguard, and refrain from counting all ballots cast in the September 24, 2011, Special Election until after October 8, 2011.
- (6) Submit no later than September 21, 2011, tribal election procedures to the Department of the Interior for review and approval or disapproval pursuant to the Principal Chiefs Act, Pub. L. 91-494 (Oct. 22, 1970). The Department of the Interior will notify the Acting Principal Chief whether it approves or disapproves these procedures no later than September 30, 2011.
- (7) Pending disposition of this case or further order of the Court, ensure that all Cherokee Freedmen citizens have access to and receive rights and benefits on the same terms as any other Cherokee citizen, whether the benefits are provided by funds from the United States or from the Cherokee Nation, or any other source.

IT IS FURTHER ORDERED BY THE COURT that the parties will provide a status report to the Court on October 25, 2011.

IT IS FURTHER ORDERED BY THE COURT that this Order is entered without prejudice to the parties' pending motions, including the pending motions to dismiss.

SO ORDERED.

Date: _____

Judge Henry H. Kennedy, Jr.
U.S. District Judge