

**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; and**

**S. JOE CRITTENDEN, in His Official
Capacity as Acting Principal Chief of the
Cherokee Nation,**

Defendants.

Case No: 1:03cv01711 (HHK)

Judge: Henry H. Kennedy

Docket Type: Civil Rights

(non-employment)

**FREEDMEN PLAINTIFFS' SUPPLEMENTAL FILING IN SUPPORT
OF THEIR MOTION FOR A PRELIMINARY INJUNCTION**

Plaintiffs, Cherokee Freedmen of the Cherokee Nation, by and through their counsel,
submit this supplemental filing in support of their motion for a preliminary injunction.

As the Cherokee Freedmen informed the Court in their Reply Brief filed on September
16, 2011, the Cherokee Nation has indicated that it has sent absentee ballots to approximately
350 Freedmen citizens and that Freedmen ballots that are submitted will not be counted but will
be held as "provisional" or "challenged" ballots. As the Cherokee Freedmen have argued,
distributing absentee ballots but at the same time informing Freedmen citizens that their votes

might not be counted causes irreparable harm to the Freedmen by depriving them of their full voting rights.

It is now evident that the Cherokee Nation has further deprived Freedmen citizens of their voting rights by sending communications to Freedmen citizens that are confusing at best and that do not permit the Freedmen to exercise fully their voting rights. A letter sent by the Cherokee Nation Election Commission to at least some Freedmen citizens states that the “The first requirement for being an eligible voter is citizenship. The Cherokee Nation Supreme Court has ruled that Freedmen don’t have citizenship.” Letter from Cherokee Nation Election Commission to Freedmen Voters dated September 15, 2011 (attached as Exhibit 1). At the same time, the letter purports to encourage Freedmen to vote. *Id.*

For those Freedmen who have attempted to vote in person during early in-person voting, the Cherokee Nation Defendants are depriving the Freedmen of their voting rights by creating a hostile environment at polling places. Plaintiff Charlene White, a Freedman citizen of the Cherokee Nation, cast her ballot during early voting at the Cherokee Election Commission on September 17, 2011, but experienced a hostile environment that would strongly discourage other Freedmen from voting. Declaration of Charlene White (September 19, 2011) (attached as Exhibit 2).

Dorabell Izamae McDowell, a Freedmen citizen of the Cherokee Nation, believed she would receive her absentee ballot on September 16, 2011. Her absentee ballot arrived on September 19, 2011. She is under the belief that her ballot will be set aside as a “challenged ballot” and never be counted. Declaration of Dorabell Izamae McDowell (September 19, 2011) (attached as Exhibit 3).

Carlton Dewberry, a Freedmen citizen of the Cherokee Nation, is registered to vote in Cherokee elections, and intends to vote in person at his precinct in Collinsville, Oklahoma, on September 24. However, he understands that his vote, and the votes of other Freedmen, will not be counted. He is also confused and disheartened because he has heard from television and the newspaper that the Cherokee Freedmen have been kicked out of the Tribe by the Cherokee Nation Supreme Court and are thus unable to vote. He has not received any letter or other communication to the contrary from the Cherokee Nation. Declaration of Carlton Dewberry (September 19, 2011) (attached as Exhibit 4).

Cecilia Ann Dewberry, a Freedmen citizen of the Cherokee Nation, is registered to vote in Cherokee elections, voted by absentee ballot in the June 2011 election, and intended to vote by absentee ballot for the upcoming September 24 election. Declaration of Cecilia Ann Dewberry (September 19, 2011) (attached as Exhibit 5). According to Cherokee Nation Election Committee instructions regarding the September 24 Principal Chief Election, “[v]oters who cast their ballots by absentee in the general and run-off elections will automatically receive an absentee ballot for this special election.” Cherokee Nation Election Commission, *Sept. 24 - Principal Chief Election Information* (available at <http://www.cherokee.org/OurGovernment/Commissions/ElectionCommission/32611/Information.aspx>) (attached as Exhibit 6). On September 16, 2011, Ms. Dewberry received a letter informing her that if she had not requested an absentee ballot, she would need to travel to Tahlequah, Oklahoma to vote – a 332 mile round trip drive. Exhibit 5 at ¶¶ 6-7. Ms. Dewberry believed that she did not need to request another absentee ballot, as she had requested one for the June election, but she has not received an absentee ballot. *Id.* at 11. Ms. Dewberry finds the communications from the Cherokee Nation

confusing and believes that because she has not received an absentee ballot, she will not be able to vote in the September 24 election. *Id.* at ¶ 7.

Dated: September 20, 2011

Respectfully submitted,

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