

No. 1111250

IN THE SUPREME COURT OF ALABAMA

JERRY RAPE,

Appellant,

v.

POARCH BAND OF CREEK INDIANS, ET AL.,

Appellees.

MOTION OF JIM HILDRETH, IN HIS OFFICIAL CAPACITY AS
ESCAMBIA COUNTY TAX ASSESSOR, FOR LEAVE TO FILE
AMICUS BRIEF AND FOR FIVE-DAY EXTENSION OF TIME TO FILE

On appeal from the Circuit Court of Montgomery County
(CV-2011-901485, Hon. Eugene W. Reese presiding)

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**MOTION OF JIM HILDRETH, IN HIS OFFICIAL CAPACITY
AS ESCAMBIA COUNTY TAX ASSESSOR, FOR LEAVE TO FILE AMICUS
BRIEF AND FOR FIVE-DAY EXTENSION OF TIME TO FILE**

Pursuant to Rule 29 of the Alabama Rules of Appellate Procedure, Jim Hildreth, in his official capacity as Escambia County tax assessor, respectfully moves this Court for leave to file a brief as amicus curiae and for a five-day extension of time to file the amicus brief. In support of this motion, Hildreth states the following:

1. Hildreth was first elected as Escambia County Tax Assessor in 1984, with his first term beginning October 1st, 1985, and he has served continuously since then. Previously, he was the mapping and appraisal supervisor for Escambia County for approximately four years. He has been a member of the International Association of Assessing Officers since 1986. He holds the Alabama Certified Tax Administrator designation. He is also a member of the Alabama Association of Assessing Officials and the Alabama Association of Tax Administrators.

2. Although Hildreth moves for leave to file an amicus brief independently, the interests he intends to express in this case are plainly generic to the office of the tax

assessor (or revenue commissioner)¹ of every Alabama county where Appellee Poarch Band of Creek Indians owns property and of the counties where land is purportedly held in trust by the United States for the benefit of the Poarch Band.

3. For the reasons that will be more fully explained in his brief if this motion is granted, the property of the Poarch Band in Escambia County and elsewhere in Alabama is likely subject to ad valorem taxation. Because the courts are indispensable participants in the process of vindicating the tax assessor's "right and authority" to value and assess property for taxation, see Ala. Code § 40-7-1 (1975), the tax assessor has a direct interest in the jurisdiction of state courts over the Poarch Band and in their claim to tribal sovereign immunity from suit.

4. Hildreth expects his amicus brief to assist the Court in understanding the strong case for the taxability of the Poarch Band's property in light of recent U.S. Supreme Court decisions and to explain how the Court's

¹ The term "tax assessor" is used herein also to refer to county revenue commissioners in their exercise of the rights, powers, and duties of a tax assessor in counties where the positions of tax assessor and tax collector have been consolidated by local law pursuant to Amendment 423 to the Constitution of Alabama of 1901.

resolution of the jurisdiction and immunity questions in this appeal could directly impact his ability, and the ability of other tax assessors and state and local revenue officials, to enforce the tax laws with respect to the property of the Poarch Band.

5. Hildreth respectfully requests this Court to allow him to file his amicus brief within five days after the January 24 deadline for an amicus brief in support of the Appellant, in order to allow him to fully brief the tax assessor's interests and the relevant issues.

For the foregoing reasons, Hildreth respectfully requests that this Court grant this motion for leave to file an amicus brief and for a five-day extension of the time to file.

Respectfully submitted,

 /s/ Bryan M. Taylor

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document has been served on this 25th day of January, 2013, to the following by email as noted:

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