



receiving federal financial assistance. The US Department of Justice states, "Aggrieved individuals may file administrative complaints with the federal agency that provides funds to a recipient, or the individuals may file suit for appropriate relief in federal court." Title VI, Appendix A to Subpart A of Part 17- "Federal financial assistance subject to part 17 includes: VI. Indian Affairs. (a) Grants and loans of Federal funds."

**A. STATEMENT OF THE CASE:**

**1. WRONGFUL TERMINATION VIOLATION:**

On 22Sep14, Plaintiff was visited by Shawn Clemmens and Renee Sweet and was advised that an internal investigation would be conducted due to her allegedly contacting the Bureau of Indian Affairs in Washington, DC. Plaintiff assured them that this was false information and that she had made no such contact. They advised her she would be on leave for 72 hours with pay while the investigation was being conducted, but the next day she was given a letter (Exhibit 1) by Renee Sweet, the Housing Executive Officer in the Department of Community Services stating, "We are separating your employment from the Chickasaw Nation due to violation of the standards of behavior we have a right to reasonably expect of our employee." Plaintiff asked for an explanation but Ms. Sweet and Mr. Clemmens would not give an explanation.

Employees' Code of the Chickasaw Nation page 12 (Exhibit 2) states that a required notice must be given:

1. Before any regular employee may be demoted involuntarily, suspended without pay or discharged, the Executive Department shall provide the employee with:

A) A statement of the specific acts or omissions that are the causes, or reasons, for the proposed actions; and

B) An explanation of the tribe's evidence; and

C) An opportunity to present reasons why the proposed action is improper and should not take place.

Plaintiff was not advised of the reason for her termination until she received the Notice of Determination from the Oklahoma Employment Security Commission (Exhibit 3) which states, “You are allowed benefits effective 9/21/14. Basis for determination – You were discharged from the Chickasaw Nation Division of Housing after you spoke with someone in the governor's office about being harassed. You indicated it had been going on for 4 years. Misconduct has not been established.”

## **2. SUPERIORS ABUSE OF AUTHORITY:**

Jackie Williams, Plaintiff's Supervisor, showed up at Plaintiff's office to do a “first informal counseling session” accusing Plaintiff of not requesting time off in the appropriate manner, even though Plaintiff had emails from Supervisor approving her leave time. Jackie Williams also brought along Renee Sweet and Kelly Cook, but Employee's Handbook page 5 (Exhibit 4) Employee Counseling Process states: “An informal counseling session means between an employee and supervisor only.” At this counseling session, Jackie Williams and Renee Sweet used intimidating and threatening tactics, by first making sure that no one else was in the building. Plaintiff explained that the accusations of the counseling session were unfounded, and if necessary she would speak to Mr. Scribner to stop the ongoing harassment and bullying she had been experiencing. Ms. Sweet stood up, pointed her finger in the Plaintiff's face and began yelling at her, telling her that Plaintiff would not speak to Mr. Scribner.

When Plaintiff filed a grievance in June 2012 against Jackie Williams and Renee Sweet, she requested a meeting with Terry Davis alone at her office in Ada. But it was actually Terry Davis, along with Jackie Williams and Renee Sweet, who showed up at Plaintiff's office, and Renee Sweet was the one conducting the meeting! Chickasaw Nation Grievance Policy 04GEN 1000 of Jan, 2000 from the Housing Division (Exhibit 5) regarding policy for filing a grievance states, on page 2 under III Procedure, B.) Informal Settlement of Grievances, paragraphs 1 and 3 state: “It is the intent of division staff to make every effort to respond to participant complaints, requests for action, or appeals of

decisions so as to avoid the necessity for formal grievance hearings. If the participant is not satisfied with the efforts of division staff, participant shall be given the opportunity to request a conciliation meeting with a panel of 3 employees appointed by the director of the affected department and *such appointed employees shall have no direct interest in the subject matter of the grievance.*” Clearly the Grievance Policy was violated. They would not even allow Plaintiff to have a witness present at the meeting, who they actually locked outside the building, or to record the conversation. At the end of the meeting, Plaintiff was told that the bullying behavior against her would stop, that that would be the end of discussion about such issues and that Plaintiff should not speak about the meeting again. It appears that no one else within the Chickasaw Nation was ever made aware of the grievance filed since there is now no record of anything that was discussed.

Other examples of superiors' abuse of authority include:

Plaintiff received excellent scores on her annual evaluations, but was not given a raise in more than 3 years.

Supervisor Jackie Williams mostly referred to Plaintiff as “Blondie” or “The Blonde,” and has even made offensive and derogatory statements about Plaintiff's personal life, even though Plaintiff has never discussed such matters with Ms. Williams.

Because Plaintiff answered the phone incorrectly *one time*, Jackie Williams and Terry Davis required Plaintiff to take an additional 8 hours of customer service training and sent Mr. Harris from Ada to observe Plaintiff for an entire day. No counseling session was given first. After a few hours of observation, Mr. Harris commented, “I don't know why I am even here, it is obvious that you know your job.”

When Plaintiff's car was being repaired and she had no means to attend the annual festival which is required by all tribal employees, she communicated for four days with Jackie Williams and Terry Davis, requesting to use the government car, to ride with co-workers, or to be excused from the

festival. Each request was denied, even though approval was given to the male maintenance personnel to use the government pickup. As a result, Plaintiff was disciplined for not attending the festival, while her co-worker was allowed to sign in at the festival and then leave for her daughter's cheerleading competition. Again this shows a pattern of different treatment of the Plaintiff versus other employees.

### **3. IMPROPER PROCESSING OF HOMEOWNER'S APPLICATION:**

Plaintiff is 1/8 Chickasaw and a citizen of the Chickasaw Nation. She had been filing a homeowner's application each year since 2009. The application clearly states, "Family composition – Complete the information below for *you and each family member who will be living in your home.*" (Exhibit 6). Plaintiff listed herself, her daughter, and her three grandchildren on each application, but her application had been continually put in the "Single" category, which is the lowest priority to receive a home. First priority is full-blooded Chickasaw, second priority is a family, third priority is a couple, and fourth priority is a single person. She questioned in 2012 why her family application had been passed over multiple times and homes had been offered to others who applied after theirs. Plaintiff again asked in 2014 and was told in an email from Kristen MacCollister, "I was informed that I can NOT process your application with your daughter and grandkids on your application." (Exhibit 7) In a separate email (Exhibit 8), Ms MacCollister states, "As far as the application with your daughter included, I was informed not to process by Antoinette Elkins, Diana Zink, and Jackie Williams, because Heather is on our 98 Rental Assistance Program." Because Plaintiff was employed as a Housing Specialist and processed housing applications daily, she understood how the process works. Plaintiff knows of many instances where homeowners' applications have been submitted by someone already on the 98 rental assistance. The Homeowners Program Policy #04 HMS 1004 of Jan2000 (Exhibit 9) also does not state that someone receiving the 98 rental assistance is ineligible to be considered on a homeowner's application. This restriction further seems to indicate Plaintiff's application was being

handled differently from the way other applications are constantly processed.

Plaintiff's daughter, Heather Turner, began calling in June of 2014 to inquire about the application, but her call was continuously sent to different people and told they "would have to look into it." Finally she called to request a meeting with Gov. Bill Anoatubby about the homeowners' application discrepancy. Plaintiff's daughter was told that *Plaintiff would need to call about the application since she was listed as the head of household*. Plaintiff called the governor's office, as requested, and spoke to his assistant, Tammy Gray, informing her from the beginning that she was calling about her homeowner's application as a Chickasaw citizen and not as an employee. Ms. Gray began asking Plaintiff questions, to find out why her application had been processed incorrectly. Plaintiff stated she felt it was due to the harassment issues she had been experiencing, and because of the grievance she had already filed. Ms. Gray advised Plaintiff she should talk to her chain of command, but Plaintiff stated she had already made attempts to do so and was always given vague answers, but had been afraid to question her supervisor in the Housing Division, Jackie Williams, for fear of losing her job. Plaintiff again stated to Ms. Gray that she was calling as a citizen and not as an employee, and had been advised to contact the governor's office herself. Ms. Gray directed Plaintiff's call to Ms Jones, the assistant to Mr. Wayne Scribner, who then scheduled a meeting with Mr. Scribner on 04Aug14. Plaintiff and her daughter went to the meeting, but was then told that Heather was not allowed in the meeting and had to wait outside. Plaintiff questioned why since her daughter was on the application and had made the initial requests for a meeting, but Mr. Scribner also stated that she was not allowed to be present. This action again exemplifies an abuse authority in that Heather was denied her rights as a Chickasaw citizen to be present in a meeting that she had requested. During the meeting, Plaintiff showed Mr. Scribner the 2 original applications from 2012 and 2013 sent by Debbie Walker that clearly asks, "Who will be living in the home with you?" Mr. Scribner's only reply was, "That is a matter of interpretation." Plaintiff questioned his response and again was given the same

vague answer. Plaintiff asked if she could have a meeting with the governor, Mr. Scribner said he would set up a meeting and left the conference room.

After Mr. Scribner left, then Renee Sweet, Terry Davis, and Candace Wheeler came into the room and began reading a Performance Improvement Plan stating the Plaintiff was receiving a 2<sup>nd</sup> written reprimand. Plaintiff refused to sign it because she had never received a counseling session or a 1<sup>st</sup> written reprimand. According to policy, these steps must be followed in order. Later Candace Wheeler emailed Plaintiff (Exhibit 10) to tell Plaintiff she was right, no written reprimand had ever been given before, so it was changed to a 1<sup>st</sup> written reprimand, although Plaintiff was never given a 1<sup>st</sup> or 2<sup>nd</sup> counseling session. After leaving from this meeting, Plaintiff and her daughter drove to the headquarters building where Heather went in to request in person a meeting with the governor. To this day, that meeting has still not been arranged.

#### **4. JURISDICTION**

Jurisdiction is granted in the Federal Court by Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d et seq., which was enacted to prevent intentional discrimination in programs and activities receiving federal financial assistance. The US Department of Justice states, “Aggrieved individuals may file administrative complaints with the federal agency that provides funds to a recipient, or the individuals may file suit for appropriate relief in federal court.” Title VI, Appendix A to Subpart A of Part 17- “Federal financial assistance subject to part 17 includes: VI. Indian Affairs. (a) Grants and loans of Federal funds.” (Exhibit 11)

The Ex parte Young Doctrine applies to tribal officials as a waiver of tribal immunity in federal court. In at least three cases strongly affirming tribal sovereign immunity, the US Supreme Court has suggested that the doctrine of Ex parte Young, 209 U.S. 123 (1908) could apply to tribal officials acting

outside of the scope of their official capacities, or in violation of federal law, as a means to avoid tribal immunity. In *Oklahoma Tax Commission v. Citizen Band Potawatomi Indian Nation*, 498 U.S. 505, 514 (1991), the Court stated: “We have never held that individual agents or officers of a tribe are not liable for damages in actions brought by the state.” Mr. Scribner acted outside the scope of his authority by not allowing Plaintiff’s daughter to be present as a Chickasaw citizen in a meeting that she had requested. Mr. Scribner, Ms. Williams, Ms. Sweet, and Ms. Davis were all aware that the Plaintiff’s application was not being processed correctly, and this discrimination was in violation of the code of federal regulations of federally-funded programs. Title 24 – Housing and Urban Development, Part 1 Non-Discrimination in Federally-Assisted Programs of the Department of Housing and Urban Development, Section 1.4-Discrimination Prohibited.

**B. PLAINTIFF'S REQUESTS FOR RELIEF:**

1. Plaintiff requests that her employment record be absolved of all references to “termination,” so that she should not ever have to state that she was terminated by the Chickasaw Nation when applying for future employment positions.
2. Plaintiff requests that her superiors named in the lawsuit (Jackie Williams, Terry Davis, and Renee Sweet) be held accountable for their actions and numerous violations of Chickasaw policies, and to be punished in accordance to their contributions to these violations.
3. Plaintiff requests that the Chickasaw Nation establish an Employee Advocacy Committee, to help to facilitate procedures within the grievance process, especially when those in the employee’s chain of command are the offenders. Other former Chickasaw Nation employees have come forward with examples of how they were treated similarly by these 3 supervisors and others, which proves that the Plaintiff’s claims are not isolated incidents.
4. Plaintiff requests a monetary judgment in the amount of \$1,000,000.00, as back pay due to



termination, the inability to find further employment because of "termination" which is now included in her employment record, harassment that has taken place over the past 5 years by these same superiors, and punitive damages to aid in stress-related physical and emotional issues that have been caused by the ongoing workplace bullying.

**C: CONCLUSION:**

At the present time, still no meeting has been arranged between Plaintiff, as a Chickasaw citizen, and Gov. Anoatubby, which should have taken place within 10 days after request is submitted. For months after termination, Plaintiff called every day prior to filing lawsuit, to discuss and try to rectify these issues without taking legal action. It was never the Plaintiff's desire to file a lawsuit against Gov. Anoatubby, since he has not been directly involved in the issues at hand. But even the Executive Policy Statement signed by the governor states, "While the best interests of the Chickasaw Nation must always be taken into consideration by employees, tribal interests shall not be sought after at the cost of individual rights." It is the Plaintiff's intention to make sure that the Governor is made aware of discriminatory actions that are taking place within the Chickasaw Nation so that corrective actions may take place. In an effort to receive assistance with the discrimination she was experiencing, Since 23Sep14, Plaintiff has spoken to the Chickasaw legislators and over 40 other employees in various positions of authority to request assistance, but no one has been willing to help her to be treated fairly and hold the offenders accountable for their actions, many fearing retaliation or job loss themselves. For the reasons set forth above, the Plaintiff respectfully requests that the Court takes all of these matters into thoughtful consideration, and if trial of the case in tribal court is deemed necessary, the Plaintiff requests dismissal without prejudice to allow her to pursue that option.



Signed – Sherri Sanders, Plaintiff

9. 4-2-2015  
Date