

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Loretta-Lynn Begay Dobbs

Case No: 0:19-cv-01289-SRN-LIB

Plaintiff(s)

REPLY MEMORANDUM

v.

Fond Du Lac Reservation Business
Committee

Defendant(s)

Introduction

This case was initiated on April 5, 2019, when the plaintiff, Loretta-Lynn Begay Dobbs (“Dobbs”) filed a complaint alleging several violations of federal law. (Compl., [Docket No. 1]). The named defendant in that pleading was the Fond du Lac Reservation Business Committee, the governing body of the Fond du Lac Band of Lake Superior Chippewa (“the Band”). (*Id.* at 1). The Band filed a motion to dismiss, arguing that the alleged violations did not involve the Band and that the Band had sovereign immunity. (Mot. to Dismiss, [Docket No. 8]).

In response, Dobbs filed an amended complaint, which alleged that the Band took her land through fraud and deception and entered into easement agreements without her consent. (Am. Compl., [Docket No. 19]). The Band again filed a motion to dismiss. (Mot. to Dismiss Am. Compl., [Docket No. 23]). The Band argued that the complaint’s allegations against the Band did not arise under

federal law. (*Id.* at 3-4). The Band’s motion requested that the case be dismissed (1) for failure to state a claim upon which relief could be granted, (2) for failure to establish subject matter jurisdiction, and (3) based on tribal sovereign immunity. (*Id.* at 3-5).

The Court ordered Dobbs to file a response no later than August 9, 2019. (Order, [Docket No. 28]). On August 9, 2019, Dobbs filed a “Motion in Opposition to Dismiss,” [Docket No. 32.] The paperwork noted that the Band has not produced the “historical record of any transfer of titles” and argued that the federal courts have jurisdiction because the matter involves a land dispute between two sovereigns. (*Id.* at 1.) Dobbs also filed a document criticizing legal interpretations. (Exhibit, [Docket No. 33-1]). The Band has interpreted Dobbs’s filings as a response memorandum and now files this reply memorandum.

Argument

The Band does not dispute that Dobbs owns allotment interests on the Fond du Lac Reservation. In fact, the documentation she has filed in support of her claims appears to have been obtained from the Band’s Land Information Department. (Compl., Exhibit, [Docket No 1-1], p. 6; Exhibit, [Docket No. 33-2]).

As an allotment owner, Dobbs has a number of rights. *See, e.g.*, 25 C.F.R. § 162.012(a) (describing consent requirements for leases of allotment lands); *Cobell v. Norton*, 240 F.3d 1081, 1098-1108 (D.C. Cir. 2001) (discussing the federal government’s fiduciary duties to allotment owners when handling proceeds from leases). Through this proceeding, however, she has not established any right

to demand title documents from the Band.¹ Although the Band is the majority owner of many allotments on the Fond du Lac Reservation, the Band's ownership is not relevant to the Band's motion to dismiss. Therefore, the fact that the Band has not produced the requested documents does not provide any reason to deny the motion to dismiss.

Dobbs's jurisdictional argument is inconsistent with U.S. Supreme Court precedent. She argues that the court has subject matter jurisdiction because the matter involves a land dispute between two sovereigns. This is best interpreted as an argument that the case is “between a State, or the Citizens thereof, and foreign States, Citizens or Subjects.” U.S. Const., Art. III, cl. 1. This argument fails, however, because neither the Band nor Dobbs qualify as a foreign state, citizen, or subject. In *Cherokee Nation v. Georgia*, the Supreme Court held that Indian tribes are not foreign states within the meaning of the constitution. 30 U.S. 1, 20 (1831). As a result, the fact that an Indian tribe is a party to a case is insufficient to establish federal jurisdiction. Likewise, Dobbs cannot establish that she is a foreign state, citizen, or subject. Under *Cherokee Nation*, her enrollment in the Band does not make her a citizen of a foreign state. And she has provided no

¹ Dobbs could request these documents from the Bureau of Indian Affairs or the Band's Land Information Department. The Band's voluntary response would depend on whether the Band possesses copies of these federal records and on the amount of work required to respond.

support for her statements about personal sovereignty. Therefore, she has failed to establish subject matter jurisdiction. *See Kokkonen v. Guardian Life Ins. Co. of America*, 511 U.S. 375, 377 (1994) (stating that the party asserting jurisdiction has the burden of establishing jurisdiction); *see also Bey v. Indiana*, 847 F.3d 559, 559-61 (discussing and rejecting sovereign citizen arguments).

Conclusion

Dobbs's response has provided no reason to deny the Band's motion to dismiss. As stated in the Band's Memorandum in Support of Motion to Dismiss Amended Complaint, the case should be dismissed (1) for failure to state a claim upon which relief could be granted, (2) for failure to establish subject matter jurisdiction, and (3) based on tribal sovereign immunity. Therefore, the Defendant Fond du Lac Reservation Business Committee respectfully requests that the motion to dismiss be granted and that this action be dismissed.

Respectfully submitted,

Dated: August 22, 2019

/s Sean Copeland
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