

Receipt number AUSFCC-6183939

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

HENRY DELORE RED CLOUD;)	
PAUL HAROLD TRUE BLOOD;)	CIV. CASE NO. _____
EUGENE HUNTS HORSES III;)	
DANIEL JOSEPH MARTIN; AND)	COMPLAINT
FREDRICK LOUIS GAYTON)	20-608 C
)	
Plaintiffs,)	
)	
vs.)	
)	
THE UNITED STATES)	
Defendant)	

Plaintiffs, HENRY DELORE RED CLOUD, PAUL HAROLD TRUE BLOOD, EUGENE HUNTS HORSES III, DANIEL JOSEPH MARTIN, and FREDRICK LOUIS GAYTON, bring this Complaint against Defendant, THE UNITED STATES, and allege as follows:

PARTIES AND JURISDICTION

1. Plaintiff, HENRY DELORE RED CLOUD, is a Native American and a member of the Oglala Sioux Tribe.
2. Plaintiff, PAUL HAROLD TRUE BLOOD, is a Native American and a member of the Oglala Sioux Tribe.
3. Plaintiff, EUGENE HUNTS HORSES III, is a Native American and a member of the Oglala Sioux Tribe.
4. Plaintiff, DANIEL JOSEPH MARTIN, is a Native American and a member of the Oglala Sioux Tribe.
5. Plaintiff, FREDRICK LOUIS GAYTON, is a Native American and a

member of the Oglala Sioux Tribe.

6. At all times material hereto, Doctor Stanley Patrick Weber ("Dr. Weber") was employed by Defendant as a pediatrician within the Indian Health Services. Dr. Weber was employed at the Indian Health Services hospital in Pine Ridge, South Dakota and all acts alleged herein were committed within the course and scope of employment incidental to the enterprise and/ or in furtherance thereof.

7. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §1491(a)(1) in that this is a civil action against the United States founded upon the Treaty with the Sioux of April 29, 1868 (15 Stats. 635, ratified Feb. 16, 1869, proclaimed February 29, 1869), an Act of Congress as well as an express or implied contract with the United States.

8. Prior to filing this lawsuit, Plaintiffs satisfied all prerequisites to suit and exhausted all administrative remedies.

9. Plaintiffs have no other claim pending in any other court any suit or process against the United States or any person who, at the time when the cause of action alleged in such suit or process arose, was, in respect thereto, acting or professing to act, directly or indirectly under the authority of the United States.

BACKGROUND

10. HENRY DELORE RED CLOUD was born in 1989. When HENRY was between the approximate ages of 11 to 13 or 14, and approximate years of 2000 to 2003, he was sexually abused, assaulted and battered by Dr. Weber on multiple occasions, the last of which was in approximately 2003. Three incidents occurred in Weber's medical exam room at the Pine Ridge Indian Health Service facility and another occurred at

Weber's Indian Health Service housing.

11. As a result of the psychologically self-concealing nature of childhood sexual abuse, HENRY did not know, and could not have known, of the abuse, the injury, and/ or the causal connection between the abuse and his injury. He was unaware of the wrongfulness of the actions of Dr. Weber until a date within six years of the institution of this action.

12. As a direct and proximate result of the foregoing incidents, HENRY RED CLOUD has suffered and continues to suffer from severe anxiety, depression, shame, humiliation, the inability to lead a normal life, and psychological and emotional trauma. HENRY RED CLOUD's injuries are persistent, permanent and debilitating in nature.

13. PAUL HAROLD TRUE BLOOD was born in 1987. Dr. Weber came into contact with PAUL in a clinical setting at the Indian Health Service hospital on the Pine Ridge Reservation and, thereafter, sexually abused, assaulted and battered PAUL about once a week between the ages of approximately 12 to 21, from approximately 1999 to 2008, at the Indian Health Service hospital and Dr. Weber's Indian Health Service housing.

14. As a result of the psychologically self-concealing nature of childhood sexual abuse, PAUL did not know, and could not have known, of the abuse, the injury, and/ or the causal connection between the abuse and his injury. He was unaware of the wrongfulness of the events until a date within six years of the institution of this action.

15. As a direct and proximate result of the foregoing incidents, PAUL HAROLD TRUEBLOOD has suffered and continues to suffer from severe anxiety, depression, shame, humiliation, the inability to lead a normal life, and psychological and

emotional trauma. PAUL HAROLD TRUEBLOOD's injuries are persistent, permanent and debilitating in nature.

16. EUGENE HUNTS HORSES III was born in 1995. Dr. Weber progressively increased his sexual contact with EUGENE beginning at approximately 13 years of age during medical exams at the Indian Health Services hospital on Pine Ridge Reservation. EUGENE was sexually abused, assaulted and battered by Dr. Weber on several occasions between the ages of 13 and 15, between the approximate years of 2008 to 2010.

17. As a result of the psychologically self-concealing nature of childhood sexual abuse, EUGENE did not know, and could not have known, of the abuse, the injury, and/ or the causal connection between the abuse and his injury. He was unaware of the wrongfulness of the events until a date within six years of the institution of this action.

18. As a direct and proximate result of the foregoing incidents, EUGENE HUNTS HORSES III has suffered and continues to suffer from severe anxiety, depression, shame, humiliation, the inability to lead a normal life, and psychological and emotional trauma. EUGENE HUNTS HORSES III's injuries are persistent, permanent and debilitating in nature.

19. DANIEL JOSEPH MARTIN was born in 1986. DANIEL was sexually abused, assaulted and battered by Dr. Weber between the ages of approximately 9 and 13 or 14 years old, between the approximate years of 1995 and 2000, every time he went to the Indian Health Services hospital on Pine Ridge.

20. As a result of the psychologically self-concealing nature of childhood

sexual abuse, DANIEL did not know, and could not have known, of the abuse, the injury, and/ or the causal connection between the abuse and his injury. He was unaware of the wrongfulness of the events until a date within six years of the institution of this action.

21. As a direct and proximate result of the foregoing incidents, DANIEL JOSEPH MARTIN has suffered and continues to suffer from severe anxiety, depression, shame, humiliation, the inability to lead a normal life, and psychological and emotional trauma. DANIEL JOSEPH MARTIN's injuries are persistent, permanent and debilitating in nature.

22. FREDRICK LOUIS GAYTON was born in 1991. When FREDRICK was approximately 12 years old, in the approximate year of 2003, Dr. Weber experimented with intimate touching of FREDRICK at the Indian Health Service hospital on the Pine Ridge Reservation. FREDRICK later endured two incidents of sexual abuse, assault and battery when FREDRICK was approximately 12 and 13 years old. The last such act was in approximately 2004.

23. As a result of the psychologically self-concealing nature of childhood sexual abuse, FREDRICK did not know, and could not have known, of the abuse, the injury, and/ or the causal connection between the abuse and his injury. He was unaware of the wrongfulness of the events until a date within six years of the institution of this action.

24. As a direct and proximate result of the foregoing incidents, FREDRICK LOUIS GAYTON has suffered and continues to suffer from severe anxiety, depression, shame, humiliation, the inability to lead a normal life, and psychological and emotional trauma. FREDRICK LOUIS GAYTON's injuries are persistent, permanent and

debilitating in nature.

25. Through news reporting in early 2019, it was publicly revealed that multiple abuse allegations had been made against Dr. Weber during his time at an Indian Health Service clinic on the Blackfeet Reservation in Browning, Montana, between approximately 1992 and 1995. News reporting in early 2019 revealed that Dr. Weber had been terminated after a top Indian Health Service official concluded that Dr. Weber was a pedophile and should be fired from his position in Montana. The 2019 news reporting revealed that the Indian Health Service had institutional knowledge of Dr. Weber's sexual abuse of minors in Montana and, despite this, failed to protect Plaintiffs from sexual abuse, assault and battery and, by so failing, facilitated and, therefore, caused said injuries to Plaintiffs.

26. Plaintiffs were not aware and could not have been aware of the liability of the United States government because the facts which fix the liability of the United States government were exclusively in the possession of the United States government and concealed until the aforementioned reporting revealed that United States officials and employees knew of the danger posed to Native American children and did not act.

27. The causes of action detailed herein did not accrue until within six years from the bringing of this action because Plaintiffs were not, and could not have been, aware of the existence of the facts that fix the liability of the United States and entitle the Plaintiffs to institute an action.

28. Dr. Stanley Patrick Weber was found guilty of abusing two young native American boys, members of the Blackfeet Tribe, in Browning, Montana in September of 2018. In September of 2019, Dr. Weber was found guilty of abusing PAUL HAROLD

TRUE BLOOD, EUGENE HUNTS HORSES III, DANIEL JOSEPH MARTIN, and
FREDRICK LOUIS GAYTON on the Pine Ridge reservation.

CLAIM FOR RELIEF

VIOLATION OF "BAD MEN" CLAUSE OF TREATY WITH THE SIOUX OF

APRIL 29, 1868

(15 Stats. 635, ratified Feb. 16, 1869, proclaimed February 29, 1869)

29. Plaintiffs repeat and re-allege paragraphs 1 through 28 as if fully stated herein.

30. Plaintiffs are members of the Oglala Sioux Tribe and are beneficiaries of the Treaty with the Sioux of April 29, 1868 (15 Stats. 635, ratified Feb. 16, 1869, proclaimed February 29, 1869) (the "Treaty"). Article 1 of the Treaty provides, in relevant part, as follows:

If bad men among the whites, or among other people subject to the authority of the United States, shall commit any wrong upon the person or property of the Indian, the United States will, upon proof made to the agent and forwarded to the Commissioner of Indian Affairs at Washington City, proceed at once to cause the offender to be arrested and punished according to the laws of the United States, and also reimburse the injured person for the loss sustained.

31. At all times material hereto, Dr. Weber was employed by and subject to the authority, supervision and control of the Indian Health Services of the United States.

32. The sexual abuse perpetrated by Dr. Weber was a willful, malicious and intentional assault on Plaintiffs, and therefore was a wrong committed upon the person of a Native American Indian.

33. On account of the sexual misconduct described herein, Dr. Weber is a "bad man" under the Treaty.

34. Plaintiffs make this claim for damages against the United States pursuant to the "bad men" clause of Article 1 of the Treaty in light of the wrongful acts described herein that were committed upon Plaintiffs by Dr. Weber.

35. Prior to the filing of this lawsuit, each plaintiff herein provided a detailed Statement of Claim for damages in writing to the reservation superintendent and to the assistant secretary of the Interior for Indian Affairs in Washington, D.C., which were then forwarded on or before March 4, 2020 to the United States Department of Interior, Office of the Solicitor, Division of General Law, Torts Practice Branch, Lakewood, Colorado. The United States has refused to consider the claims of DANIEL JOSEPH MARTIN, AND FREDRICK LOUIS GAYTON, specifically, and the remaining Plaintiffs herein, generally, by letter dated March 30, 2020.

36. WHEREFORE, Plaintiffs, and each of them, demand judgment against Defendant, UNITED STATES OF AMERICA, for compensatory damages in the amount of \$100,000,000.00, costs, attorney's fees, all other damages permitted by the Treaty with the Sioux of April 29, 1868 (15 Stats. 635, ratified Feb. 16, 1869, proclaimed February 29, 1869), and such other and further relief as this Court deems proper.

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Respectfully submitted, May 15, 2020.

COUNSEL OF RECORD
FOR PLAINTIFFS

s/ Michael Shubeck
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