

**IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF OKLAHOMA**

TERRY BAYLES;	)	
KERRY WELBORN;	)	
AUSTIN CLAYLON;	)	
CALEB BACON;	)	
TONY BLAKE;	)	
MISTY CAMPBELL;	)	
BILLY CHASE;	)	
JEREMIAH COLBERT;	)	No. <u>CIV-25-370</u>
GEORGE DAVENPORT;	)	
CHRISTOPHER GRAY;	)	
JAMES HENSON;	)	
PEYTON JONES;	)	
JAMES GEOFFREY;	)	
SAWYER LOPEZ;	)	
ADELBY MARTINEZ;	)	
JAMES MCKIBBEN;	)	
Petitioners	)	
	)	
-vs-	)	
	)	
THE CHOCTAW NATION OF	)	
OKLAHOMA; CHOCTAW COUNTY	)	
SHERIFF, TERRY PARK, EX. REL.	)	
COUNTY JAIL	)	
Respondents	)	

MOTION FOR TEMPORARY RESTRAINING ORDER

COMES NOW the Petitioners in this action and pursuant to Fed. R. Civ. P. 65 (a)(b) and hereby moves the court for a temporary restraining order immediately and later a preliminary injunction against the Defendants, respectively, the Choctaw Nation of Oklahoma and the Choctaw County Sheriff, Terry Park ex. rel. Choctaw County Jail and requests this Court to set an emergency hearing for preliminary injunctive relief. In support of this motion, the Plaintiffs state the following:

FACTUAL BACKGROUND

On or about the 16th day of September 2025, co-attorneys Mr. Dale Ellis and Ms. Tiffani Shipman travelled to the Choctaw County Jail, to meet with a former client who had been dropped as a client by the Choctaw Nation's PD's Office (hereinafter "CNPDO") to discuss a pending complaint against the CNO tribe and another possible complaint. While at the jail, Mr. Ellis and Ms. Shipman were notified by jail personnel that there were roughly twenty-five (25) other inmates being housed who wished to speak with them regarding representation. Mr. Ellis and Ms. Shipman were plain and open with the jail personnel regarding who they were, and also openly discussed that neither of them represented, or were employees of, the Choctaw Nation tribe (hereinafter "CNO"). However, jail personnel stated that many, if not all, of the inmates held on CNO charges still wished to speak with them. Because the lateness of the day, Mr. Ellis and Ms. Shipman made arrangements for the following day on September 17, 2025, when they visited with roughly seventeen (17) inmates, many of whom are Petitioners in this action.

The following day on September 18, 2025, Ms. Shipman and Mr. Ellis returned to the Choctaw County Jail to consult with the remaining inmates whom they were unable to speak with on the prior day. However, without warning, Ms. Shipman and Mr. Ellis were summarily denied access to the additional inmates (who presumably wished to join the instant lawsuit as plaintiffs) and were told instead that they must leave the premises immediately. Since that date, Mr. Ellis and Ms. Shipman have been denied all access to the named Petitioners.¹

Furthermore, the Choctaw County Jail continues to deny Mr. Ellis and Ms. Shipman access to the inmates/Plaintiffs, despite having been served with the filed Petition for the instant matter which specifically names Mr. Shipman and Mr. Ellis as attorneys for the inmates/Plaintiffs. In

¹ Ms. Shipman and Mr. Ellis also lack the specific information regarding the remaining inmates they were unable to initially speak with on September 18, 2025 regarding the instant case, yet presumably, said inmates may still desire to join the instant lawsuit and have been denied access to counsel to discuss their option to join.

fact, since September 18, 2025, Mr. Ellis and Ms. Shipman have been continuously denied access to their clients and have only been able to communicate to their client through scant third-party interactions, more fully described herein. It is important to note that it is the Plaintiffs' belief that the CNO instructed the Choctaw Jail to deny them access to their clients, and said belief is based on a hearsay statement relayed to them by a jail staff member.

Soon after the Plaintiff attorneys were denied access, the Plaintiffs were visited by Mr. Tim Beebe, an employee of the CNO and supervisor with the CNPDO. The clients were purportedly coerced into sharing documents with Mr. Beebe previously provided to them by Mr. Ellis and Ms. Shipman that were protected by the attorney client privilege. Further, they were threatened by Mr. Beebe and told that if they did not allow the CNPDO to continue to represent them in their criminal cases in the CNO, that he or she would be left without representation in their CNO criminal cases, contrary to law. In other words, these inmates were directly threatened that if they did not accept representation by the conflicted CNPDO, that they would not be appointed a new attorney, but instead, would be forced to represent themselves *pro se*, in their criminal trials pending in the CNO.

Upon hearing from family members of the inmates about said threats the Plaintiffs have been receiving, Mr. Ellis and Ms. Shipman sent letters to the Plaintiffs relaying information meant to assist them in an upcoming hearing on October 15, 2025 (which Mr. Ellis and Mr. Shipman had been informed through family members had been set). Said letters had "Attorney-client communications" and "Privileged" marked clearly on the front of the envelopes containing said correspondence. However, upon information and belief, the Choctaw County Jail representatives opened the protected mail and withheld said letters from the named Plaintiffs – meaning jail personnel did not deliver the letters directly to the inmates at that time. Furthermore, upon

information and belief, Choctaw County jail personnel then called Mr. Beebe directly, whereupon the protected correspondence was read over the phone directly to Mr. Beebe. The Plaintiff were not immediately provided the mail, but instead, were given to the Plaintiffs days later, *after* a hearing was held by the CNO on October 15, 2025, and despite the fact that the jail received these letters days beforehand.

Thereafter, another egregious breach of ethics and violation of due process occurred when Mr. Bebee, who was apparently fully aware of this action as well as of Mr. Shipman and Mr. Ellis' representation of the Plaintiffs, proceeded, without said counsel present, to make an offer to the Plaintiffs individually, that if he or she would withdraw their participation in the instant suit against the CNO, that their bail would be reduced to an amount where the inmates could be released. Because of the lack of communication Mr. Ellis and Ms. Shipman have with the Plaintiffs, it is unknown how many, if any, accepted the offer.²

Additionally, upon information and belief, there have been at least two (2) other instances where correspondence sent to the Plaintiffs by the undersigned attorneys has never been delivered. Additionally, the Plaintiffs herein are being constantly harassed and coerced by Choctaw County jail personnel and the CNPDO, and have also been completely left in the dark without consultation or reassurance from their attorneys in the instant matter.

Apparently realizing the conflict outlined in the Petition in this matter, during the October 15, 2025 hearing the CNO and CNPDO took steps to appoint Mr. David Hale. Mr. Hale is an attorney who formerly worked directly for the CNPDO, and who has been retained pursuant to contract with the CNO to act as substitute counsel for the named Plaintiffs in their CNO criminal cases. It is important to point out that the CNO's and CNPDO's decision to contract with Mr. Hale

² At least one Plaintiff mailed a letter directly to Mr. Ellis and Ms. Shipman during this time stating he wished to withdraw participation in the instant suit – said withdrawal will be remedied upon Amendment of the Petition.

and appoint him as substitute counsel for the named Plaintiffs is at minimum, a tacit admission by the CNO that the conflict Petitioners have complained of is serious and has resulted in due process issuers for defendants facing criminal charges in the CNO. In other words, it cannot be the case that the complained-of conflict in front of this Court was legitimate enough to appoint Mr. Hale for the fifteen named Petitioners in this case, but not for the entirety of defendants facing criminal charges in the CNO. The conflict either exists or doesn't, and the CNO's actions make it clear that the conflict is real and has resulted in serious harms for defendants in the CNO.

Due to the severity of the issues, the undersigned attorneys are rightly suspicious of the continuing relationship between the newly-appointed Mr. Hale and the CNO and CNPDO. As such, Mr. Ellis and Ms. Shipman sent a series of questions to Mr. Hale on behalf of Plaintiffs, designed to determine whether Mr. Hale would undertake to represent the named Plaintiffs zealously in their criminal cases before the CNO, and additionally, whether Mr. Hale was influenced and/or presented a similar conflict of interest as exists between the named Plaintiffs and the CNPDO. A hard copy (of the questions) was mailed directly to the Plaintiffs for he or she to directly question Mr. Hale themselves, although said mail was apparently intercepted by the Choctaw Jail, as not one letter was delivered.

Despite not receiving the letters as mailed, one of the inmates/Plaintiffs was able to get a copy of said questions from a family member, who had been provided the questions from Mr. Ellis and Ms. Shipman directly. When said inmate presented the questions to Mr. Hale regarding his representation in the criminal matter before the CNO, Mr. Hale purportedly stated that the inmate's questions would not be answered without a subpoena (presumably from this Court) and that the inmate's "only hope of winning his case" was that "if witnesses did not appear in court to testify [against him]" in his CNO matter. Mr. Hale has also refused to respond or answer these same

questions that were emailed directly to him from the undersigned attorneys. Further, despite that the Plaintiffs all requested Mr. Hale to provide discovery, case files, attorney notes and all written or electronically stored information regarding their CNO case, Mr. Hale has, to date, refused to provide said information to any individual Plaintiff that he represents after being appointed by the CNO.

As it stands, the named Plaintiffs have been left incarcerated, experiencing constant coercion and harassment from Choctaw County jail personnel, and have been able to have only sparse communications with their attorneys in the instant matter through the occasional third-party contact. To top it off, the Plaintiffs' CNO court appointed attorney will not discuss his qualifications or plans to defend these Plaintiffs, nor will he provide them with even a copy of their criminal files.

Additionally, and shockingly, unconfirmed reports have been received indicating that at least one of the Plaintiffs has been physically beaten and another inmate placed in solitary confinement for simply participating in and "supporting" this lawsuit.

It is emphasized to this Court that all of the above information has come through third parties and cannot be supported by affidavit from the Plaintiffs or first-hand knowledge due to the Choctaw County Jail's refusal to allow contact between the named Plaintiffs and the undersigned attorneys.

ARGUMENTS AND AUTHORITIES

A temporary restraining order has the purpose of preserving the status quo, in order to prevent irreparable injury until such time as the court may determine a plaintiff's application for a preliminary injunction. Pursuant to USCS Fed. R. Civ. P. Rule 65, there are four factors a court must weigh to determine whether a preliminary injunction is warranted, which include, (1) a

likelihood of success on the merits, (2) a likelihood that the [plaintiff class] will suffer irreparable harm in the absence of preliminary relief, (3) the balance of equities tips in the movant's favor, and (4) the injunction is in the public interest. Further, a TRO may be granted without written or oral notice to the adverse party if:

1. Immediate and irreparable injury, loss, or damage will result before the adverse party can be heard.
2. The applicants attorney certifies in writing any efforts made to give notice and why it should not be required.

(See certification of D. Ellis is attached hereto)

Here, a preliminary injunction is warranted. All four factors that the court must consider weigh in Plaintiff's favor. First, Plaintiffs are likely to succeed on the merits, as it is clear that the sixth amendment guarantees all criminal defendants the right to have the assistance of counsel for their defense. To be sure, courts have previously held that defendants have a right to counsel at all critical stages and interference with confidential attorney-client communication violates that right. See *Procunier v. Martinez*, 416 US 396 (1974), *Turner v. Safley*, 482 U.S. 78 (1987), *Benjamin v. Fraser*, 264 F.3d 175 (2d Cir. 2001), *Bounds v. Smith*, 430 U.S. 817, 97 S. Ct. 1491 (1977). Second, without proper access to his or her attorney in this matter, and without access to a properly non-conflicted attorney representing him or her in their CNO criminal matter, the Plaintiff's stand to suffer irreparable harm due to the lack of due process and other rights afforded under the law. Third, the balance of equities tips in the movant's favor here, because providing relief causes no harm to the Defendants. Finally, the injunction is in the public interest because the public has no interest in detaining the class members without ensuring there is a need to do so, and their continued denial of fair legal representation and access to the courts is a serious deprivation of Plaintiffs' liberty.

In this case such relief is clearly warranted. The Plaintiffs have clearly shown that they are being blocked access from their attorneys, coerced by the Defendants from pursuing this action, and have had their confidential attorney correspondence confiscated and even worse, read directly to the opposing party. Additionally, although the Plaintiffs have been provided with substitute appointed counsel in their CNO criminal actions, said counsel refuses provide these individuals with their case files, with information regarding these Plaintiffs' defenses in their CNO criminal cases, nor about his relationship with the CNO and CNPDO.

Additionally, it is clear that the Choctaw County Jail remains bound by the Sixth Amendment to the U.S. Constitution, even though the underlying criminal actions 42 USC 1983 allows this Court to enforce the rights of the Plaintiffs. Otherwise as cited in the initial petition for writ of habeas corpus [Doc. 2}, the Indian Civil Rights Act as amended in 2010 substitutes for a "1983" action require the Choctaw Nation to provide counsel to the Plaintiffs. The CNO and the Choctaw Jail are unlawfully denying the Plaintiffs their constitutionally protected right to effective counsel. Respectively, both the ICRA and the Sixth amendment via 42 USC 1983 provide the appropriate vehicle for this Court to enter an order granting a TRO, which could then evolve into a temporary injunction and in essence, enjoin the Defendants from participating further in the above-described behavior. Finally, Plaintiffs respectfully request this Court invoke the exception and waive the requirement that party seeking a TRO post a security bond to cover potential costs and damages, due to this being a habeas action.

RELIEF REQUESTED

Plaintiffs are essentially requesting this Court to issue separate injunctions against (1) the Choctaw Nation and Choctaw Nation Public Defenders Office, and (2) the Choctaw County Jail based on the foregoing facts herein.

Therefore, Plaintiffs respectfully request this Court to first waive the security bond requirement pursuant to FRCP Rule 65(c), and also issue a TRO against the following Defendants and granting the following relief:

- (1) **Against the Choctaw County Jail, ex rel Terry Parks:** (A) preventing the Choctaw County Jail from denying all Plaintiffs access to the undersigned attorneys, as well as any other inmate who wishing to speak with the Plaintiff attorneys regarding potentially joining this action; (B) preventing the Choctaw County Jail from opening, sharing, or destroying mail or any attorney correspondence with anyone other than the person/persons to whom the mail is addressed or belongs to; (C) prohibiting the Choctaw County Jail from threatening, harassing or coercing inmates regarding their participation in this lawsuit; and
- (2) **Against the Choctaw Nation of Oklahoma and Choctaw Nation Public Defender's Office:** (A) prohibiting the CNO and CNPDO from contacting the Plaintiffs regarding the instant lawsuit; (B) prohibiting the CNO and CNPDO from reviewing attorney/client information and communication; (C) prohibiting the CNO and CNPDO from making offers outside the presence of counsel; (D) Prohibiting the CNO and CNPDO from interfering with the attorney/client relationship in any way; (E) enjoining Mr. David Hale from further representing the Plaintiffs in their CNO criminal cases; and (F) requiring the CNO to appoint truly independent counsel for all of defendants facing criminal charges in the CNO.

CONCLUSION

WHEREFORE, the Plaintiffs pray that this honorable Court enter an order granting the relief requested as set forth herein, as well as any and all additional relief as this Court finds just.

Respectfully Submitted,

/s/ Tiffani J. Shipman _____

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CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing document with the Clerk of the Court for the for the United States District Court, Eastern District of Oklahoma, by using the Court's Case Management/Electronic Case Filing (CM/ECF) system, on December 1, 2025.

I hereby attest that concurrence in the content of the attached document and authorization to file the attached document has been obtained from the other signatory indicated by a conformed signature (/s/) within the attached e-filed document.

Dated: December 01, 2025

Respectfully Submitted,

/s/Garrett Eller

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CERTIFICATION

COMES NOW the undersigned attorney for Plaintiffs, Dale Ellis, and adopts the facts and allegations as set forth herein and subject to his representations that much of the information he is submitting has come to him via hearsay statements of clients and others that he believes it is true and correct to the best of his knowledge. That he and co-counsel have been banned/ barred/ prohibited or otherwise restricted from having effective communication with clients, that the attorney/client privilege has been violated, that their clients have been harassed and coerced, that plaintiffs have been approached regarding settlement or dismissal of the case without client present. The undersigned further represents to this court that seeming his mail email account has been mailed to John Poling who we believe to be the service agent for the tribe, to the Sheriff of Choctaw County and as of this date have had no response.

By:

/s/ Dale Ellis
Dale Ellis OBA #12280