

IN THE JUDICIAL APPEALS TRIBUNAL OF THE CHEROKEE NATION

WILLIAM PATRICK RAGSDALE, SHARON }
WRIGHT, BRIAN BLAIR, GREG CHUCKLUCK, }
BAXTER PATTON, MIKE DAWES, VINCE }
SMITH, STACEY EUBANKS, MICKEY SPEARS, }
FRANKY DREADFULWATER, STEVE GARNER, }
JIM REDCORN, LEONARD McMILLAN, AND }
CLIFFORD ARNEECHER, CHEROKEE NATION }
MARSHALS }

Plaintiffs,

vs.

CASE NO. JAT-97-29-B

CHEROKEE NATION

Defendant.

FOR THE PLAINTIFFS:

James G. Wilcoxon
Wilcoxon, Wilcoxon & Primomo
P.O. Box 357
Muskogee, OK 74408-0357
Attorney for Plaintiffs

FOR THE DEFENDANT:

Rex Earl Starr, General Counsel
Cherokee Nation
P.O. Box 948
Tahlequah, OK 74465
Attorney for Defendant

BEFORE:

Ralph F. Keen, Chief Justice
Dwight W. Birdwell, Justice
Philip H. Viles, Jr., Justice

OPINION BY:

Justice Dwight W. Birdwell

ALL JUSTICES CONCUR

ORDER AND JUDGMENT

On this 10th day of July, 1997, the Motion for Summary Judgment filed by William Patrick Ragsdale, Sharon Wright, Brian Blair, Greg Chuckluck, Baxter Patton, Mike Dawes, Vince Smith, Stacey Eubanks, Mickey Spears, Franky Dreadfulwater, Steve Garner, Jim Redcorn, Leonard McMillan, and Clifford Arneecher, Cherokee Nation Marshals ("Plaintiffs") against the Cherokee Nation ("Defendant") comes on for hearing.

This action was filed on May 22, 1997 by Plaintiffs seeking as award of lost wages because of the alleged illegal conduct of the Cherokee Nation, carried out by Joe

Byrd, Principal Chief. The Petition was duly and properly served on Defendant, Cherokee Nation, on the 22nd day of May, 1997.

Thereafter, on June 4, 1997, this Court entered a Scheduling Order requiring the Cherokee Nation to answer on or before June 16, 1997. This Scheduling Order was duly and properly served on the Defendant, Cherokee Nation, on the 4th day of June, 1997. As of this date, the Cherokee Nation has failed to answer or file any other subsequent pleadings in this case. As such, the Cherokee Nation is in default.

On June 23, 1997, the Plaintiffs filed a Motion for Summary Judgment pursuant to Rule 21 of the Rules of Judicial Appeals Tribunal, or Supreme Court of the Cherokee Nation, alleging that no genuine issues of material fact existed, and the Plaintiffs were entitled to judgment as a matter of law.

On this 10th day of July, 1997, this Court, acting pursuant to the Motion of Plaintiffs, proceeded to examine the file and the law applicable thereto, as well as the evidence submitted in support of the Motion, as well as taking judicial notice of certain facts, finds as follows:

1. On February 25, 1997, these Plaintiffs, acting pursuant to a valid search warrant, obtained copies of various records located at the Cherokee Nation Complex in Tahlequah, Oklahoma. The original documents were not removed, and remained at the complex after the warrant was executed.
2. Thereafter, Joe Byrd, Principal Chief, fired the Plaintiffs for executing the search warrant, and refused to pay their salaries, despite Court Orders not to take such action. This Court reinstated Plaintiffs, but Joe Byrd refused to acknowledge their reinstatement, and has in effect, violated Article VII of the Cherokee Constitution, and Title 20 Section 54, of the Cherokee Nation Code Annotated, as well as his oath of office. See Article VI, Section 10, and Article XIII, Section 1. In so acting, Joe Byrd has, as a matter of law, by his conduct, entitled these Plaintiffs to judgment. Such action has been taken in the past by this Court in situations where employees have been unjustifiably terminated. Moreover, sovereign immunity does not exist for the Cherokee Nation where those responsible for following the Constitution and its statutes have acted in violation thereof. Therefore, Plaintiffs are entitled to judgment as a matter of law.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that Plaintiffs be awarded judgment against the Cherokee Nation, in the total amount of \$160,088.81, as set forth in Plaintiffs' Motion for Summary Judgment filed herein, to be apportioned as follows:

<u>NAME</u>	<u>GROSS PAY DUE</u>
WILLIAM PATRICK RAGSDALE	\$23,569.20
SHARON WRIGHT	\$16,156.86
BRIAN BLAIR	\$ 9,225.31
GREG CHUCKLUCK	\$10,247.86
BAXTER PATTON	\$12, 875.51
MIKE DAWES	\$ 8,796.02
VINCE SMITH	\$10, 526.10
STACEY EUBANKS	\$ 8,865.03
MICKEY SPEARS	\$ 9,124.91

FRANKY DREADFULWATER	\$11,196.41
STEVE GARNER	\$ 9,124.91
JIM REDCORN	\$ 8,392.96
LEONARD McMILLAN	\$12,742.52
CLIFFORD ARNEECHER	\$ 9,245.21

IT IS ALSO ORDERED, ADJUDGED AND DECREED that a hearing to prove the amount of damages is not necessary to ascertain the amount of damages assessed herein, as they are adequately set forth in Plaintiffs' Motion for Summary Judgment, and not denied by Defendant, Cherokee Nation.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Plaintiffs are entitled to enforce this judgment immediately, and therefore, let execution issue.

IT IS SO ORDERED on the 10th day of July, 1997

DWIGHT W. BIRDWELL, JUSTICE
OF THE CHEROKEE NATION