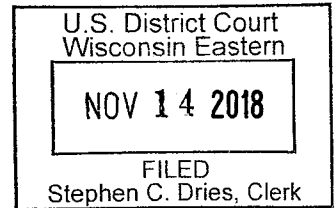


UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN



GLADYS D. DALLAS, PLAINTIFF,
W1386 Legacy Lane, De Pere, WI 54115

v.

TEHASSI HILL, BRANDON STEVENS, TRISH KING, LISA SUMMERS,
DANIEL GUZMAN KING, DAVID P. JORDAN, KIRBY METOXEN, ERNIE
STEVENS III, & JENNIFER WEBSTER, DEFENDANTS.

Norbert Hill Center
N7210 Seminary Rd
Oneida, WI 54155

CASE NO: 18-C-1657

COMPLAINT (AMENDED)

Background

The Court on Doc.# 2 requested Plaintiff amend [her] Complaint because the claims appear to lack enough evidence to determine relief. Although 42 U.S.C. § 1983 and 42 U.S.C. § 1985 provides relief for invasions of rights protected under federal law similarly as common-law tort actions provide redress for interference with protected personal and property interests. Nowhere is the right to freedom of speech more profound than the oratory of the Iroquois Confederacy; the Oneida peoples' right to freedom of speech.

This Amended Complaint is within 30 days from the Screening Order and thus timely. The expansion of who, what, why, where, when and how requested in the Screening Order (Doc.# 2) for this Amended Complaint are entangled and thus not numerically listed such as 1) who, 2) what, etc., but rather narrative in format, but nonetheless is expanded per the Screening Order of Doc.# 2, para. 1, p.2, *infra*:

Expansion of Who, What, Why, Where, When, and How

On or about October 2018 the Defendants, on the Oneida Nation Indian Reservation, Oneida, Wisconsin, as individuals, acting outside-the-scope of their authority as elected Oneida Nation tribal officials i.e. Oneida Business Committee Members (Defendants) intentionally deprived the Plaintiff a General Tribal Council Member/ Citizen of the Oneida Nation of Wisconsin tribal and U.S. Constitutional rights such that the Defendants deliberately and intentionally deprived the Plaintiff of [her] right to speak to the General Tribal Council by a formal petition as noticed by Larry Barton, Chief Financial Officer (CFO) on June 8, 2018 as the “Gladys Dallas Petition - \$5,000 Per Capita”¹. The CFO noticed that the Gladys Dallas Petition was submitted on April 9, 2018 and verified by the [Oneida Nation Trust and] Enrollment Department that the Plaintiff (GTC Petitioner) was to “discuss the following:

To call a meeting of the General Tribal Council [by the Oneida Business Committee (Defendants) on the Oneida Indian Reservation] to Order a special Per Capita Payment to All [Oneida Nation] Members Payable within 45 Days of Approval of this Resolution in the Amount of \$5,000 to each and every enrolled [Oneida Nation] enrolled member.” See June 8, 2018 Memorandum, item II, p.1.

¹ Oneida Nation, Finance Administration Fiscal Impact Statement, Memorandum, June 8, 2018.

The information *supra* expands upon the who, what, why, where, when, and how. The Court might still ask, “What is happening, what is going on, what is this all about?” To help answer this string of questions, the Court ought to know that Oneida Nation Citizens can petition to speak to the General Tribal Council on any topic regardless of the simplicity, complexity, or costs of a topic. For example, in our most recent Special General Tribal Council meeting held on October 28, 2018, Yvonne Metivier presented on [her] Treatment Clinic petition. The General Tribal Council, by main motion, denied the Treatment Clinic petition. The analysis of this demonstrates to the Court two things, 1) that Oneida Nation member Yvonne Metivier was given the right to present and speak to the General Tribal Council about [her] petition, and 2) the General Tribal Council after hearing Yvonne Metivier’ Treatment Clinic presentation, [her] comments, and [her] concerns, and after opposing points of view and floor discussion from the General Tribal Council about the petition, the General Tribal Council voted to deny the Treatment Clinic petition as amended.

What is the point? Yvonne Metivier’ rights to freedom of speech were not denied, yet, the same identical rights such as freedom of speech that is inherent to the Plaintiff were in fact denied². The Court should consider, as it did for the Treatment Clinic, the “Gladys Dallas Petition” could similarly be denied, albeit, the Plaintiff would have had the right to speak, present, and address the General Tribal Council on the petition. Thus, this Case arises because the Defendants as individuals are in an elected Oneida Business Committee position and as individuals acted outside the scope-of-their-authority to intentionally and deliberately deny the

² Oneida Nation, Oneida Business Committee Correspondence Regarding Gladys Dallas Petition for a \$5,000 Per Capita Payment, Memorandum, June 29, 2018.

Plaintiff of [her] tribal, constitutional, and federal rights to speak, present, and address the General Tribal Council on the “Gladys Dallas Petition”.

The Treatment Clinic petition *supra*, might affect the Oneida Nation both in a positive and negative way. For example, it could be argued that a Treatment Clinic would help some individual tribal citizens while most tribal citizens would not use it, however, would be expected to pay for it through tribal contributions. Indeed, the estimated Total Project Budget for the Treatment Clinic is \$18,200,000 and an \$8,030,000 annual operating cost for a 20-bed treatment facility³. Generally, petitions will have both a negative and positive effect and the “Gladys Dallas Petition” like the Treatment Clinic petition would have both positive and negative effects for the Oneida people. Nonetheless, the Plaintiffs’ right to address the General Tribal Council regarding the possible effects of the Petition were denied.

Why was the Plaintiff denied [her] right to address the General Tribal Council on [her] approved petition? As it turns out, the Defendants made up rules and laws to usurp the Oneida Constitution, U.S. Constitution, and to violate the Indian Civil Rights Act of 1968 (ICRA). For example, Lisa Summers, Oneida Nation Secretary (a Defendant) stated in the Memo of June 29, 2018 that “Based on a multitude of factors, the OBC (Defendants) has determined the request for a Special General Tribal Council Meeting on the presented topic [Gladys Dallas Petition] will not be scheduled”, p.1. The multitude of factors suggested and signed by all Defendants⁴ use wishy-washy excuses to keep the Plaintiff from asserting [her] right to speak to the General Tribal Council on the Approved Petition.

³ Oneida Nation, Finance Administration Fiscal Impact Statement, Memorandum, April 12, 2018

⁴ Signatures on p. 4 of 4 of the attachment to the June 29, 2018 Memorandum, Titled, “Notice Regarding Petition Submitted by Gladys Dallas - \$5,000 Per Capita Paid Within 45 Days

What kind of excuses did the Defendants use to deny the Plaintiff [her] constitutional rights to freedom of speech? For example, they use the Oneida Constitution Article III, Section 6, which states, “The Chairman or fifty (50) qualified voters may, by written notice, call special meetings of the General Tribal Council” suggesting the word “*may*” can be used to abridge a tribal members right to freedom of speech even though the Petition was verified true and correct by the Oneida Nation Trust and Enrollment Department, see June 29, 2018 Memorandum attachment, p. 1 of 4, para. 3. In other words, the Defendants are making up rules and laws to enforce abridging the Plaintiffs’ constitutional rights to speak to the General Tribal Council about [her] Petition topic and is a clear violation of the ICRA such that no tribe can make or enforce any law that abridges a tribal members’ tribal and U.S. Constitutional rights.

Another excuse the Defendants use, is to twist, the language of [their] Oath of Office, June 29, 2018 Memorandum attachment, p. 1 of 4, para. 5. The Defendants state [their] Oath of Office requires the Defendants to uphold the Oneida Constitution and U.S. Constitution but fails to follow through on the argument to show why the Defendants’ Oath of Office allows the Defendants the right to abridge the Plaintiffs’ right to freedom of speech. In other words, the Defendants, without providing a cogent argument assert [their] Oath of Office allows the Defendants the right to deny the Plaintiff [her] right to freedom of speech.

Another excuse the Defendants use to abridge the Plaintiffs’ right to freedom of speech is to suggest the Defendants know what is “*best*” for the Oneida Nation and therefore, by the Defendants’ own volition have denied the Plaintiff the right speak at General Tribal Council on [her] petition topic, see June 29, 2018 Memorandum attachment, p. 2 of 4, para. 2. In other words, instead of letting the General Tribal Council determine what is “best” for the Nation the Oneida Business

Committee (Defendants) have taken it upon themselves to determine what is “best” for the Nation. Is it not “best” for the Oneida Nation to ensure tribal members’ constitutional rights remain unabridged? What is “best” for Oneida? To follow the tribal constitution or to just wing it? The Defendants appear to feel they know what is “best”, even if, constitutional violations occur. There is nothing more important than the constitutional right to freedom of speech yet, the Defendants argue [they] know what is “best”, and what is “best”, is to deny the Plaintiff [her] right to address the General Tribal Council on [her] topic. Unfortunately, this is known as a logical fallacy; an error in reasoning that invalidates the argument.

Another excuse the Defendants use is their “job description” such that the Defendants’ job descriptions suggest that they can “deny” a tribal members’ right to guaranteed constitutional freedoms because their “job description” somehow says [they] have the right to “deny” tribal and U.S. Constitutional freedoms and thus appears to be a mind projection fallacy. For example, the Defendants cannot “project in their minds” that their job descriptions are more important than upholding the Oneida and U.S. Constitution which their job relies upon, and, the constitutional rights of the Plaintiff and other Oneida citizens are guaranteed by. Nothing in the Defendants’ job descriptions allows the Defendants the right to deny an Oneida citizen their guaranteed constitutional right to address and speak to the General Tribal Council.

Although, the Defendants go to great length, in fact several pages, to “defend” their decision to deny the Plaintiff [her] right to address the General Tribal Council on [her] topic the reason to “why” may still elude this Court. Why go to such great length to deny a tribal citizen their constitutional right to freedom of speech? As it turns out, the Defendants do not want a per capita petition to come forward because there is a “chance” that a per capita petition such as the “Gladys Dallas Petition”

could be accepted by the General Tribal Council in whole or in part or as in the case of the Treatment Clinic be denied on the floor. The point is, if the Defendants deny the Plaintiff [her] right to address [her] per capita petition than the General Tribal Council cannot vote on it. Therefore, the Defendants, intentionally, purposely, and brazenly have denied the Plaintiff [her] right to freedom of speech i.e. the Defendants do not want General Tribal Council to take up a per capita request, so much so, the Defendants have knowingly violated the Oneida Constitution and federal ICRA rights to keep the per capita request from reaching the General Tribal Council floor. Thus, the Defendants' flimsy excuses dictated to the General Tribal Council in the June 29, 2018 Memorandum and attachment are created and projected in [their] minds as being right and lawful, when in fact the Plaintiffs' constitutional rights were violated. And, there is nothing right or lawful about denying a person [their] right to speak.

What is right and lawful is that the Defendants allow the Plaintiff [her] right to assemble concomitant right to speak to the General Tribal Council while the Defendants provide [their] information whether for or against a topic such that the General Tribal Council hears all matters relating to a subject topic in order to make a good decision. For example:

The Finance Department does not make a recommendation in regards to the course of action in this matter. Rather, it is the purpose of this report to disclose potential financial impact of an action, so that the General Tribal Council has sufficient information to render a decision.” See April 12, 2018 Memorandum, item VI, p.15.

In the Screening Order, this Court has decided that it does not have enough information to render a decision and thus the request for expanded information to include something more than conclusory allegations, meaning, the legal conclusions

must be supported by factual allegations such as the cited Memorandums and attachment, see *Ashcroft v. Iqbal*, 556 U.S. 662, 679 (2009). In the Memorandum of April 12, 2018, the Finance Department did what it was supposed to do, that being, to give the information to the General Tribal Council and along with Yvonne Metivier' information and presentation, the General Tribal Council thus ought to have (as the Finance Department points out) enough information to make an informed decision about the Treatment Clinic petition. However, the Plaintiff, in this Case was not given that opportunity because the Defendants denied the Plaintiff [her] federal, tribal, constitutional rights, and federal rights to freedom of speech, i.e. to present [her] petition to the General Tribal Council.

Again, “why” would the Defendants intentionally and deliberately deny the Plaintiff [her] right to present [her] petition to the General Tribal Council? As stated above, there are no good reasons as the Finance Department pointed out in the Memorandum of April 12, 2018 such that, “petition” information is given to the General Tribal Council and then the General Tribal Council “render[s] a decision” see April 12, 2018 Memorandum, item VI, p.15. Nonetheless, the Defendants contrived, schemed, and circumvented the Oneida Nation Constitution to deny the Plaintiff [her] constitutional right to freedom of speech. These federal rights are tenet to the Oneida Nation Constitution and freedom of speech is the heart of the ancient oratorical Iroquois people. It is shameful and disgraceful for the Defendant tribal leaders to purposefully deny an Oneida Nation Citizen their constitutional right to speak to, and present to, the General Tribal Council on any matter whether it is a multi-million-dollar treatment clinic, a per capita plan, or even a no-cost doggie-doo-doo-law. The constitutional rights to present and address the Oneida Nation General Tribal Council remain the same.

42 U.S.C. § 1983, 42 U.S.C. § 1985

42 U.S.C. § 1985 deprivations, Indian Civil Rights Act, and other Reconstruction Era Civil Rights, *inter alia*, by denying the Plaintiff [her] right to freedom of speech, press, and assembly upon a formal legal petition to the General Tribal Council. The defendants conspired⁵ to deny the Plaintiff's petition to be heard; denying a petition is unlawful i.e. denying any petition arises under fictitious law and cannot be enforced. The Defendants individually agreed to, and signed a document, denying Plaintiff of [her] constitutional and federal rights, see signatures on p. 4 of 4 of the June 29, 2018 Memorandum attachment.

Generally, under 42 U.S.C. § 1983 two and only two allegations are required to state a cause of action under that statute, 1) that a person has deprived another of a federal right, and 2) that person who has deprived him that federal right acted under color of state or territorial law. Thus, in this case state law appears mute notwithstanding Pub. Law 280 intervention. However, territorial law is a different matter because tribal governments are included in U.S. Territorial Law see *Cherokee Nation v. Georgia* (1831). Indeed, [tribes] constitute a "domestic, dependent nation" that "existed under the guardianship of the United States". Therefore, and regardless of, *R.J. Williams Co. v. Ft Belknap Hous. Auth.*, 719 F.2d 979 (9th Cir. 1983) individuals acting outside the scope-of-their-authority cannot abridge a tribal members' constitutional rights because Native Americans under U.S. and Territorial Law have U.S. Constitutional rights as a matter of Congressional intent, see ICRA.

Similar but harsher language used in *Cherokee Nation* is used in Pub. Law 280 that establishes a narrower state-law restriction such that Pub. Law 280 is a "method whereby States may assume jurisdiction over reservation Indians" see

⁵ See signatures on June 29, 2018 attachment p. 4 of 4 and the Memorandum of June 29, 2018.

McClanahan v. Arizona State Tax Commission, 411 U.S. 164, 177 (1973). The intent here is to demonstrate to this Court that 42 U.S.C. § 1983, 42 U.S.C. § 1983, applies and is valid because the Plaintiff does indeed have federal constitutional rights under Territorial Law because the Oneida Nation is a domestic, dependent nation, that exists under the guardianship and territory of the United States of America see *Cherokee Nation*.

Article III Standing to Sue

To invoke jurisdiction in federal court under Article III Standing the Plaintiff has established that the Plaintiff was indeed denied [her] right to address and speak, suffering an “injury in fact” to General Tribal Council on an approved and validated Petition of more than 50 qualified Oneida citizens. That the denial is directly “traceable” to the Defendants by signature in the June 29, 2018 Memorandum attachment p. 4 of 4. And, that this injury will likely be “redressed” by a “favorable” decision by this Court such that Oneida elected officials who acted outside the scope-of-their-authority will know it is wrong to prevent an Oneida citizen from addressing and speaking to the Oneida Nation on a topic endorsed by at least 50 qualified Oneida Nation voters per the Oneida Nation Constitution, Article III, Section 6.

JURISDICTION

This lawsuit involves violations of federal law and tribal courts are not a court of general jurisdiction and cannot hear 42 U.S.C. § 1983, 42 U.S.C. §1985, cases. Since tribal governments are domestic independent nations, they are under the guardianship and territorial protections of the United States. The cause of federal constitutional deprivations, the denial of freedom of speech (first element) by the Defendants arise in this Case under color of Territorial Law (second element). Regarding Article III Standing, the Plaintiff was denied [her]

constitutional right to freedom of speech, the unlawful actions can be traced directly to the defendants, and this Court can render a favorable decision to ensure the U.S. Constitutional rights of other tribal members are not abridged. Therefore, jurisdiction and this lawsuit arises under 28 U.S.C. § 1331.

RELIEF

A request for relief is two-fold, 1) that the Defendants will not deny Plaintiff of [her] constitutional and federal rights, and 2) that a punitive award of \$10,000 for each Defendant is awarded to the Plaintiff, for a total of \$90,000, not counting interests and costs. The Plaintiff has stated a claim of 42 U.S.C. § 1983, 42 U.S.C. §1985 for which relief can be granted. The Plaintiff has provided in this Answer to the Screening Order (Doc.# 2) more than just conclusions but has provided this Court with the Oneida Nation Constitution, memorandums, and an attachment demonstrating the truth and thus the Plaintiff is “entitled to the assumption of truth”, see *Ashcroft v. Iqbal*, 556 U.S. 662, 679 (2009).

Furthermore, it is not the intent of the Plaintiff to “argue” this Case in the Complaint or the Amended Complaint but rather to expand upon the Screening Order (Doc.# 2) request to expand the information and provide factual information because as the Court states, the Court does not “understand what [the Defendants] are alleged to have actually done”, see Doc.# 2, p. 2, para. 1. Therefore, the Plaintiff prays, that the Screening Order Answer complies with the Courts’ intention to better understand that the Defendants deliberately denied the Plaintiff [her] tribal and U.S. Constitutional right to address and speak to the General Tribal Council and is independent of outcome.


JURY DEMAND

The Plaintiff does not wish to have a jury decide this Case.

DECLARATION

I declare under penalty of perjury that the foregoing is true and correct.

The Complaint signed this day, November 14, 2018.



Signature:

Ph: 920.265.7355

Gladys Dallas
W1386 Legacy Lane
De Pere, WI 54115

FILING FEE

The \$400.00 filing fee under 28 U.S.C. § 1915 was included with the Original Complaint.