

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 20-2232
(1:20-cv-00005-MR)

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U.S. COURT OF APPEALS
FOURTH CIRCUIT

APRIL LEDFORD

Plaintiff – Appellant

v.

EASTERN BAND OF CHEROKEE INDIANS

Defendant-Appellee

Introduction:

Plaintiff respectfully comes before this honorable Court as a pro se litigant although she is aware that it not encouraged or favored to do so, but does so because she could **not** afford to hire an attorney.

Plaintiff is a disabled Gulf War veteran and a licensed teacher in North Carolina. She is described by defendants as a non-enrolled member of the Eastern Band of Cherokee Indians (EBCI). This is true; however, the Plaintiff is proud of her mother's Catawba heritage and was married to Bill J. Ledford, an enrolled member of the EBCI, for thirteen years; and was his caretaker for the last three years of his life.

Bill J. Ledford was an enrolled member of the EBCI all his life and did not lose that title when he passed. His name remains on the rolls of the EBCI and his tribal membership did not disappear when he died. While alive Bill J. Ledford hired an attorney licensed in North Carolina to create his last will and testament, a document he expected to be given full faith and credit upon his death.

Bill J. Ledford's will was validated by the state of North Carolina and by the Probate Court of the EBCI. The EBCI states in its laws, which are found in the Cherokee Code, that it follows North Carolina "in the making of wills" (See Cherokee Chapter 28 Code 28). Nowhere

in the Cherokee Code does it give Council the right to change, alter, or tamper with an enrolled member's valid will.

On January 12, 2017 the EBCI Council broke its own laws and changed Bill J. Ledford's valid will for political and personal reasons. This case is unprecedented because Council never changed another enrolled member's will; rather it recognized other members' wills but chose to ignore Bill J. Ledford's valid will.

ISSUE ONE: The Eastern Band of Cherokee Indians Violated Plaintiff's Rights Under the United States of America, The Due Process Clause of the 14th Amendment

The Eastern Band of Cherokee Indians (EBCI) violated Plaintiff's rights under the Due Process Clause of the 14th Amendment of the US Constitution in that they deprived her of property without due process of law, or substantive due process. Due process requires: fair notice, an opportunity to be heard, and an impartial tribunal. These rights were given to Plaintiff in 2016 or 2017.

The EBCI violated Plaintiff's Due Process rights in that it did not allow her procedural protections, including fair notice of the hearing that took place on January 12, 2017. [Notice was mailed from EBCI Jan 5, received at Whittier NC post office Jan 7, announcing date of hearing/council meeting as January 12, 2017. Plaintiff was in Arkansas for her mother's funeral and arrived home in North Carolina on January 15, 2017.]

The EBCI also took Plaintiff's property without just compensation. The EBCI's worth is millions of US dollars and it continues to purchase land in North Carolina and in surrounding states. Unlike other tribes that suffer from abject poverty and lack of land or other resources, the EBCI enjoys a growing wealth of land and monetary income. Plaintiff only requests monetary compensation for the value of the home at 140 Greybeard Hill, Cherokee for the rest of her life.

The EBCI ignored Plaintiff's efforts to use tribal remedies to solve her redresses. Plaintiff reached out to Chief Patrick Lambert in 2016 and, despite the fact they had the power to set aside Council's decision, he ignored her pleas for help. The Council members ignored her numerous requests to be heard (Protest and Appeal denied) and to look at new, substantive evidence (that she did NOT own another house in Chapel Hill, NC – it had been foreclosed upon in November of 2016).

While Plaintiff exhausted tribal remedies, she was denied her basic rights under the US Constitution. For these reasons and because Plaintiff cannot bring her grievances before state court, she has no other choice than to bring her case before federal courts.

Ledford v. EBCI**ISSUE TWO: Subject Matter Jurisdiction Over Tribe Permitted in Federal Court and in cases Where Tribal Court Acts in Bad Faith**

Where does a non-enrolled member go to gain justice against the Eastern Band of Cherokee Indians?

As mentioned in her amended complaint, Plaintiff exhausted all tribal remedies and was told by EBCI Attorney General Michael McConnell that she could not sue the EBCI in tribal Court; therefore, she had no other choice but to come forward in federal court.

In addition, Federal Court's jurisdiction surpasses that of Native American tribal courts and state courts, thus Plaintiff and other non-enrolled members with grievances against the EBCI should be allowed to be heard before federal courts.

Additionally, when federal subject matter does exist in instances of bad faith, which the EBCI clearly exercised in this case by breaking its own laws and those of the state of North Carolina.

Ledford v. EBCI

ISSUE THREE: Indian Civil Rights Act (ICRA)

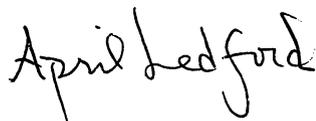
ICRA was created to protect Indians and Non-Indians on tribal lands because the original Bill of Rights of the United States Constitution did not apply to Native Americans. The Supreme Court stated that ICRA can only be applied in cases of Habeus Corpus, but Plaintiff argues that it should apply in all cases where United States citizens' rights are violated on tribal lands. The United States Congress did not pass the ICRA for only habeus Corpus; rather, its intent was to apply the Bill of Rights to Native Americans and nontribal members residing on Native American lands. Otherwise, ICRA does not protect residents on Native American lands which was its original purpose.

ICRA should indeed protect the EBCI Council, but not when it violates its own laws and those of the state of North Carolina. ICRA was designed to protect individuals (Native and non-Native, enrolled and non-enrolled alike) from abuse of authority and power by tribal entities and leaders.

Plaintiff respectfully requests that ICRA be reexamined by the Court regarding its intent to protect Natives and Non-Natives alike and its application to be permitted in federal court.

Wherefore the Plaintiff respectfully this Honorable Court to grant her Motion for Appeal and for just compensation for her home and for any other compensation this Court sees fit.

Respectfully,



April Ledford

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CERTIFICATE OF SERVICE

I certify that I mailed a copy of the foregoing Informal Brief through First Class Mail United States Postal Service to Defendant at the following address:

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Dated: the 12th day of December 2020.

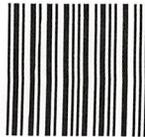


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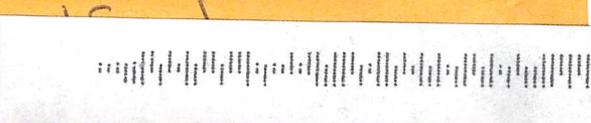


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