IN THE SUPREME COURT OF THE CHEROKEE NATION

In re: Effect of *Cherokee Nation v. Nash and Vann v. Zinke,* District Court for the District of Columbia, Case No. 13-01313 (TFH) and Petition For Writ of Mandamus Requiring the Cherokee Nation Registrar to Begin Processing Citizenship Applications.	)))))	**Case No. SC-17-07**

SPECIAL LIMITED ENTRY OF APPEARANCE AND OBJECTION

Respondents, Cherokee Nation ("Nation") and Cherokee Nation Attorney General, Todd Hembree ("AG Hembree") ("Petitioners"), by and through the undersigned counsel, appears specially and for the limited purpose of this filing only, and without waiving any positions or defenses and/or objections, and appears only for the purposes of (1) opposing the Motion to Intervene; (2) moving to dismiss the Petition for Writ of Mandamus for lack of jurisdiction and the additional reasons set forth below; and (3) opposing the Motion to Set Aside the Court's September 1, 2017 Preliminary Order. As provided below, the Court must deny the Motion to Intervene and Motion to Set Aside Preliminary Order, as well as dismiss the Petition for Writ of Mandamus. In support, Petitioners show the Court as follows:

PERJURY

The Citizens' Motion should be dismissed with prejudice because five of eight the listed Citizens committed perjury. Council Member David Walkingstick, in his individual capacity, Twila Pennington, Randy White, Norman Crowe and Vicki Bratton all swore in notarized statements they "voted in the 2007 referendum . . . to only allow citizenship in the Cherokee Nation for people who are Cherokee by blood." They did not. The Cherokee Nation Election Commission Voting Records for David Walkingstick, Twila Pennington, Randy White, Norman Crowe, Jr., and Vicki Bratton are attached as Exhibits 1, 2, 3, 4 and 5. These records show none

of the above named Citizens voted in the 2007 Special Election. Because five of the eight listed Citizens have committed perjury pursuant to 21 CNCA § 491, their Motion should be dismissed with prejudice in its entirety and the Court should take other appropriate action, including sanctions.

INTRODUCTION

Cherokee Nation citizens Twila Pennginton, Randy White, Marcus Thompson, Norman Crowe Jr., Vickie Bratton, Kathy Robinson, Harley Buzzard and David Walkingstick[1] (collectively, "Movants" or "Citizens") filed a *Motion to Intervene, For Writ of Mandamus, and To Set Aside Preliminary Order* (the, "Pleading") in the Cherokee Nation Supreme Court on December 11, 2017, alleging general grievances against the Nation and AG Hembree, none of which have any basis in law or fact. Movants fail to demonstrate a legally cognizable interest in the present action that establishes a right to intervene under Cherokee law. Nonetheless, even if Movants can establish a right to intervene – which they cannot – the Court must dismiss the Writ of Mandamus because this Court lacks subject matter jurisdiction. Specifically, Movants fail to cite any jurisdictional statute which permits Movants to maintain a lawsuit against AG Hembree – an appointed official of the Nation that enjoys sovereign immunity from this type of suit. Moreover, Movants fail to establish standing to bring this action against AG Hembree and fail further to plead a claim for relief. Lastly, the Court must deny Movants' request to set aside the Court's September 1, 2017 Order because Chief Justice Garrett properly granted the preliminary order, pursuant to Rule 4 of the Rules for the Cherokee Nation Supreme Court.

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[1] Harley Buzzard and David Walkingstick serve currently on the Nation's Tribal Council; however, both movants initiated this matter "in their individual capacities" only. (Mot. at 1). Accordingly, both will be referred to in their individual capacities only so as not to confuse the matter as one brought in their official capacities as tribal councilors.

The Attorney General

The Attorney General is a constitutionally-created appointed official within the Executive Branch of the Nation. Const. art. XII, Sec. 13. The Attorney General and his/her assistants are duty-bound to represent the Nation in all criminal cases in the Nation's courts; "in all civil actions wherein the Cherokee Nation is named as party;" and shall have other duties as the Council prescribes by law. *Id.* (emphasis added). One such duty is "[t]o supervise Cherokee Nation's representation in all litigation in which Cherokee Nation, an agency or officer thereof is interested," as well as the duty to "[t]o initiate or appear, at his or her discretion, in any action which the interests of the Nation or the People of the Nation are at issue." 51 C.N.C.A. § 105(2).

The Movants

Movants are nine private Cherokee Nation citizens who claim to have an "individualized harm" in this matter. (Plead. at 2.) In support, Movants' assert they are those "who *voted in the 2007 referendum* with over 8,000 other Cherokee citizens, to only allow citizenship in the Cherokee Nation for people who are Cherokee by blood" and that by voting in the 2007 referendum they "in good faith exercised their right to vote." *Id.* (emphasis added). Movants claim further that the memorandum opinion issued in *Cherokee Nation v. Nash and Vann v. Zinke*, District Court for the District of Columbia, Case No. 13-01313 (TFH) "judicially repeals an important provision of the Constitution and effectively *nullifies their vote* and violates their rights under the Constitution of the Cherokee Nation Article XV." *Id.* (emphasis added). Despite Movants' assertions none of the claims are sufficient to establish a right to intervene, nor is the purported harm sufficient to establish standing to bring a claim.

Moreover, further investigation into the factual allegations in the Pleading revealed that five Movants did not vote in the 2007 referendum election, including: (1) Twila Pennington; (2)

Randy White; (3) Norman Crowe Jr.; (4) Vickie Bratton; and (5) David Walkingstick. The fact that Movants did not vote in the 2007 Special Election would be of no consequence but for the fact that all five citizens *declared in writing and under oath being sworn*: that they read the Pleading; that they were familiar with the contents thereof; and that the allegations set forth therein were true and correct. Consequently, by attaching the falsely subscribed verification to the Petition that was filed with the Supreme Court, Citizens acted contrary to Rule 8 of the Rules of the Cherokee Nation Supreme Court and in violation of Title 21, Section 491 "Perjury" of the Cherokee Nation Criminal Code. These matters are being further investigated by the Office of Attorney General.

***Cherokee Nation v. Nash and Vann v. Zinke*, District Court for the District of Columbia, Case No. 13-01313 (TFH)**

In 2009, the Nation filed a civil action in federal district court seeking a declaration that the Five Tribes Act and federal statutes modified the Treaty of 1866 between the United States and the Nation. The Nation asked the court to determine that non-Indian Freedman descendants, including the individual defendants, did not have rights to citizenship in the Nation and benefits derived from such citizenship. *Cherokee Nation v. Nash et. al., and Zinke,* No. 13-CV-01313 TFH (D.D.C. Aug. 30, 2017). On August 30, 2017, the U.S. District Court for the District of Columbia issued its ruling in a memorandum opinion finding that the 1866 Treaty guarantees that extant descendants of Cherokee Freedmen shall have all the rights of native Cherokees, including the right to citizenship in the Cherokee Nation. *Id.* The United States is a party to the D.C. case, as are the descendants of the Cherokee Freedmen; however, Movants are neither a party to the D.C. case, nor have they attempted to intervene in the matter.

September 1, 2017 Preliminary Order

AG Hembree filed the present action requesting this Court issue a preliminary order pursuant to Rule 4 of the Cherokee Nation Supreme Court Rules finding that the August 30th memorandum opinion issued by the D.C. District Court is valid and binding against the Nation, its government branches and its offices, including the Nation's Registrar "*until further order of the [D.C. District Court]*." (Pet. at 1.) (emphasis added). In support, AG Hembree detailed the D.C. District Court's findings and conclusions while also acknowledging that "[a]fter many years of contracted and expensive litigation, resolution has been reached on the issue. The Nation must now move forward to recognize the rights of those individuals who can trace an ancestor to the Dawes Freedmen rolls to obtain citizenship within the Nation." (*Id.* at 2.) On September 1, 2017, Chief Justice Garrett granted AG Hembree's request finding that the Nation voluntarily entered into the D.C. case; that the Nation had full and proper presentation of its case; and that the Nation is now therefore subject to the August 30th memorandum opinion. (Sept. 1, 2017 Order at 1.) Chief Justice Garrett found further that the Treaty of 1866 has been and remains fully binding on the Nation and United States. *Id.*

The Movants' Allegations

On December 11, 2017, Movants filed their Pleading requesting to intervene in the present matter without legal or factual support that warrants their intervention. Movants alleged *inter alia* that this is a jurisdictional dispute between the branches of the Nation's government despite the fact that the only branch of government involved in the matter – albeit remotely – is the Executive by way of AG Hembree. Movants request further that this Court order AG Hembree to litigate the D.C. District Court case "to the fullest degree possible," which includes

appealing the D.C. District Court's August 30, 2017 memorandum opinion. Lastly, Movants request the Court withdraw or dismiss the September 1, 2017 Preliminary Order.

In sum and as detailed further below, Movants are requesting this Court establish rights and order remedies that are simply not available under Cherokee law. Because of this, the Court must deny Movants' Motion to Intervene, dismiss the Petition for Writ of Mandamus, and deny the Motion to Set Aside the September 1, 2017 Preliminary Order.

ARGUMENTS & AUTHORITIES

I. Applicable Legal Standard

Rule 43 of the Rules of the Cherokee Nation Supreme Court authorizes this Court to dismiss the Pleading for (1) lack of jurisdiction over the subject matter; (2) lack of jurisdiction over the person; (3) insufficiency of process or service thereof; or (4) failure to state a claim upon which relief can be granted. To the extent Cherokee law is silent; the Court may apply the Federal Rules of Evidence and/or Civil Procedure for guidance. CN Supreme Court Rule 103.

II. The Court Must Deny Movants Motion to Intervene

Movants failed to identify any legal authority which provides a right to intervene in the present matter. Indeed, Movants make no argument in support of their right to intervene and attempt to simply skirt past this threshold issue of law. For this reason alone, the Court should deny Movants' Motion to Intervene. Nevertheless, Cherokee law is silent as to when a party may intervene in a pending case; however, Rule 24 of the Federal Rules of Civil Procedure provides two ways a party may intervene: (1) intervention by right; and (2) permissive intervention. F.R.C.P. Rule 24(a) & (b). However, intervention cannot expand the jurisdiction of the court. *Bantel v. McGrath*, 215 F.2d 297 (10th Cir. 1954).

a. Movants fail to establish intervention as a matter of right under Rule 24(a).

The standard in the Tenth Circuit is that a movant is entitled "to intervene as of right if: (1) the movant claims a significant interest relating to the property or transaction that is subject of the action; (2) the disposition of the litigation may, as a practical matter, impair or impede the movant's interest; and (3) the existing parties do not adequately represent the movant's interest."[2] *WildEarth Guardians v. Nat'l Park Serv.*, 604 F.3d 1192, 1198 (10th Cir. 2010). "Failure to satisfy any one of these requirements is a sufficient ground to deny the application." *United States v. City of Chicago*, 798 F.2d 969, 972 (7th Cir. 1986). It is the first and second criterions that are of particular importance to this case.

Movants do not satisfy these requirements for intervention as of right, as this action does not concern the disposition of any property or transaction. Nor have the Movants identified any such protectable interest or shown that they will suffer any impairment in protecting that interest if they are not allowed to intervene. Thus, Movants have no grounds for intervening as a matter of right in this case. For that reason, the Court must deny Movants Motion to Intervene.

b. Movants cannot satisfy the requirements for permissive intervention under Rule 24(b).

Movants have failed to meet their burden for intervention as a matter of right in the present action. Movants have failed to ask this Court to grant permissive intervention. Nonetheless, *assuming arguendo* that Movants did request such relief, the Court must deny the request because Movants cannot satisfy the requirements under Rule 24(b). A court may grant such intervention where the applicant shows (1) independent grounds for jurisdiction; (2) the motion is timely; and (3) the applicant's claim or defense, and the main action have a question of

[2] Fed. R. Civ. Pro. 24(a) further provides that the motion to intervene must be timely filed.

law or a question of fact in common. *United States v. Union Electric Co.*, 64 F.3d 1152, 1170 (8th Cir. 1995). Movants do not meet these requirements.

As a threshold matter, the Court should deny Movants motion to intervene under Rule 24(b) of the Federal Rules of Civil Procedure because as discussed in Part III, *supra*, Movants failed to establish this Court has independent subject matter jurisdiction over Movants' claims. It is well-settled that intervention under Rule 24(b) must be denied unless there is an independent basis for jurisdiction with regard to the claim or defense of the intervenor. *E.g., E.E.O.C. v. Nev. Resort Ass'n*, 792 F.2d 882, 886 (9th Cir. 1986) ("A party seeking permissive intervention ... must establish a basis for federal subject matter jurisdiction independent of the court's jurisdiction over the underlying matter."); Wright, Miller, and Kane, Fed. Practice & Procedure § 1917 459 (2d ed. 1985) (providing intervention "must be denied, though all the requirements of Rule 24 are met, if the federal court cannot take jurisdiction with regard to the intervenor.").[3]

Assuming that the Court finds it has jurisdiction over Movants claims – which it does not – the Court should still deny Movants intervention in the matter. Although the standard for permissive intervention under Rule 24(b)(2) "is, aptly, permissive, it is also a matter within the district court's discretion[.]" *City of Stilwell*, 79 F.3d at 1043. Further, "[i]n exercising its discretion the court *must* consider whether the intervention will unduly delay or prejudice the adjudication of the rights of the original parties." *Id.*; Fed. R. Civ. P. 24(b)(3) (emphasis added). Based on the claims in the Pleading and requests for relief, there is no question that the proposed intervention would substantially expand the scope of the litigation, needlessly complicate the issues, and unduly delay adjudication of the case. Further, the issue of whether the Freedmen

[3] By contrast, a party moving for intervention as of right under Rule 24(a) need not establish independent subject matter jurisdiction because if the Rule 24(a) requirements are met, the moving party's claims are deemed ancillary to the original claim. *E.g., Formulabs, Inc. v. Hartley Pen Co.*, 318 F.2d 485 (9th Cir. 1963).

possess the same rights and interests as Cherokees by blood is a polarizing issue among the Nation's citizens. Consequently, there is a strong likelihood that if the Court were to permit intervention by those opposing the August 30th memorandum opinion, which found the Freedmen are entitled to citizenship, then those who support the opinion would likely seek to intervene in the matter too, thereby further complicating the resolution of issue. For these reasons, the Court must not allow Movants to permissively intervene under Rule 24(b).

III. The Court Must Dismiss Movants' Petition for Writ of Mandamus

Movants' Petition for Writ of Mandamus should be dismissed in its entirety for (1) lack of subject matter jurisdiction; (2) lack of standing; and (3) failure to state a claim upon which relief may be granted.

a. The Court lacks subject matter jurisdiction over Movants' claim against AG Hembree.

Rule 43(1) of the Rules of the Cherokee Nation Supreme Court empowers the Court to dismiss this matter for lack of jurisdiction over the subject matter. AG Hembree's sovereign immunity is a threshold matter of subject matter jurisdiction, which must be addressed before any other issues. *See Saucier v. Katz*, 533 U.S. 194, 201 (2001), *receded from on other grounds by Pearson v. Callahan*, 555 U.S. 223 (2009). "Tribal sovereign immunity is a matter of subject matter jurisdiction, which may be challenged by a motion to dismiss . . . ." *Miner Elec., Inc. v. Muscogee (Creek) Nation*, 505 F.3d 1007, 1009 (10th Cir. 2007). Movants bear the burden of demonstrating subject-matter jurisdiction. *Packard v. Provident Nat'l Bank*, 994 F.2d 1039, 1045 (3d Cir.) (establishing burden for claims against the United States), *cert. denied*, 510 U.S. 964 (1993).

"It is well-established as a matter of Cherokee law and federal law that suits against the Indian tribes and in this instance, the Nation, are permissible only when the tribe has waived

sovereign immunity. *Littlejohn v. Smith et al.*, JAT-03-18, 2 (2004). The Nation has not done so here. Doctrines of tribal sovereign immunity require immediate dismissal of unconsented lawsuits against the Nation: its enterprises, agencies, agents, entities and departments also possess sovereign immunity from suit. *See e.g., Santa Clara Pueblo v. Martinez*, 436 U.S. 49, 58 (1978), *Kiowa Tribe of Okla. v. Mfg. Tech., Inc.*, 523 U.S. 751, 754 (1998). "A waiver of sovereign immunity is an express statement that the Cherokee Nation consents to be sued." *Mayes v. Smith,* JAT-01-12, 3 (2001).

Here, Movants have the burden of showing that the Nation has consented to suit. *United States v. Sherwood*, 312 U.S. 584, 586 (1941) (establishing burden for claims against the United States). Movants mistakenly believe that the mere recitation of various jurisdictional provisions in Cherokee law alone, without any reference to the facts contained in their Pleading, is sufficient to establish the Court's subject matter jurisdiction over their claims. It is not. Indeed, Movants fail to provide any kind of any justification which would permit Movants to maintain a lawsuit of this kind against AG Hembree – an appointed official of the Nation who enjoys sovereign immunity from this type of suit. In addition, "[t]he appearance of the Attorney General or his or her designee(s) in any matter, proceeding or action in any court . . . shall not be construed to waive the sovereign immunity of the Cherokee Nation." 51 C.N.C.A. § 107 (emphasis added). Moreover, there is nothing in the Cherokee Constitution, statutes, including the Attorney General Act, 51 C.N.C.A. § 101, *et seq.*, or otherwise that waives sovereign immunity for mandamus actions against AG Hembree. Thus, the Court must dismiss the Petition for Writ of Mandamus because Movants cannot overcome the bar of sovereign immunity.

b. Movants lack standing to sue.

This Court also lacks jurisdiction because Movants failed to demonstrate any concrete injury in fact sufficient to establish standing to bring this suit. It is well-established that standing is an essential and unchanging part of Cherokee law; it goes to the Court's very jurisdiction to hear the case. Cherokee Const., art. VIII, sec. 6; *see also Mayes v. Blackfox*, et al., JAT-02-18 (2002) ("*Mayes* and *Phillips* read together, indicate that this Court will apply the standing doctrine, as developed in the federal system, as a guiding principle."). To have standing, Movants must have suffered an injury in fact – an invasion of a legally protected interest which is concrete and particularize, and actual or imminent, not conjecture or hypothetical. *See Mayes v. Thompson*, et al., JAT-95-15, 10 (1995) ("A party only has standing if they can demonstrate a stake in the outcome" and "[t]he injury in fact must be actual or imminent, and cannot be too remote or speculative.") (internal citations omitted); *accord, Baker, et al. v. McKinley-Reynolds*, JAT-04-15; *John Cornsilk v. Meredith Frailey, et al.*, JAT-05-03; *In the Matter of McKinley & Reynolds*, JAT-04-15. "Moreover, the Court has never been willing to extend standing to individuals based solely on their 'citizenship' status." *Mayes*, JAT-95-15 at 10. (internal citations omitted). Movants fail to allege facts demonstrating the requisite injury.

In this instance, Movants have no legally protected interest sufficient to establish standing. Movants allege they have been injured because they voted in the 2007 referendum election and that the D.C. District Court's August 30th memorandum opinion nullifies their vote. (Plead. at 2.) While the right to vote in a referendum election pursuant to Article VX is certainly a legally protected right, a court cannot "judicially nullify" the vote a citizen casted for a constitutional provision by subsequently finding the provision invalid under the law. Indeed, it is the duty of the court to interpret the law and opine on its validity. Moreover, as discussed above,

five of the Movants did not vote in the referendum election despite providing a sworn verification stating otherwise. Thus, even if the Court accepted Movants standing argument – which it should not – that single vote conferred standing upon them in this matter; and David Walkingstick, Twila Pennington, Randy White, Vickie Bratton or Norman Crowe Jr. would lack such standing.

In addition, contrary to Movants' assertions, nothing in the memorandum opinion "violates their rights under the Constitution of the Cherokee Nation Article XV." (Plead. at 2.) Rather, the memorandum opinion concludes that the 1866 Treaty guarantees that extant descendants of Cherokee Freedmen have all the rights of native Cherokees, including the right to citizenship in the Cherokee Nation. Regardless on the impact of this ruling on the 2007 referendum election, it has no effect on the referendum process set forth in Article XV.

Lastly, Movants claim the memorandum opinion effectively creates a class of citizens within the Nation that discriminates against the Adopted Delaware and Adopted Shawnee. Movants fail to plead any facts which establish such discrimination has occurred since the D.C. District Court issued the memorandum opinion. Rather, Movants base their argument on conclusory and speculative allegations that are insufficient to establish any particularized injury or harm.

In conclusion, Movants fail to set forth any allegations which establish a legally protected interest sufficient to establish standing. Furthermore, Movants fail to assert any facts which, if taken as true, would establish a causal nexus between the purported harm suffered and the actions taken by AG Hembree. Movants are personally offended that the descendants of Cherokee Freedmen have been made full, legal citizens of the Nation, which has no effect on the citizenship status of the Movants; just because Movants do not like this, does not mean they have

the right to sue. Consequently, this Court must dismiss the Petition for Writ of Mandamus because Movants lack standing to bring the suit.

a. Movants fail to state a claim for which this Court can grant relief.

The Court lacks jurisdiction over this matter because there is no provision in Cherokee law that permits a writ of mandamus of this kind against AG Hembree. Rule 43(4) of the Rules of the Cherokee Nation Supreme Court empowers the Court to dismiss this matter for lack of jurisdiction over the subject matter. "To survive a motion to dismiss, a complaint must contain sufficient factual matter, accepted as true, to state a claim to relief that is plausible on its face." *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (internal quotation marks omitted). Plaintiffs must allege specific facts that would support the conclusion that they are entitled to relief. *Khalik v. United Air Lines*, 671 F.3d 1188, 1191 (10th Cir. 2012) ("[M]ere labels and conclusions . . . will not suffice." (internal quotation marks omitted)). Here, Movants have failed to allege such facts.

The writ of mandamus "has traditionally been used in the federal courts only to confine an inferior court to a lawful exercise of its prescribed jurisdiction or to compel it to exercise its authority when it is its duty to do so." *Kerr v. U.S. Dist. Court*, 426 U.S. 394, 402 (1976) (citations and quotations omitted). "The remedy of mandamus is a drastic one, to be invoked only in extraordinary situations." *Id.* For a court to issue a writ of mandamus, the party seeking the writ must *not* have any "other adequate means to attain the relief" it desires, and must prove that its right to the writ is "clear and indisputable." *Id.* at 403 (citation omitted). Here, Movants fail to meet even the most basic of pleading requirements to establish that a writ of mandamus is necessary or appropriate in this case. Unlike its federal counterparts, there is no Cherokee law which provides for a writ of mandamus against the Attorney General. Rather, should the Attorney General act outside the scope of his authority – which he did not do here – the sole

remedy against him is removal from office in conformance with Article XI, a remedy that is readily available to Movants, particularly Movants Buzzard and Walkingstick both of whom currently serve on the Nation's Tribal Council. Cherokee Const. Art. VII, Sec. 13.

Moreover, Mandamus will not issue to compel performance of a discretionary duty in a certain way. *Wadley v. City of Purcell*, 601 P.2d 751 (Okla. 1979). Instead, the rule is well established that a writ of mandamus may not lawfully issue to control a decision of an officer vested with discretion, nor may it be used to review, correct, or reverse an erroneous decision of such officer, even though there may be no other method of review or correction provided by law. *Id.* AG Hembree is duty-bound "[t]o supervise Cherokee Nation's representation in all litigation in which Cherokee Nation, an agency or officer thereof is interested" as well "[t]o initiate or appear, at his or her discretion, in any action which the interests of the Nation or the People of the Nation are at issue." 51 C.N.C.A. § 105(2). Thus, the litigation strategy for any pending action, including whether to challenge the D.C. District Court memorandum opinion, is well within AG Hembree's discretion and is therefore not subject to a writ of mandamus. Accordingly, the Court must dismiss the Petition for Writ of Mandamus because Movants fail to state a claim for which this Court can grant relief.

IV. The Court Must Deny Movants' Motion to Set Aside the Preliminary Order

Chief Justice Garrett properly issued the September 1, 2017 Preliminary Order. A challenge to an order issued pursuant to Rule 4 of the Cherokee Nation Supreme Court Rules is reviewed for abuse of discretion. "Under the abuse of discretion standard, the decision [] will not be disturbed unless the [] court has a definite and firm conviction that the [Chief Justice] made a clear error of judgment or exceeded the bounds of permissible choice in the circumstances." *In re Nat. Gas Royalties Qui Tam Litig.*, 845 F.3d 1010, 1017 (10th Cir. 2017) (quotations omitted).

Contrary to Movants' assertion, the D.C. District Court's memorandum opinion is valid and binding against all parties in the *Cherokee Nation v. Nash and Vann v. Zinke* cases, including the Nation, its Governmental branches, and its officers until further order of the Court. Whether the memorandum opinion constitutes a "final judgment" is of no consequence to the binding effect of the opinion and the Nation's legal obligation to comply with the opinion. Further, as Justice Garrett properly found in the Preliminary Order, the Nation subjected itself to the jurisdiction of the D.C. District Court by voluntarily entering the D.C. District Court case and the Nation had a full and proper presentation of its case. There was no error in judgment and Chief Justice Garrett acted within the bounds of the circumstances. For these reasons, the Court must deny Movants' Motion to Set Aside the Preliminary Order.

CONCLUSION

For the reasons discussed above, the Court must deny Movants' Motion to Intervene, dismiss the Petition for Writ of Mandamus, deny Movants' Motion to Set Aside the September 1, 2017 Preliminary Order and grant any other relief deemed necessary and proper.

Respectfully submitted,

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CERTIFICATE OF MAILING

I hereby certify that on the 29 day of December, 2017, a true and correct copy of the above document was hand delivered, emailed or mailed with proper postage fully prepaid thereon, to the following:

John E. Parris
220A East 2nd St.
Sand Springs, OK 74063

Chrissi Nimmo

Voter ID: [redacted]
Roll Number: [redacted]
Name: WALKINGSTICK, DAVID LEE
Enrollment Date:
Registration Date:

Status: Active
County: Cherokee

Residence Address
[redacted]

Mailing Address
[redacted]

Precinct: Tahlequah (3) (41)
District: District No. 3 (8)
Polling Place:

Election Date	Election Description	Voting Method
6/27/2015	General	EV
7/23/2011	Run-off	AB
6/25/2011	General	AB
7/28/2007	Run-off	AB
6/23/2007	General	AB

Total History: 5

Audit/ Transaction Date	Type of Change	Former/After Information	User Responsible
3/26/2007 3/26/2007	New Registration		election
3/26/2007 3/26/2007	County	0 2	election

Total Activity: 2

EXHIBIT
tabbies
1

Voter ID: [redacted]
Roll Number: [redacted]
Name: PENNINGTON, TWILA J
Enrollment Date: [redacted]
Registration Date:

Status: Active
County: Cherokee

Residence Address
[redacted]

Mailing Address
[redacted]

Precinct: Keys (2)
District: District No. 3 (8)
Polling Place: KEYS COMM. BLDG D-3
19083 E 840 RD
PARK HILL OK 74451

Election Date	Election Description	Voting Method
6/27/2015	General	AB
7/23/2011	Run-off	AB
6/25/2011	General	AB

Total History: 3

Audit/ Transaction Date	Type of Change	Former/After Information	User Responsible
3/9/2015 3/9/2015	Phone	[redacted]	ALEXIPOTEET
3/9/2015 3/9/2015	Precinct	[redacted]	ALEXIPOTEET
3/9/2015 3/9/2015	Zip Code	[redacted]	ALEXIPOTEET
3/9/2015 3/9/2015	City	[redacted]	ALEXIPOTEET
3/9/2015 3/9/2015	Address Of Residence	[redacted]	ALEXIPOTEET
3/9/2015 3/9/2015	District	[redacted]	ALEXIPOTEET
3/28/2011 3/28/2011	Precinct	[redacted]	Genny
3/28/2011 3/28/2011	District	[redacted]	Genny

EXHIBIT
tabbies
2

Audit/ Transaction Date	Type of Change	Former/After Information	User Responsible
3/28/2011 3/28/2011	County	[redacted]	Genny
3/28/2011 3/28/2011	Phone	[redacted]	Genny
3/28/2011 3/28/2011	City	[redacted]	Genny
3/28/2011 3/28/2011	Address Of Residence	[redacted]	Genny
3/28/2011 3/28/2011	Mailing Zip Code	[redacted]	Genny
3/28/2011 3/28/2011	Mailing City	[redacted]	Genny
3/28/2011 3/28/2011	Mailing Address	MAIL RETURNED	Genny
3/28/2011 3/28/2011	Mailing Address	[redacted]	Genny
7/2/2009 7/2/2009	Mailing Address	MAIL RETURNED	joyce-gourd

Total Activity: 17

Voter ID: [redacted]
Roll Number: [redacted]
Name: WHITE, RANDY JUNIOR
Enrollment Date: [redacted]
Registration Date: [redacted]

Status: Active
County: Craig

Residence Address

[redacted]

Mailing Address

Precinct: Vinita (26)
District: District No. 11 (16)
Polling Place: CN VINITA HEALTH CLINIC D-11
27371 S 4410 RD
VINITA OK 74301

Election Date	Election Description	Voting Method
10/12/2013	Special District 11	IP

Total History: 1

Audit/ Transaction Date	Type of Change	Former/After Information	User Responsible
9/10/2013 9/10/2013	New Registration		JOYCEGOURD

Total Activity: 1

EXHIBIT
tabbies 3

Voter ID: [redacted]
Roll Number: [redacted]
Name: CROWE, NORMAN WAYNE JR
Enrollment Date: [redacted]
Registration Date:

Status: Active
County: Tulsa*

Residence Address

[redacted]

Mailing Address

Precinct: At Large (0)
District: At Large (0)
Polling Place:

Election Date	Election Description	Voting Method
6/3/2017	General Election	AB
7/25/2015	Run-off	AB
6/27/2015	General	AB
7/23/2011	Run-off	AB
6/25/2011	General	AB
6/23/2007	General	AB

Total History: 6

Audit/ Transaction Date	Type of Change	Former/After Information	User Responsible
2/16/2017 2/16/2017	Phone	[redacted]	KENDALBISHOP
2/16/2017 2/16/2017	Zip Code	[redacted]	KENDALBISHOP
2/16/2017 2/16/2017	County	[redacted]	KENDALBISHOP
2/16/2017 2/16/2017	City	[redacted]	KENDALBISHOP
2/16/2017 2/16/2017	Address Of Residence	[redacted]	KENDALBISHOP
4/19/2012 4/19/2012	Mailing Zip Code	[redacted]	Joyce-Gourd
4/19/2012 4/19/2012	Phone	[redacted]	Joyce-Gourd

EXHIBIT
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Transaction Date	Type of Change	Former/After Information	User Responsible
4/4/2011 4/4/2011	Mailing Address	[redacted]	Genny
4/23/2007 4/23/2007	Phone	[redacted]	wanda-beaver
2/6/2007 2/6/2007	Mailing Zip Code	[redacted]	election
2/6/2007 2/6/2007	Mailing Address	[redacted]	election

Total Activity: 11

Voter ID: [redacted]
Roll Number: [redacted]
Name: BRATTON, VICKIE LYNN
Enrollment Date: [redacted]
Registration Date:

Status: Active
County: Tulsa

Residence Address
[redacted]

Mailing Address
[redacted]

Precinct: Collinsville (35)
District: District No. 13 (18)
Polling Place: COLLINSVILLE PUB LIBRARY D-13
1223 W MAIN
COLLINSVILLE OK 74021

Election Date	Election Description	Voting Method
6/27/2015	General	AB

Total History: 1

Audit/ Transaction Date	Type of Change	Former/After Information	User Responsible
2/9/2015 2/9/2015	District	[redacted]	KEELIDUNCAN
2/9/2015 2/9/2015	Precinct	[redacted]	KEELIDUNCAN
2/9/2015 2/9/2015	Mailing Zip Code	[redacted]	KEELIDUNCAN
2/9/2015 2/9/2015	Mailing City	[redacted]	KEELIDUNCAN
2/9/2015 2/9/2015	County	[redacted]	KEELIDUNCAN
2/9/2015 2/9/2015	Middle Name	[redacted]	KEELIDUNCAN
2/9/2015 2/9/2015	Mailing Address	[redacted]	KEELIDUNCAN
2/9/2015 2/9/2015	Zip Code	[redacted]	KEELIDUNCAN
2/9/2015 2/9/2015	City	[redacted]	KEELIDUNCAN

EXHIBIT
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Transaction Date	Type of Change	Former/After Information	User Responsible
2/9/2015 2/9/2015	Address Of Residence	[redacted]	KEELIDUNCAN
8/2/2012 8/2/2012	Address Of Residence	[redacted]	Joyce-Gourd
8/2/2012 8/2/2012	Mailing Address	[redacted]	Joyce-Gourd
8/2/2012 8/2/2012	Middle Name	[redacted]	Joyce-Gourd
8/2/2012 8/2/2012	County	[redacted]	Joyce-Gourd
8/2/2012 8/2/2012	Phone	[redacted]	Joyce-Gourd
8/2/2012 8/2/2012	Address Of Residence	[redacted]	Joyce-Gourd
8/2/2012 8/2/2012	Mailing Zip Code	[redacted]	Joyce-Gourd
8/2/2012 8/2/2012	Mailing City	[redacted]	Joyce-Gourd
8/2/2012 8/2/2012	Mailing Address	[redacted]	Joyce-Gourd

Total Activity: 19