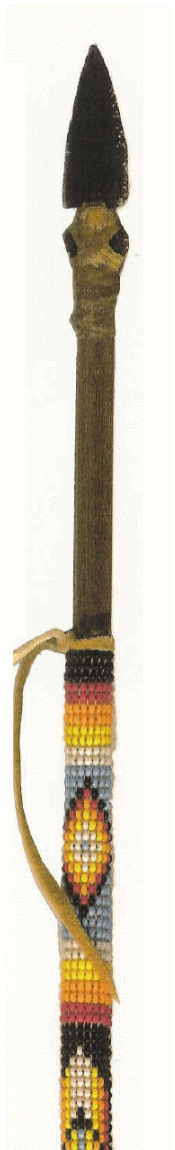


Counsel of Record Report # 6
February 26, 2004



AS FOR THE CURRENT STATUS OF FELTER, et al., V. NORTON, et al., we are waiting for U.S. District Court Judge Roberts to make his decision on the defendants' Motion to Dismiss our civil action. The defendants filed their reply to our Opposition to their Motion to Dismiss on November 26, 2003. Although I cannot state with any degree of precision on when we can expect his decision, I would predict that his decision will be issued by March 26, 2004 or 4 month after briefing was completed.

I ALSO NOTE THAT EDSON GARDNER HAS FILED a Motion to Intervene in our case. However, his Motion has not been formally filed with the Clerk of the Court. Until I am notified by electronic means by the Clerk of the Court, I am under no obligation to file a response to Mr. Gardner's Motion to Intervene. Should the Clerk notify me that his Motion has been filed, I must respond to it. His Motion could complicate our case as well as cause a delay in Judge Roberts issuance of his decision on the defendants' Motion to Dismiss.

WE ARE ALL AWARE OF DORA VAN'S STATED EFFORTS TO encourage Congress to pass legislation that would reinstate the terminated members of the Uinta Band, among other things. Recently, I became aware of S.344, a proposed bill that would grant federal recognition to Native Hawaiians. I was very surprised to find out that Sen. Orrin Hatch is one of the co-sponsors of S.344. *NCAI Sentinel, Winter Edition 2004*. The proposed Hawaiian Native federal recognition bill would assure and grant the Native Hawaiians' a political status that would give them "parity" under the laws of the United States.

THE NCAI SENTINEL "GUEST EDITORIAL" title "KAKOU: All of us Together" provides a basic description of the Congressional legislative process involved in the passage of a bill recognizing a group of "Natives" subject to the laws of the United States as a separate and distinct "political" entity. First, the article notes the wide spread support that the Hawaiians got from a variety of organizations - NCAI, Alaska Native Federation of Natives and native and non-native allies "with influence and decision-making authority in Washington, D.C. and throughout the United States." Next, Daniel Akaka and Daniel Inouye, U.S. Senators from Hawaii, supported S.344. Further, Ted Stevens (AK), Harry Reid (NV), Orrin Hatch (UT) and Gordon Smith (OR) are co-sponsors urging the passage of S.344.

THE ARTICLE DESCRIBES THAT THE HOUSE VERSION OF S.344 was introduced by Representatives Neil Abercrombie (HI) and Ed Case (HI). Work on getting votes for both S.344 and the House version continues and the Native Hawaiians are asking that individuals (native and non-native), native organizations and tribes continue to email and fax their U.S. Senators and Representatives and urge them to support the Akaka Bill. One statement in the article is "Success in bettering conditions for all indigenous peoples is best achieved by working together." Another very significant statement in the article was: "Native peoples do not flourish and move forward strongly when we are divided into factions and our spirituality is disturbed." From our current experiences with trying to keep our Felter client group united and focused, we all understand the important of this fundamental statement.

THE BRIEF NCAI GUEST EDITORIAL TELLS ME THAT THE PASSAGE OF ANY BILL will only succeed with wide spread support in Congress and in the public. As for the bill that Dora Van and her group contend that they have somewhere in Congress, it should be easy for her to state 1) where the bill is at this moment; 2) who has been asked to sponsor and co-sponsor

the bill to reinstate the terminated Utes to federally-recognized status; and the chances of getting co-sponsors for the bill. They should also be able to tell anyone who ask them what native and non-native organizations have expressed their support for their efforts in getting the bill though both sides of Congress. Since I have not taken any time out of my busy schedule to keep track of Dora Van's Congressional efforts, I hope someone will tell me the answers to the questions I pose directly above. Otherwise, I wonder where if "someone is pulling someone else's leg" as we say in the Oklahoma countryside. If the Utah State Congressional delegation and the Ute Tribe do not support a restoration bill, then I believe it would be an extremely difficult, if not impossible, effort to achieve a successful passage of the terminated Ute restoration act. When was the Utah Congressional delegation approached on sponsorship and what was their reaction?

AS YOUR ATTORNEY IN THIS CIVIL ACTION AGAINST THE UNITED STATES, I do not condemn anyone's efforts to seek the passage of legislation to restore the terminated members of the Uinta Band to federally-recognized status. However, the Felter plaintiffs have decided to "litigate" their way back to restored status. It is my firm opinion that you are either dedicated to put all of your energy, prayers and spirit that our lawsuit against the United States will succeed or you will go your way with someone other group with another agenda and not support our lawsuit 100%. I remind all of you to pay your dues in full and make every effort to make money contributions, as you can, to keep us rolling on!

AS SOON AS THE CLERK TRANSMITS THE JUDGE'S DECISION on the defendants' Motion to Dismiss, I send the decision as quickly as possible to Cal Hackford and Oranna. We will post it on the website. I will also let you know if we are forced to deal with the intervention by Ed Gardner. We have decided to schedule a meeting in Roosevelt *after* we receive the Judge's decision so I can personally discuss the options we must take to keep our battle alive.

We speak the language of social justice and spiritual truth against liars, thieves and hypocrites. If we lose the whole world loses. We will not lose but, in the end, teach the truth, morality and spirituality of the matter to our cowardly oppressors.

Dennis G. Chappabitty
Counsel of Record in *Felter, et al., v. Norton, et al.*

Uintah and Ouray Agency
Fort Duchesne, Utah

WHEREAS, the Uintah and Ouray Tribal Business Committee (Business Committee) of the Ute Indian Tribe (Tribe) is empowered and directed by the Tribe's Constitution to oversee and protect the future and welfare of the Tribe; and

WHEREAS, Congress, in the Ute Indian Partition and Termination Act of August 27, 1954, 68 Stat. 868, codified at 25 U.S.C. §§677-677aa (UPA), divided the Tribe into two groups, i.e. "mixed-blood" and "full-blood" members, see 25 U.S.C. §677a and 677d; and

WHEREAS, the Federal Government's fiduciary obligations and the tribal membership of the mixed-bloods were terminated by publication of such persons' names in the Federal Register on April 5, 1956, and such persons, therefore, are no longer legally Indians nor members of the Tribe, see 25 U.S.C. §677v; and

WHEREAS, in accordance with the mandates of the UPA, the Tribe consists exclusively of full-bloods, see 25 U.S.C. §677g; and

WHEREAS, pursuant to the terms of the UPA, the mixed-bloods, some of whom voluntarily opted to separate themselves from the Tribe, received approximately 27.16% of then existing tribal assets, which included tribal lands and tribal trust funds, and granted to the Ute Distribution Corporation a continuing 27.16% interest in the minerals held in trust by the Tribe, see 25 U.S.C. §§677a(f) and 677i; and

WHEREAS, because of the mixed-bloods' actions, the Tribe's land base, fiscal assets and future income was reduced and placed in jeopardy; and

WHEREAS, the mixed-bloods and their descendants, despite having received a prorated portion of the Tribe's assets not granted to tribal members and having depleted the assets of the Tribe, continue to assert that they possess a continuing interest in all assets and rights of the Tribe; and

WHEREAS, the mixed-bloods and their descendants have instituted a campaign to damage the reputation of the Tribe and to once again acquire "full-blood" status; and

WHEREAS, the Tribe is not agreeable to the mixed-bloods, after having diluted and damaged the Tribe and its assets, regaining legal recognition as Indians; and

WHEREAS, the Business Committee believes it in the Tribe's best interest to oppose any and all efforts by the mixed-bloods to again "raid" the tribal treasury and to gain Indian status.

NOW, THEREFORE, BE IT RESOLVED BY THE UINTAH AND OURAY TRIBAL BUSINESS COMMITTEE OF THE UTE INDIAN TRIBE that the Ute Indian Tribe hereby resolves to oppose and counter any and all efforts by the mixed-bloods to:

- (1) reacquire membership in the Tribe;
- (2) gain a greater portion of the fiscal assets of the Tribe;
- (3) acquire a land base for themselves that is recognized by the United States as "Indian country";
- (4) acquire additional lands of the Tribe;
- (5) expand their limited user rights in fish and wildlife of the Tribe;
- (6) assert ownership of tribal lands, water, wildlife, minerals or money;
- (7) acquire special status or legislation from the Congress; or
- (8) in any manner alter their mixed-blood status or attempt to alter the existing requirements of the UPA.

BE IT FURTHER RESOLVED that legal counsel of the Tribe, individual members of the Business Committee and all other tribal officers, agents and employees shall take whatever steps as may prove necessary to carry out the terms and intent of this Resolution and to ensure that the mixed-bloods and their offspring do not reacquire Indian status or damage the interests of the Tribe.

BE IT FINALLY RESOLVED that the Bureau of Indian Affairs, the Congress and all other federal agencies and offices shall be informed of the Tribe's opposition to the mixed-bloods acquiring any rights in addition to those granted under the UPA, to the mixed-bloods being recognized as Indians or tribal members and of the Tribe's intent to counter and defend against the mixed-bloods acquiring tribal lands or assets.

Ruby Atwine
Ruby Atwine, Chair

Roseline B. Taveapont
Roseline Taveapont, Vice Chair

Larry Blackhair
Larry Blackhair, Member

Raymond Murray
Raymond Murray, Member

Ronald J. Wopsock
Ronald J. Wopsock, Member

O. Roland McCook
O. Roland McCook, Member

CERTIFICATION

I hereby certify that the foregoing Resolution was adopted by the Uintah and Ouray Tribal Business Committee of the Ute Indian Tribe, at a duly called meeting held in Fort Duchesne, Utah, on the 22nd day of November, 1995, at which a quorum was present and voted 5 FOR, 0 AGAINST, 0 ABSTAINING, and 0 ABSENT.

Dana West
Dana West, Secretary
Uintah and Ouray Tribal Business
Committee

C E R T I F I C A T I O N

I hereby certify that the foregoing Resolution was adopted by the Uintah and Ouray Tribal Business Committee of the Ute Indian Tribe, at a duly called meeting held in Fort Duchesne, Utah, on the 22nd day of November, 1995, and was again reaffirmed by the Uintah and Ouray Tribal Business of the Ute Tribe, at a duly called meeting held in Fort Duchesne, Utah, on the 20th day of December, 1995, at which time a motion was made and approved to appoint the new council member, O. Roland McCook, to sign the resolution, at which time a quorum was present and voted 5 for, 1 absent.

Jacqueline Stevens
Jacqueline Stevens, Assistant Business
Committee Secretary



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
Washington, D.C. 20240

IN REPLY REFER TO:

Tribal Government Services
BCCO 6676

OCT 21 1998

Ms. Oranna B. Felter
P.O. Box 251
Roosevelt, Utah 84066

Dear Ms. Felter:

This is in response to your letter dated August 19, 1998, to Secretary Babbitt regarding the Ute Partition Act of August 27, 1954, 68 Stat. 868. You want to know why most of the tribes that were terminated during the 1950's and 1960's have since been restored, but Federal recognition has not been restored to the Ute mixed-bloods.

Federal recognition has been restored to more than 40 tribes since 1973. Thirty-one of those tribes were restored through court order. The balance of the tribes was restored through Congressional legislation. In those cases involving Congressional legislation, the tribes actively lobbied Congress to repeal the acts of Congress that terminated the Federal recognition of those tribes. The Department of the Interior did not initiate the restoration process on behalf of the tribes. The tribes initiated the restoration process by seeking support for restoration from their own members, other tribes and all levels of government. Any tribe seeking restoration through Congressional legislation must have the support of its Congressional delegation. It is very difficult for a tribe to get such support if another tribe with direct interest in the matter objects to the restoration of federal recognition.

We understand the frustration you feel as a result of the Ute Partition Act. We also understand the Ute Tribe's position on this same matter. Congressional restoration of Federal recognition to the Ute mixed-bloods as part of the Ute Tribe or as a separate tribal entity is unlikely, unless the Ute Tribe supports such restoration. The issue concerning the return of certain lands and other tribal assets to the Ute mixed-bloods has already been litigated. Congress would have to enact a relief bill to effect the changes you request. We regret that our response cannot be more favorable.

Sincerely,

Director, Office of Tribal Services



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS

Washington, D.C. 20240

IN REPLY REFER TO

Tribal Government Services

DEC 17 1998

Ms. Oranna B. Felter
P.O. Box 251
Roosevelt, Utah 84066

Dear Ms. Felter:

This is in response to your letter dated December 7, 1998, regarding the Ute Partition Act of August 27, 1954, 68 Stat. 868. You asked us to answer three follow-up questions concerning an earlier response we sent to you concerning this same subject.

First, you want to know how anyone in the Department of the Interior or the Bureau of Indian Affairs (BIA) can understand the frustrations you feel concerning termination. We understand because some of us in the BIA have relatives that are members of terminated tribes.

Second, you asked for a copy of the Ute Tribe's (Tribe) position on the restoration of the Ute mixed bloods. You already have a copy of their position. You sent us a copy of the Tribe's official position along with your letter dated August 19, 1998, to the Secretary of the Interior. The Tribe's position is set out in Resolution No. 95-576, adopted on November 22, 1995. You also indicate that a former Business Committee member told you that the Secretary of the Interior sent a letter to the Tribe in 1995 indicating that the Ute mixed bloods were going to be restored. We have no record in our files of such a letter.

Third, you want to know why it is unlikely that the Ute mixed bloods would become recognized as a separate tribal entity if the Tribe does not support such restoration. The BIA has a government-to-government relationship with the Tribe and it consults with the Tribe on all issues that affect it. As long as the Tribe objects, we would not support the restoration of the Ute mixed bloods as a separate tribal entity because it could cause serious jurisdiction problems for the Tribe and its members.

The BIA no longer handles Individual Indian Money Accounts (IIM). All questions concerning the accounting of IIM accounts should be sent to the Office of the Special Trustee, Office of Trust Funds Management, Department of the Interior, 505 Marquette, NW, Suite 1000, Albuquerque, NM 87102.

Sincerely,

Director, Office of Tribal Services

10/10/98

Rec. 12-29-98