

TRIBAL COURT OF THE  
SHAKOPEE MDEWAKANTON SIOUX (DAKOTA) COMMUNITY

NOV 27 1995  
Cassie Swender  
Clerk of Court

Sunny Day Welch,

Case No. 036-94

Plaintiff,

ORDER

vs.

Shakopee Mdewakanton Sioux Community,  
Stanley Crooks, Chairman, Kenneth  
Anderson, Vice Chairman, and Darlene  
Matta, Secretary Treasurer,

Defendant,

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MEMORANDUM

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INTRODUCTION

This matter comes before the Court on Defendant's Motion for Summary Judgment. The Defendant asserts that the plaintiff must exhaust his tribal remedies namely the Shakopee Mdewakanton Sioux Community Enrollment process before seeking redress with the Court regarding his enrollment status with the Community and that plaintiff has not as a matter of fact exhausted said enrollment process. The Defendant seeks judicial remedy and interpretation thereof through their Motion for Summary Judgment.

**ANALYSIS AND OPINION ON DEFENDANT'S MOTION FOR SUMMARY**

**JUDGMENT**

The Court held a previous hearing on this case at hand where in that instance it was the Plaintiff seeking judicial remedy in his Motion for Summary Judgment. Plaintiff in the previous hearing sought judicial relief in essence seeking to override the Communities



Enrollment process and actions. The Court denied the Plaintiffs Motion for Summary Judgment in concluding that there did exist a genuine issue of material fact in dispute which was and no doubt is and that is whether the Plaintiff Sunny Day Welch is an enrolled member of the Shakopee Mdewakanton Sioux Community entitled to participate in the Community's per capita payment process. The Court concluded the Community through its enrollment process must first make a final and conclusive determination before the Court could entertain an action on the merits of the case.


This matter is somewhat a reaffirmation that the Court must defer to the Community's administrative or tribal remedies. In this case it is the Defendant bringing their Motion for Summary Judgment. The essence of the Defendants argument is twofold in that 1.) the plaintiff is required to exhaust his tribal remedies before seeking redress with the Court and 2.) that the plaintiff has not exhausted his tribal remedies.

The first indication to the Court before entertaining an action on the merits will be a final determination, decision, or ruling of rejection or possibly that of acceptance on the plaintiff's enrollment status by the defendant Community. There must be a tribal decision on this matter first. Until such time there is a process taking place which the Court will not interfere. Understandably the overall enrollment and membership matters are lengthy and complicated especially now given the recent historical, legal and biological issues and the interpretations and opinions thereof facing the Community's enrollment process. It appears the Plaintiff Sunny Day Welch is an individual caught up in the complexities of the overall and bigger membership issues facing the tribe. Regardless, there is a requirement of fact and law as to exhaustion of tribal remedy before seeking adjudication on the merits in this case and in other cases similarly situated.



By the plaintiff's own admission at the August 28, 1995 hearing the Plaintiff had or has a pending application under the Community's adoption ordinance. As a matter of fact the Court concludes the Plaintiff is in the process of seeking tribal remedy on his enrollment status and has therefore not exhausted his tribal remedies. As a matter of law, as cited earlier in the case law of the Tribal Court, in the cases of Cermak v. Shakopee Mdewakanton Band of Sioux (Dakota) Indians, Case No. 039-94 (April 11, 1995), Barry Welch, et al. v. Shakopee Mdewakanton Sioux (Dakota) Community, Case No. 023-92 (December 23, 1994 and in Smith v. Shakopee Mdewakanton Sioux (Dakota) Community Business Council, Case No. 038-94 (June 10, 1994) there must be an exhaustion tribal remedies before the Court can entertain an action on the merits. The Court therefore grants the Defendant's Motion for Summary Judgment.

November 27, 1995

  
Robert Grey Eagle  
Judge of the Tribal Court



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The above entitled matter came before the Court the undersigned Judge presiding. Said hearing was held on the 28th day of August, 1995 located at 2330 Sioux Trail Northwest in the City of Prior Lake, County of Scott, in the State of Minnesota. A hearing was held on Defendant's Motion for Summary Judgment. The threshold procedural issue in this case is whether there exists no genuine issues of material fact in dispute in order to grant a Motion for Summary judgment. At issue before the Court were essentially two issues for the Court to decide 1.) whether the plaintiff is required to exhaust his tribal remedies before seeking judicial redress regarding his enrollment status and 2.) whether in fact the plaintiff in this entitled case has exhausted his tribal remedies in the case at hand in order to reach a conclusion in granting Defendant's Motion for Summary Judgment.


The Court having heard the arguments as presented by Vanya S. Hogen-Kind, Esq. appearing on behalf of the Defendant and Dorothy M. Firecloud, Esq. appearing on

behalf of the Plaintiff, and having reviewed the files, records, exhibits and evidence contained therein hereby issues the following:

IT IS HEREBY ORDERED:

1. The Defendant's Motion for Summary Judgment is hereby granted in that there exists no genuine issue of material fact in dispute in this matter as to the requirement upon plaintiff to exhaust his tribal remedies and that the plaintiff has not as a matter of fact exhausted his tribal remedies prior to commencing this action.
2. The attached Memorandum Of Law be and is hereby, Incorporated into and made a part of this Order.

Dated: November 27, 1995

  
Robert Grey Eagle  
Judge of Tribal Court