

FILED SEP 15 1998

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CARRIE L. SVENDAHL  
CLERK OF COURT

IN THE COURT OF THE  
SHAKOPEE MDEWAKANTON SIOUX (DAKOTA) COMMUNITY

COUNTY OF SCOTT

STATE OF MINNESOTA

Keith B. Anderson, Barbara  
Anderson, Karen L. Anderson,  
John Feezor, Betty Anderson, and  
Stanton Quilt,

Plaintiffs,

vs.

Shakopee Mdewakanton Sioux  
Community,

Defendant.

No. 031-93

MEMORANDUM DECISION AND ORDER  
AS AMENDED<sup>1</sup>

This matter was originally brought by ten plaintiffs--the above-named six persons, together with Lisa Beaulieu, Lori Beaulieu, Leslie Beaulieu, and Lori Stovern. However, those four last-named persons withdrew from the case during the course of the proceedings. And on April 6, 1995, received the Court received a copy of a letter from the Plaintiffs Betty Anderson, Barbara Anderson, Keith Anderson, and Karen Anderson ("the Anderson

<sup>1</sup> Technical amendments were made to this decision by Judge Jacobson, on his own motion, on September 15, 1998, to clarify the fact that the ordinances and proceedings which were at issue in this matter related to adoption into the Shakopee Mdewakanton Sioux (Dakota) Community, and not to enrollment.

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Plaintiffs"), to their counsel, informing him that his services no longer were required--but not making it clear whether they desired to continue to participate in the proceedings. The Court therefore has deemed the Anderson Plaintiffs as remaining parties in the case, for the purposes of this Memorandum Opinion and Order.

The Plaintiffs original Complaint was simple: it alleged that the Plaintiffs either were descendants of members of the Shakopee Mdewakanton Sioux (Dakota) Community ("the Community"), or were spouses of members, and had been denied benefits which members of the Community or spouses of members of the Community received, in violation of the Indian Civil Rights Act, 25 U.S.C. §1302 (1988) ("the ICRA"). The Plaintiffs amended that Complaint as of right twenty-three days after it was filed; and while the Amended Complaint was considerably more extensive in its allegations than was the original, still when distilled down to its essence it was identical: the Plaintiffs were being denied benefits from the Community in a manner that violated the equal protection guarantees of the ICRA.

After this Court denied the Plaintiffs' motion for preliminary relief, and after the Community moved to dismiss the Complaint, the Plaintiffs filed a variety of motions, including a motion to file a supplemental Complaint and then a motion to file a second supplemental Complaint.

And during the pendency of this matter, the General Council of the Community voted to adopt the Anderson plaintiffs and John Feezor into membership in the Community. That action then was



challenged in Louise B. Smith, et al. v. Shakopee Mdewakanton Sioux (Dakota) Community Business Council, et al., No. 038-94; appeal pending, Ct. App. Nos. 001-94 and 002-94, and, because the Area Director of the Minneapolis Area Office, Bureau of Indian Affairs, at that time explicitly had disapproved the ordinance by which the adoption took place, a preliminary injunction was entered by the Court which at least through this date continues in effect as to those Plaintiffs. (Subsequently, based on proceedings of the Interior Board of Indian Appeals, the Area Director reversed her decision; and then, more recently, the Assistant Secretary of the Interior for Indian Affairs apparently has purported to vacate the Area Director's decision. The Court here expresses no opinion with respect to those proceedings).

The Community, throughout the proceedings in this matter, consistently has maintained that this Court has no jurisdiction to hear any of the allegations in original amended Complaint, or in any of the proposed supplemental Complaints. It has taken that position because, first, the Plaintiffs who claim that they qualify for membership in the Community based on their lineage did not allege that they had gone through the process mandated by a Bureau-of-Indian-Affairs-approved Ordinance, as is required by Article II, Section 2 of the Community's Constitution, and, second, the persons who claim benefits as spouses of members had no standing upon which to assert their claim.

This Court agrees with the Community.

The adoption processes of the Community have been beset for

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nearly two years by a series of conflicting decisions of the Bureau of Indian Affairs. The record in this case and in the Smith matter establishes that, if nothing else. And while it may be that, in other proceedings pending before this Court, the Court may assist the Community on these issues in the near future, one thing has been absolutely clear throughout all of the cases which this Court has considered on the subject of enrollment and adoption: a person who seeks membership in the Community must do so within the framework of proceedings which are consistent either with Article II, section 1, or Article II, section 2, of the Community's Constitution. Bare allegations that one has a particular lineage, and that others similarly situated are members of the Community, without allegations that the Community's enrollment or adoption processes have been invoked and have operated improperly in some manner which this Court has been given the power to redress, do not state a cause of action under the ICRA. And it is simply those sorts of allegations which all of the Plaintiffs' pleadings--the Complaint, the Amended Complaint, the Supplemental Complaint, and the Second Supplemental Complaint--here involved.

And as to the Plaintiffs who do not claim eligibility for membership in the Community, the Community also clearly is correct when it maintains that when the Community's General Council identified a group of persons to whom it elected to provide certain relief--the spouses of particular members of the Community--it did not thereby give standing to all other persons, all other spouses, to insist on identical relief.


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ORDER

For the foregoing reasons, the Plaintiffs' Motions to file a supplemental Complaint, and to file a Second Supplemental Complaint, are denied, and the Community's Motion to Dismiss is granted.

May 30, 1995  
as Amended September 15,  
1998

  
John E. Jacobson  
Judge of the Court of the  
Shakopee Mdewakanton Sioux  
(Dakota) Community

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