

as welfare or general assistance to the Plaintiffs during the period covered by the June 3 Order. (There was no disagreement expressed as to the amounts which were paid by the Community, but only as to whether the Community can use those amounts as an offset at this late date in the litigation.) They also advised the Court that they disagreed as to whether the Plaintiffs should be considered to have simply become eligible for per capita payments on the dates specified by the Court (January 3, 1992, for Mr. Ross, and August 20, 1992, for Mr. Welch and Mr. Vig), or whether they should be deemed to be entitled on that date to receive a full share of per capita, as if they had become eligible weeks or months earlier. The dispute arises from the fact that the Community pays out per capita for any particular time period on a delayed basis, with the effect that a person who becomes eligible for per capita payments by the action of the General Council on any particular date do not actually begin receiving a full share until a number of weeks thereafter.

Counsel indicated that all parties would be well served if the Court acted promptly to clarify these point, so this Memorandum is necessarily brief. It was the intent of the Court, in its June 3 Orders, to put the Plaintiffs in the position they would have enjoyed had the General Council of the Shakopee Mdewakanton Sioux Community acted to make them eligible for per capita payments on the dates they filed their respective cases. Had the Plaintiffs been receiving per capita payments during the period of their litigation, they would not have been eligible to receive monies from the Community's general assistance program; so in our view it

is appropriate for the Community to deduct those monies from the retroactive per capita payments amounts under the Court's order. Similarly, had Mr. Ross been made eligible for per capita payments on January 3, 1992, and Mr. Welch and Mr. Vig on August 20, 1992, they would not have received an immediate full share of per capita with the next schedule payment, but only at a later date. The retroactive award should reflect that structure, and should not be structured to assume that the Plaintiffs had become eligible for per capita at some earlier date.


ORDER

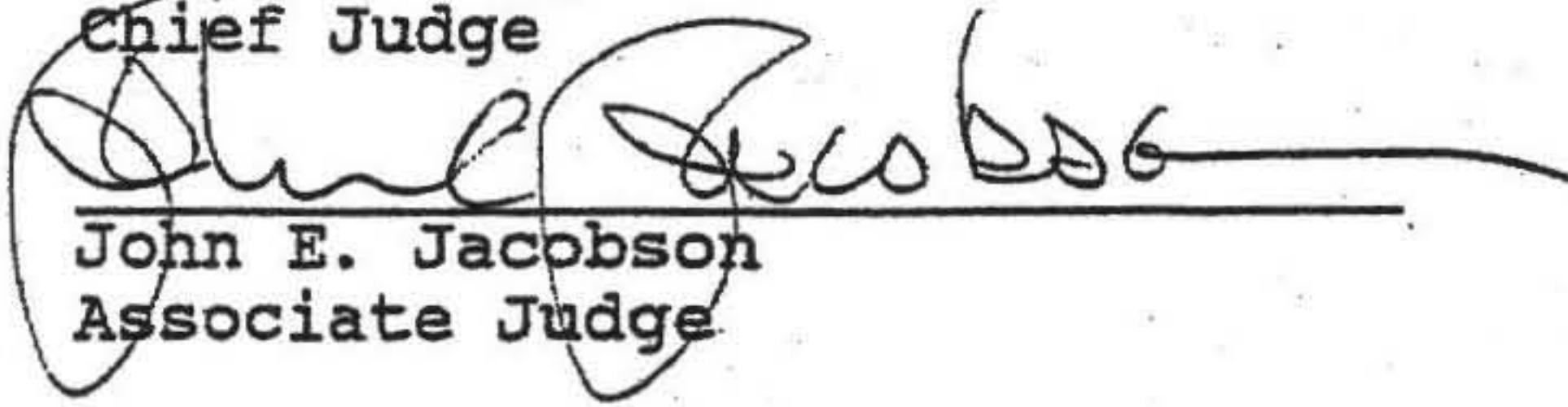
For the foregoing reasons, it is herewith ORDERED:

1. That in establishing the schedule for the retroactive payment awards to the Plaintiffs, the Community shall be entitled to deduct amounts to reflect the general assistance payments made by the Community to the Plaintiffs during the period covered by the award; and

2. That in establishing the schedule for the retroactive payment awards to the Plaintiffs, the Community shall calculate the awards as if the General Council of the Community had voted to make the Plaintiff Ross eligible for per capita payments on January 3, 1992, and the Plaintiffs Welch and Vig on August 20, 1992.

Dated: August 12, 1993


Kent P. Tupper
Chief Judge


John E. Jacobson
Associate Judge

086-13C