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IN THE COURT OF THE  
SHAKOPEE MDEWAKANTON SIOUX COMMUNITY

COUNTY OF SCOTT

STATE OF MINNESOTA

Louise B. Smith, Winifred S. Feezor,  
Leonard L. Prescott, and Patricia A.  
Prescott, and others similarly situated,

Plaintiffs,

vs.

The Shakopee Mdewakanton Sioux  
(Dakota) Community, the Shakopee  
Mdewakanton Sioux (Dakota) Business  
Council, Stanley R. Crooks, Kenneth  
Anderson, and Darlene Matta,  
individually and jointly, the Shakopee  
Mdewakanton Sioux Community  
Enrollment Committee, Anita Barrientez  
(Campbell), Susan Totenhagen, and  
Cherie Crooks-Bathel, individually and  
jointly,

Defendants.

Court File No. 038-94

MEMORANDUM AND ORDER

A complaint was filed with this Court in the above-captioned matter on February 3, 1994, and an amended complaint was filed on February 17, 1994. Claims regarding actions of the General Council on January 11, 1994 were included in both complaints. Specifically, Plaintiffs asked this Court to grant a preliminary injunction to prohibit the Shakopee Mdewakanton Sioux (Dakota) Community from treating as members thirty-one persons who were voted into membership by the

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General Council of the Shakopee Mdewakanton Sioux (Dakota) Community on January 11, 1994. On March 15, 1994, this Court so enjoined the Community.

Defendants filed a "Motion to Modify/Dissolve Preliminary Injunction" with this Court on May 6, 1994, more than one month before the Memorandum opinion was issued in this case. The motion reflected that nine of the individuals who were enjoined from being treated as members of the Shakopee Mdewakanton Sioux (Dakota) Community had gone through the Community's enrollment process, pursuant to Ordinance No. 6-08-93-001. Plaintiffs challenged the enrollment of the nine persons who were the subject of the Defendants' motion, later withdrawing the challenge with regard to four of them, and the General Council formally rejected the remaining challenges at a validly called General Council meeting on April 27, 1994.

A conference call between the parties and the undersigned was held on June 2, 1994, at which time the undersigned informed the parties that no order modifying or dissolving the injunction would be issued until all of the parties were given the chance to examine the Memorandum and opinion issued by Judge Jacobson regarding the injunction. Supplemental briefs were filed by the parties on June 22, 1994, revisiting the motion in view of the Court's Memorandum and opinion issued June 10, 1994.

The issue before the court in Defendants' motion is whether the Community has taken action making the basis for the injunction disappear with regard to the



nine individuals named in the motion.<sup>1</sup> To resolve that issue, this Court is mindful that "one of an Indian tribe's most basic powers is the authority to determine questions of its own membership." Felix Cohen, Federal Indian Law, 20 (1982 ed.); *See also*, Santa Clara Pueblo v. Martinez, 436 U.S. 49 (1978). "A tribe has power to grant, deny, revoke, and qualify membership." Federal Indian Law, *supra*, at 20. In the Shakopee Mdewakanton Sioux (Dakota) Community, the ultimate authority for membership determinations is vested with the Community's governing body, the General Council. Because membership determinations are to be made by the Community's governing body and *not by this Court*, unless something is out of the ordinary in manner in which the General Council makes its determinations, this Court will refrain from interfering with membership determinations of the General Council and the disenrollment process governed by the Community's Enrollment Ordinance.

The Community's records demonstrate that after notice and an opportunity for challenge by the Community members, the General Council certified the nine individuals who were the subject of the Defendants' Motion to Modify/Dissolve the injunction for enrollment in the Community.

The reason for the injunction with respect to the nine individuals named within the Defendants' motion has "disappeared" and this Court HEREBY ORDERS that the preliminary injunction issued March 15, 1994 is modified as follows:

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<sup>1</sup>Alicia Barrientez, Genevieve Crooks, James O. Crooks, Nathan Crooks, Melinda Stade, Carrie Campbell, Alan Campbell, David Blue and Robert Blue.



1. The Community is no longer enjoined from permitting the nine individuals set forth in note one of this Memorandum and Order to vote in meetings of the Community's General Council or participate as members of the Community in the Community's affairs.
2. The Community is no longer enjoined from paying any monies generated by the gaming enterprises of the Community to the nine individuals set forth in note one of this Memorandum and Order.

Entered:

**FILED**

JUL 08 1994

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Robert Grey Eagle  
Judge Robert A. Grey Eagle