

Int & Ins Aff
Indians

March 19, 1963

Mrs. Mamie Stoddard Cumsey
Route 4, Box 246
Okemah, Oklahoma

Dear Mrs. Cumsey:

I am returning herewith the papers enclosed with your letter of March 12. I regret very much that there is nothing I can do to be of assistance to you. The Indian Service advises me that there is no way that you can reclaim the one and one half acres, since it became a part of the forty acres when the railroad was abandoned.

I am sorry that we were unable to be of help to you in this matter.

Sincerely,

Okemah, Oklahoma

March 12-1963

United States Senator Mike Monroney
Washington, D. C.

I am writing in regard to the $38\frac{1}{2}$ Acres $SE\frac{1}{4}$
 $NE\frac{1}{4}$ less 1.50 Acres for Railroad Right of Way
Section 12, T. 11., R. 9 E. Okfuskee County.

In 1959 G. W. Schultz, N. J. Price and Alpha
Price filed a lawsuit No. 13299 District Court of
Okfuskee County against me Mamie Stoddard now
Cumsey Fullblood Creek Roll No. 2860, Paul L. Fickinger
Area Director of the Muskogee Bureau of Indian Affairs
and E. F. Gutensohn of the Fort Smith and Western
Railroad Company which has long since gone out of
business.

This lawsuit No. 13299 stated: In accordance
with an Order of Removal of Restrictions dated August
24-1925 the Allottee under date of December 16-19
25 executed her Warranty Deed conveying 40 acres
of her surplus lands described as: The Southeast
Quarter ($SE\frac{1}{4}$) of the Northeast Quarter ($NE\frac{1}{4}$) less 1.50
Acres for Railroad Right of Way in Section 12-11-9
of the Indian Base and Meridian, containing 38.5
Acres more or less located in Okfuskee County, Oklahoma.

This lawsuit went on to say that I gave a

Warranty Deed to N. J. Price conveying 40 acres S E 1/4 N E 1/4 of Section 12-11-9 of my surplus lands which could be found in Book B 99 page 424 and Book B 100 page 120.

By her Conveyance the Allottee conveyed all of her interest in this 40 acres unto N. J. Price, his heirs and assigns.

The Muskogee Creek Tribe had no title, Right, interest, estate, equity or demand in the lands involved herein; And that the Conveyance to Mammie Stoddard was subject to a Railroad Right of way easement Pursuant to the Act of Congress approved March 3-1899 30 Stat. 1368

G. W. Schultz testified under Oath that all facts and things in Lawsuit No. 13299 are to be correct and true.

On May 7-1959 Election not To Remove Comes now C. C. Marrs Acting Area Director for the Muskogee Area and successor to Superintendent for the Five Civilized Tribes and under the authority vested in me by the Secretary of the Interior Pursuant to Act of Congress approved August 4-1947 elects not to remove this Cause to the Federal Court.

In 1939 the Railroad was abandoned.

These words written down on these two pages are from the lawsuit No. 13299.

The Okfuskee County Court Records shows :
In 1940 J. L. Burns of Seminole County started paying taxes on 40 acres S E/4 N E/4 Section 12-11-9 Okfuskee County.

In 1943 N. J. Price and Alpha Price gave a Warranty Deed Surface 38.50 acres S E/4 N E/4 Section 12-11-9 to J. L. Burns. This is found in Recorded Book D 62 page 560

In 1949 J. L. Burns and Pearl Burns of Seminole County gave a Warranty Deed S E/4 N E/4 Section 12-11-9 to G. W. Schultz. This is found in Recorded Book D. 73 page 575.

On July 19-1958 N. J. Price and Alpha Price made an Oil and Gas Lease to William H. Pine for a term of five years on the S E/4 N E/4 40 Mineral acres in Section 12-11-9. There are now two Oil Wells on this 40 acres.

Mr. and Mrs. J. L. Burns are relatives of Mr. and Mrs. N. J. Price of Okemah, Oklahoma.

In 1959 G. W. Schultz, N. J. Price and Alpha Price filed this lawsuit against me and my answer date was June 1-1959.

I am crippled from a stroke since July 27-1952 and I am also a Diabetic. I did not know about a lawsuit until a summons was served on me while I was in bed sick and I was under

the Public Indian Health Clinic Doctor's care.

I was helpless to do anything about the lawsuit and I did not have the money to hire an attorney. I had to stay in bed because of my health and Doctor order to rest.

I did not sign my name to the summons.

My Daughter wrote to the Indian Field Representative L. L. Guinn at Okmulgee, Oklahoma about this lawsuit over the 1.50 acres SE/4 NE/4 Section 12-11-9.

On May 25-1959 Mr. L. L. Guinn stated in his letter that his Office was advised by the Muskogee Bureau of Indian Affairs that this 1.50 acres SE/4 NE/4 Section 12-11-9 was not made Tax exempt and the Right of way, when abandoned, would revert to the abutting land owner and the land has been taxable since 1932, you would have no title to the 1.50 acres.

There is no record in the Tax assessor's office in Okemah, Oklahoma to show the 1.50 acres SE/4 NE/4 Section 12-11-9 is taxable and also this 1.50 acres was never listed in any land Tax Sale as it is done every year.

I have Mr. Harold M. Schultz Jr. United States Trial attorney or Probate Attorney's letter and in this letter Mr. Schultz Jr. stated: your letter of September 8-1960 regarding the above lawsuit, which seeks to

quiet title to $1\frac{1}{2}$ acres in the SE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 12-11-9.

The legal opinion furnished to you by Mr. Cecil O. Wood Jr. of this Office on May 19-1959 is correct. Upon termination of a railroad Right of Way the land reverts to the adjoining landowner.

You sold this 40 acres in 1925 and have no legal right whatsoever to the $1\frac{1}{2}$ Acres which became available because the Railroad abandoned this right of way.

The mere fact I was recommended to you does not in anyway change the law and give you additional rights. You are at liberty to obtain your own attorney in connection with this lawsuit, but inasmuch as your answer date was due June 1-1959, it is very likely that a final decree has already been rendered and you are not now able to file an appearance in this case. Consequently, I do not recommend that you spend any funds with which to hire a private attorney.

These are the exact words the United States Trial attorney wrote in a letter to me.

I've heard there are other Indians besides me who are disgusted with the way things turned out for them.

An attorney advised me that I sold $38\frac{1}{2}$ acres

SE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 12-11-9 to N. J. Price in 1925 and not 40 acres as the plaintiffs N. J. Price, Alpha Price and G. W. Schultz have stated in their lawsuit. And as for the 1.50 acres SE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 12-11-9 it is still under restrictions.

On April 24-1962 the Acting Area Director C. C. Marrs stated in his letter that I had no legal basis to reclaim this 1.50 acreage and its Minerals which, when abandoned by the Railroad became the property of the Abutting landowner.

Because of a stroke I suffered eleven years ago, I cannot hardly move around and failing in health now, my Daughter will go in my place to see if Mr. Marrs can produce records to show why I dont have a legal basis of reclaiming this 1.50 acreage. And I doubt if the United States Trial Attorney Harold M. Schultz Jr. can produce a 40 acre Warranty Deed to back up his statement when he stated I sold 40 Acres in 1925.

The Muskogee Bureau of Indian Affairs and the United States Department of the Interior, Bureau of Indian Affairs, Washington, D. C. have expressed their views, opinions and so forth in this matter.

But I have been advised to go along with the Okfuskee County Court Records concerning this 1.50 acres of the Fullblood Restricted Indians have to fight

for their rights by hiring an attorney then the Muskogee Bureau of Indian Affairs should be abolished.

I never receive no money for this 1.50 acres
SE 1/4 NE 1/4 Section 12-11-9 nor did I sign papers
so the Railroad just trespassed over this 1.50 acres

But my Father William Stoddard Full Blood Creek Indian Roll No. 2858 now deceased received \$700.00 from the Railroad Company for 3.16 ^{acres} NE 1/4 SE 1/4 Right of way in Section 12-11-9.

Fullblood Indians have lost their lands through cheating, false testimony so how could we get our lands back?

I am enclosing a Warranty Deed which I gave to N. J. Price in 1925. N. J. Price, Alpha Price and G. W. Schultz have called this Deed a 40 acre Deed.

But I have been advised that a special Deed to the 1.50 acres will quiet the title to the SE/4 NE/4 of section 12-11-9.

So will you return the warranty deed when you're finished with it? and the other papers.

I will appreciate any advice you can give us Indians.

Mrs Mamie Stoddard now Cumsey
Rt 4 - Box 246 Okemah Okla Roll no. 2860