IN THE SQUAXIN ISLAND TRIBAL COURT
FOR THE SQUAXIN ISLAND INDIAN RESERVATION

In re the the disenrollment appeal of:	**No: CV-2025-04-9** **CV-2025-04-13** **CV-2025-04-12**
SALLY SELVIDGE-BROWNFIELD **JESS D. BROWNFIELD** **RUTH C. BROWN-CREEKPAUM**	**DECISION ON APPEAL**

This matter came before the Court for an appeal of the Tribe's decision to disenroll Appellants. The Parties have submitted briefing on the matter. Oral argument was held, and appearing were Mr. Van Winkle on behalf of Sally Selvidge-Brownfield and Jess D. Brownfield, Kim Heller on behalf of Ruth Brown-Creekpaum, Mr. Montana for the Tribe, and Ms. Poste as representative for the Tribe's Enrollment Department. Having reviewed the pleadings, and heard from those present at oral argument, the Court finds and Orders the following:

Preliminary Findings:

-The Court has jurisdiction over this matter because, as stipulated by the Parties, an appeal of the Tribe's decision was timely filed, and all other remedies have been exhausted.

Standard of Review:

-"The burden of proof in disenrollment actions rests with the Tribe and requires clear and convincing evidence." *SITC 5.04.020(A).*

-"A tribal member shall be disenrolled when it is discovered that 1. The member does not meet the requirements of Article II of the Constitution of the Squaxin Island Tribe; or 2. the information on which membership was based was inaccurate, and as a result, the member would not have been eligible for enrollment "*Id. at (A)(1-2) (emphasis added).*

-The Enrollment Code does not establish a standard of review of Tribal Council's final determinations in disenrollment actions. The Rules of Appellate Procedure only provide a

standard of review for decisions arising from the Employment Court, which is "arbitrary or capricious or not supported by substantial evidence." *SITC 4.32.150(C).*

-Appellants assert that the standard of review should be "clearly erroneous" while the Tribe posited the standard for review should be "arbitrary and capricious." All three possible standards are very similar; giving Tribal Council's findings and conclusions substantial deference. Tribal Council's determination is more similar to that of an administrative agency than a trial court, therefore, this Court will apply the arbitrary and capricious standard. Black's Law Dictionary defines "arbitrary and capricious" as follows:

> Characterization of a decision or action taken by an administrative agency or inferior court meaning willful and unreasonable action without consideration or in disregard of facts or without determining principle. BLACK'S LAW DICTIONARY, 5th ed.

Issues Presented:

In briefing and during oral argument, two issues were presented, which are simplified as:

-Whether Frances Selvidge and Appellant Ruth Brown-Creekpaum were properly adopted into the Tribe; and

-Whether Appellants Sally Selvidge-Brownfield and Jess Brownfield meet the blood quantum requirement.

History as to Adoption Issue:

The family history of Frances Selvidge and Appellant Ruth Brown-Creekpaum is extensive and complicated. In an effort to reduce the history down to its most salient points, the Court summarizes as follows:

-At some point (possibly as early as 1976), a petition was circulated to initiate the adoption of the Brown family into the Tribe.

-Mary Francis Smith-Lewis is 1/2 Puyallup, and is the grandmother of Frances Selvidge and Appellant Ruth Brown-Creekpaum. Frances Selvidge is the mother of Appellant Sally Brownfield, and grandmother of Appellant Jess Brownfield.

-In October of 1979, several members provided declarations stating:

"I, as an enrolled member of the Squaxin Island Tribe and one who knew Mary Brown and family, Testify that Mary Smith Brown lived on Little Skookum before 1900. I think putting the Brown family on the Roblin's Rolls as unenrolled Puyallup was a mistake, and feel the Squaxin Island Tribal Council should pass a resolution to correct this mistake and have the Brown family placed on the Roblin's Rolls of unenrolled Squaxin Island Tribe."

-On September 17, 1979, the then Enrollment Clerk prepared a notice stating the Brown family had obtained sufficient signatures for their petition to proceed. 82 signatures were obtained, and only 80 were required.

-On November 15, 1979, the Tribe

"deem[ed] it appropriate to correct the mistake that we believe was made back in 1919 by placing Mary Frances Lewis Smith Brown on the Charles Roblin's Schedule of Unenrolled Puyallups, because as far back as the history of the Brown family can be traced, their ancestors have lived in the area of the Squaxin people, and so therefore should be placed on the Charles Roblin's Schedule of Unenrolled Squaxin of 1919." *Resolution No. 79-69.*

-In December of 1979, the United States Department of Interior advised:

"the Tribal constitution . . . does not contain any provision for the council to correct the roll prepared by Charles Roblin. In any event, that roll is final for the purposes for which it was compiled and the results of the proposed resolution will conflict with the tribal constitution in that persons who in fact do not meet the membership requirements set out in Article II, Section 1, of the constitution and bylaws will become members. If the tribe wishes to enroll these individuals other than through adoption, though, it will first have to amend its constitution . . . to allow their enrollment. Until that time the sole way they can be enrolled is

through the adoption process."

-In August of 1981, Council passed Resolution No. 81-54, which enrolled Frances E. Selvidge and Appellant Ruth Brown-Creekpaum into the Tribe after finding they were eligible under Art. II, Sec. 2. In passing the resolution, Council stated it did "accept the previous election results of the General Body on October 20, 1979, where more than 30% of the eligible voted and the results were: 38-Yes and 23 No, approving the aforementioned individuals." The Resolution further directed that the names were to "be placed on a supplemental roll to the Squaxin Island Membership Roll . . . ."

-The BIA approved the the Supplemental Roll on September 14, 1981, specifically finding "that it contains the names of those persons qualified for membership in accordance with Article II, Section 1, and/or 2, of the Constitution and Bylaws of the Squaxin Island Tribe. . . ."

Discussion of Adoption Issue:

The conflict pertains to the procedural process by which Frances Selvidge and Appellant Ruth Brown-Creekpaum were adopted into the Tribe. Specifically, the issue pertains to the October 20, 1979, election results. The Tribe's position is that the vote taken during the General Council Meeting on October 20, 1979, failed because "50% of the required voting members as per Article IX, did not vote in the General Council meeting. . . ." *Response to Appeal at 8.* Appellants, however, assert Article II § 2 only requires an adoption to "be approved by a majority of members at a regular or special general council meeting . . . ."

It is clear that in passing Resolution No. 81-54 in August of 1981, Tribal Council believed the election on October 20, 1979, was valid and sufficient for the purpose of adopting Frances Selvidge and Appellant Ruth Brown-Creekpaum into the Tribe, and thereby adding them to the Tribe's Supplemental Membership Roll. Likewise, the BIA must have concluded the same in approving the Supplemental Membership Roll on September 14, 1981. Therefore, there is not clear and convincing evidence that Frances Selvidge and Appellant Ruth Brown-Creekpaum were improperly enrolled into the Tribe under Article II, Sec. 2 of the Constitution.

Moreover, the Court finds it improper to disenroll Tribal members due to procedural defects in

the adoption process. SITC 5.04.020 clearly states circumstances in which Tribal members may be enrolled; procedural defects in the adoption process is not specifically listed. Any claimed procedural defect in the adoption of Frances Selvidge or Appellant Ruth Brown-Creekpaum can only be corrected by Council undoing Resolution 81-54, or the BIA revoking its approval of the supplemental Membership Roll.

For the reasons above, the Court concludes the decisions surrounding the adoption of Frances Selvidge and Appellant Ruth Brown-Creekpaum is arbitrary and capricious. The adoptions of those named in Resolution No. 81-54 remains valid as it has for the past 44 years.

Blood Quantum:

It is undisputed that Appellant Ruth Brown-Creekpaum satisfies blood quantum requirements. The blood quantum dispute as to Appellants Sally Selvidge-Brownfield and Jess Brownfield reduces down to what ancestry can be included in the calculation. Appellants assert they have sufficient blood quantum when adding ancestry from Choctaw, Cherokee, and/or First Nations. The Tribe, however, asserts there is insufficient evidence in Appellant's enrollment files to substantiate the ancestry claimed.

Article II, §1(e) of the Constitution provides that "[a]ll persons of 1/8 degree or more Indian blood born to any member of the Squaxin Island Tribe" is eligible for enrollment in the Tribe. The Constitution does not, however, specify what ancestry goes into the "Indian blood" calculation. Later adopted SITC 5.01.030 defines "Blood Quantum" as "the degree or amount of Indian ancestry." "[C]omputations of blood quantum from other federally recognized tribes and First Nations" shall be based on "a certificate of Indian blood from such other tribes." *SITC 5.03.060(C).*

In this matter, it is largely undisputed that none of the Parties have documentation establishing blood quantum from Choctaw, Cherokee, or First Nations. During oral argument, Ms. Poste shared that she did contact the relevant Tribes, but was unable to obtain documentation establishing the ancestry claimed by Appellants. Thus, the natural question is this: how were

Sally Selvidge-Brownfield and Jess Brownfield enrolled in the Tribe in the first place? To this point, during oral argument, Ms. Poste stated "[t]hat is some of the information we were asking for, is where did that other blood quantum come from? Because in their Enrollment record, it references first nation and Cherokee, but there wasn't any information in their record to verify that." As evidenced by the filings, the BIA at several times between 1979 and 1981 concluded Frances Selvidge and Ruth Creekpaum lacked sufficient blood quantum. For that reason, Ms. Poste stated "I have difficulty understanding where that verification happened" during oral argument.

In large part, the Court suspects the discrepancy between the evidence proving blood quantum at time of enrollment and the time of disenrollment lies either within a Code change (SITC 5.03.060 appears to have been implemented in 2010), or due to lost documentation.

As to Code changes, there is nothing in the Code indicating Council, as the Tribe's legislative body, intended the pertinent Codes to be applied retroactively. Rather, SITC 5.01.060 merely provides that the new Code "supersedes and replaces any resolutions or ordinances . . that directly conflict with the[e] code; provided that resolutions specific to enrolling an individual shall not be affected." *Emphasis added.* As Council made it clear that the new Code supersedes and replaces conflicting law, it could have also directed retroactive application. It did not, and therefore the Court cannot find an intent for it to apply retroactively.

As to the possibility of lost documentation, and as stated by Mr. Montana during oral argument, the Tribe's audit found that the enrollment files were disorganized, and at least 95% of the files were delinquent or required documentation. During her presentation at the Enrollment Committee Hearing, Ms. Heller (on behalf of Appellant Ruth Brown-Creekpaum) stated "I didn't bring any paperwork, because Enrollment should already have the documents. My sister, Sally Selvidge, worked hard to put together 45 years ago when my enrollment was approved by a vote of general body." *Transcript.*

Similarly, Appellant Sally Brownfield said "[l]ook at my file. It was an absolute mess. I really

thought a part of the audit was to put things in order and get them digitized, and it was an absolute mess." *Id.* Appellant Sally Brownfield went on to say "[t]hings were upside down, front and backwards, and all over the place, and you couldn't even get things in order to look at them and to make sense, and to know what was there and what might not be there. . . . Those files were complete at the time of enrollment."

Due to the above, the Court can only deduce two possibilities for the discrepancy: 1) the Tribe previously accepted evidence of Indian blood from other Tribes in forms other than the now-required certificates (perhaps hand written family trees or written statements from ancestors were previously sufficient), or 2) documentation the Tribe had at the time of enrollment is no longer in the Appellants' files.

Regardless of where the discrepancy lies, the larger looming issue is the burden of proof the Tribe has placed upon itself to disenroll Tribal members. The Tribe enrolled Appellants after finding they were eligible by a preponderance of evidence, but now asserts there is clear and convincing evidence that Appellants are <u>not</u> eligible for enrollment. All the while there is no new evidence provided by the Tribe to support this assertion, and Appellants voiced concern that evidence relied upon for enrollment may be missing.

The Court appreciates the Tribe's intent to correct its enrollment files and disenroll Tribal members that do not meet enrollment requirements. But, because the Tribe has placed the heightened burden upon itself, <u>it must first establish what information it relied upon when enrolling Appellants.</u> The heightened standard of proof in these matters prohibits speculation as to this critical issue. Thereafter, the Tribe must properly show (1) why Appellants do not meet enrollment requirements, or (2) produce documentation as to why the "information on which membership was based on was inaccurate." *SITC 5.04.020 (A)(1-2).* It is not incumbent on Appellants to re-prove their eligibility for enrollment. The first requirement, emphasized above, was not satisfied.

Due to the issues above, the Court concludes the decisions concerning blood quantum was

arbitrary and capricious.

Conclusion:

Having made the findings above, the Court concludes the disenrollment of Appellants was arbitrary and capricious. Therefore, the decision to disenroll Appellants is overturned, and Appellants are to remain enrolled in the Tribe.

SO ORDERED THIS 12TH DAY OF JANUARY 2026.

josh Williams

JUDGE WILLIAMS