

THE MIXED BLOOD'S DIRECTION

A Quarterly Newsletter for The Plaintiffs of Felter-vs-Norton / The Mixed Blood Uinta's of Utah

Intervention

Explanation of Rule 24 Intervention

By Dennis Chappabitty: Attorney-at-Law

Under Federal Rule of Civil Procedure ("FRCP") Rule 24, an "outsider" can become a party to a pending litigation. Intervention allows "strangers" to invite themselves into a lawsuit between others. Because federal civil litigation is usually complex and often involve broad factual circumstances and legal questions, lawsuits like *Felter v. Norton* sometimes are not merely private disputes but they have implications on those not named as parties. One of the devices provided by the FRCP to deal with this fact is Rule 24 Intervention.

Edison Gardner filed an application for intervention as an individual for the professed purpose of protecting his right to serve as a Ute Tribal Advocate, his right to demand that the Defendants recognize the legal status of Uinta mix-blood Indians in manner required by federal law and his right to full protection of due-process of the Fifth Amendment of the United States Constitution and the Fourteenth Amendment of the United States Constitution. Gardner also argues

that he has rights that are somehow implicated in the Commerce Clause of the United States Constitution, rights to contest the failure of the United States to issue regulations governing Uinta Mix-blood Indian traders and rights to somehow correct the failure of the Defendants to provide irrigation for Uinta Mix-blood Indian farmers. We argue that the "rights" that Gardner seeks to protect through his intervention are not properly described and they are not the subject of the Causes of Action alleged against the Defendants in the *Felter* Amended Complaint.

Upon filing a timely application for intervention as of right under Rule 24(a) (2), Gardner would be entitled to intervene if he has (a) recognized interest in the subject matter of the primary litigation, 2) an interest might be impaired by the disposition of the suit, and 3) his interest is not adequately protected by the existing parties.

In regard to the first requirement, we have argued that the interest identified by Gardner are not directly related to the ones described in the Causes of Action and, thus, they are not significantly protectable interest. Here, the Plaintiffs in *Felter* arguing that the United States has improperly executed the Ute Partition Act in a manner that was not intended by Congress and this nullifies that Act and voids it out of existence. Gardner does not describe any of the interest he claims to protect in his Motion for Intervention with any degree of specificity. It is one thing to intervene in someone else's lawsuit with a very specifically described reason and it is another thing to merely claim that you have a general interest in the lawsuit.

We have argued in our opposition to Gardner's intervention that he is not seeking to protect the same interest of the Plaintiffs in proving that the Defendants failed to correctly execute the Ute Partition Act to the injury of the Plaintiffs. Since the interest Gardner claims fall far outside of those we have included in the 8 Causes of Action, we argue that he has no interest that may be impaired or impeded by the disposition of this case. For example, a judicial decision by Judge Roberts in *Felter* cannot help Gardner become a Ute Tribal Advocate or somehow protect the rights of Uinta Mix-blood Indians farms to irrigate their land. He can protect these and the other legal rights and claims *without* participating in this litigation.

Finally, in order to intervene under Rule 24(a)(2), the applicants must prove that the existing parties do not adequately protect his claimed legal interests. If the legal interest that Gardner seeks to protect by his intervention are not the subject of the Causes of Action in *Felter*, then obviously we could never protect those rights he claims to have in your lawsuit. We want to prove that Congress did not implement the Ute Partition Act toward the Felter Plaintiffs as intended. On the other hand, Gardner wants to prove something of a generalized nature in circumstances and



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Counsel of Record Report #7

Reflections on American Values and *Brown v. Board of Education*.

By Dennis G. Chappabitty:
June 13, 2004

In my last Counsel of Record Report, I had predicted that U.S. District Court Judge Roberts would issue his decision on whether to dismiss our federal civil action in *Felter v. Norton* by March 26, 2004. Judge Roberts has not yet issued his decision on defendants' motion to dismiss. We are all anxiously waiting for his decision and I will make sure that the decision is posted on the our internet website as quickly as I receive it.

While we all wait for a key decision that will tell us whether the federal court system will give the terminated Mixed Blood Uintas their day in court to remedy their termination, I do note that recent events in America and worldwide have heightened my senses about the terrible and undeniable injustice that was forced upon the original 490 Uintas and their descendants. Comparing these events to those events foisted by the United States against the 490 in 1954 and into this new century 2004, I cannot help but wonder why the Mixed Blood Uintas' forced "march" to the "death camps" has not caused your local state and federal legislators to raise up in arms and reverse this despicable chapter of American history and restore the Uintas to their original status as federally-recognized Indians. No one has convinced me that the Mixed-blood Uintas "voluntarily" gave up their cherished status as members of the Uinta Band and willingly handed their land over to the modern fiction called the "Ute Indian Tribe." It is my firm belief that what we refer to as "American values" can never arise to a very high level of international dignity and respect so long as the 490 remain disenfranchised from their identity as members of the federally-recognized Uinta Band.

Brown vs. Board of Education.

America's own legacy of racial hatred toward Black Americans began to unravel when the U.S. Supreme Court decided the landmark case of *Brown v. Board of Education* in May 1954. Like the Uintas' termination, American segregation or "Jim Crow" had its roots in economic incentives favoring the powerful over the oppressed and weakened minority. Slavery of Black Americans allowed America to develop its economic infrastructure for several hundred years on the sweaty and bloodied bodies of working slaves and their families kept in a forced state of ignorance and abject poverty. Termination of the 490 Uintas was also motivated by economic factors deeply rooted in racial hatred that the United States of America used very effectively to pit "Indian against Indian" to strip the Mixed-bloods of their identities and steal their land. This fact is undeniable when you examine the list of shareholders of the Ute Distribution Corporation and the other two corporations. If I were the Ute Indian Tribe and the non-Indians who connived many of the Mixed-blood out of their UDC shares, I would hang my head in sadness and sign over the UDC shares back to the Uinta families who were shamelessly exploited while the United States stood back and allowed it to happen. Furthermore, the U.S. Court system cannot hold itself out to other countries as a "model" when it has allowed its own citizens in Utah to openly take advantage of the Uintas and take their land and legacy as their own. The forced march of the terminated Uintas to their destruction is at the root of "America values" and until the United States of America corrects this violent and forced massive human rights abuse it can happen to anyone else by a stroke of a pen.

Last month, I keenly listened to President Bush when he made a televised speech in Topeka, Kansas to inaugurate the school where *Brown* had its origins. The President stated that the U.S. Supreme Court decision in *Brown v. Board of Education* "changed America for better and forever." He said that the Supreme Court's decision issued on May 17, 1954 was a "day for justice" that wiped "segregation and humiliation of an entire race" from the American landscape. The President then said with great emotion that the rule of Jim Crow dictated that "color of skin determined where you could get a haircut and who you could fish with." This comment by President Bush has been dramatically raised in light of the decision to exclude "non-Indians" from the Ute Sundance this year. Isn't it extremely pitiful that our own so-called "spiritual" Indians and medicine men set a rule for an indigenous religious ceremony intended to pray for healing and compassion toward "all our relations"? The damnable rule of exclusion from the Ute Sundance originates from the same kind of dark closet that racial segregation and racial hatred toward Black Americans came from that the President condemned in his speech in Topeka last month. I am offended that anyone who claims to believe in the Great Spirit, a compassionate force who requires our love and compassion toward our own Native People, would lower themselves to a point where they become willing participants in the old well-worn game used by our enemies to get our own Indians to continue the entire charade called the "Ute Partition Act" that keeps on hurting and dividing our own tribal people. The kind of racially based rule that will result in the exclusion of many of the illegally terminated Mixed-blood Uintas from the Ute Sundance this year is nothing but a mockery of what these deeply spiritual ceremonies are intended by the Great Spirit to accomplish - Healing and Togetherness. The President called the Jim Crow laws that legally allowed Black segregation a "codified cruelty at the service of segregation." This same description can be applied over 50 years after the *Brown v. Board of Education* decision toward the Ute Partition Act - it too is a "codified cruelty at the service of segregation."

Toward the end of President Bush's speech, he spoke of the courage of the children involved in the *Brown* case and whose battle in the federal courts against forced segregation in schools changed the landscape of American society. He said that on "May 17, 1954, a system of racial oppression in America lost its hold." He also said "Yes, this is the United States and, yes, there is a reason why I salute the flag - a place where the oppressed can stand their ground and win their case." We will soon see if President Bush's last statement about the oppressed standing their ground and winning their case has any truth in America society.

Iraq.

Once again, the matter of national and international concern over “American values” was shoved into the spotlight over the mistreatment and torture of Iraqi prisoners by our own military troops. I heard many commentators try to explain why common and average Americans who came from “small town” America could do such things to other human beings who were at their mercy while in chains and blindfolded. Get a grip on all of this my fellow Americans. Look what happened in Utah and the United States Congress against the Mixed-blood Uintas in 1954 when Black Americans had their chains taken off by the *Brown v. Board of Education* decision. Look at the federal public servants who lied to Congress by telling Senators and Congressman that the Mixed-bloods *willingly* gave up their Indian identity and voluntarily handed their UDC shares over to non-Indians. These lies and misrepresentations that the Mixed-blood Uintas voluntarily asked the federal government to strip them of their souls, identity and land achieved the passage of the UPA. Over the passage of 50 years, the Ute Tribe and others who absconded with the terminated Mixed-bloods’ land and legacy have actually begun to believe the endless parade of lies and fraudulent misrepresentations made by federal civil servants beginning in the early 1950’s. By refusing to see the true picture that the termination of the Uintas was forced and not willing, the Ute Tribe and the non-Indians can comfort their consciences and continue to enrich themselves at the expense of what was originally stolen from the *Felter* plaintiffs though the evil piece of federal legislation that stands for nothing but pure racial hatred against Americas’ own original Indigenous Uintas. Yes, average Americans just like you and me can engage in unspeakable humiliation and torture other human beings *when the circumstances are allow for such inhumane and callous behavior*. Similarly, average Americans just like you and me had no problem in engaging in shoddy, immoral and unconscionable dealing with the terminated Mixed-blood Uintas many of who were forced to sell their UDC shares to feed their families *when the circumstances are allow for such inhumane and callous behavior*. Just ask any of the non-Indian UDC shareholders. The UPA was enacted into law at a time *when the circumstances allowed for such inhumane and callous behavior*. *Federal policy supported “termination.”* Now, the UPA can’t be reversed by the same Congress that enacted this evil racially based piece of dishonorable legislation since the Ute Tribe and other undeserving parties have gained immense economic benefit from their wrongful takings and they will fight to their death to hang on to their ill-gotten gains. This is why they will never admit the truth of the matter that nowhere is there proof that the Mixed-blood Uintas willingly gave up their identities and their land. We must pray for these poor pitiful and pathetic souls who have fallen victim to the Ute Partition Act fallacy and now believe that what the U.S. Congress did to the *Felter* plaintiffs in 1954 was just fine.

As we await Judge Robert’s decision in our case, we must all put all of our collective energies to reflection about “American values” in the context of why the federal court system eradicated the legacy of racial segregation in 1954 while that same court system permits itself to perpetuate and justify the evil that remains on the books in a Nation that holds itself out to the international community as treating its minorities with justice and equality.

In closing, I want to stress that everyone of us involved and committed to the *Felter v. Norton* case need to remember all of the original 490 who have gone on to the Spirit World and who are here in Spirit on Mother Earth to help us on our difficult Journey for Justice. In the middle of all the controversy that comes and goes in this case, I certainly appreciate all of you who have diligently stood tall by our side and not “strayed” from our mission of seeking justice for what was taken away from the Uintas by a malignant piece of federal legislation, the UPA, that must be wiped off the books of our Great Country. I ask all of you to pray for intervention of the Great Spirit as we continue our Journey for Justice and wait for Judge Robert’s decision.

Remember: “We speak the language of social justice and spiritual truth against liars, thieves and hypocrites.”

I am an Indian

I am an Indian, Some may not believe.

Some say unless your full blood that you’re not Indian, but I’m not full, and I AM Indian. I have blood from many tribes, but this does not matter, because I am an Indian. Some of my heritage can’t be traced Because of a stolen Indian Princess, Whose records were destroyed. Some of my heritage can’t be found, Because of name changes, but none of this matters, because I’m an Indian. Some think I’m not an Indian Because I don’t live on a reservation, But this does not matter, because other people’s thinking can’t change what I am, An Indian by Heart and this will never change. No matter what anyone says or does it will not change me, because I am an Indian.

I am an Indian From the Great Basin. My tribe rests within The Uintah Valley, in the state of Utah. People may say they Are not Indian, But they are. Some may not believe we are Indian, But this does not matter, because we believe that we are Indians, and in the end that is what truly matters.

Steven Paul Thunehorst Jr.

May 2004

area of the law that way outside of what we want prove. However, he cannot prove that we will not adequately protect his legal interest when those legal interests are not the ones we are litigating in *Felter*.

I hope this brief explanation will help you understand why the Motion for Intervention was filed and why we want Judge Roberts to deny Gardner's Motion.

I am Native American

I am Native American; because I am Native American! Not because I carry a Certified Degree of Indian blood; not because I have a Federal Identification number; not because I possess a file of tribal papers; I am Native American; because I am Native American!

My family heritage traces quickly to the Iroquois Nation; a grandmother from the Onondaga, a grandfather born of Mohawk, a father adopted by relatives embarrassed by such parentage discarding family papers in order to hide the facts.

I am Native American because I am Native American! Born of a mother of German descent I carry blue eyes and brown hair, but my heart is of this world of America enveloped by the spirit of my Native history.

I am Native American; because I am Native American! So often people are judged by unreal values. When I wear a certain style of hat I am a cowboy. Must I wear feathers and beads to be looked upon as Native American? I accept my physical appearance as it is and do with what I can. My heart, spirit, and mind are learning to be of my Native American culture.

I am Native American; because I am Native American! Those who demand written proof ask the wrong questions. Those who need physical evidence ignore the essence of Native spirit.

Those who search for proper identification seek paper gods. One needs to understand that a license to drive does not a driver make! - G. Craig Young/Onondaga

Commentary's

~~ We're Here to Stay! ~~

By Calvin Hackford

In 1961 the Ute Indian Tribe, United States Government, and the state of Utah all wanted the Mixed Bloods to vanish. But that didn't happen! They remained. In spite of all the "Hardships" the Ute Indian Tribe, Department of Interior and the state of Utah placed them under. They still remain!

Like a burr under the blanket of a saddle, tightly pinned to the flesh of a horse's back, this is what the Mixed Blood Uinta's are to the above... We have been an "irritating and frustrating" set of circumstances for them to contend with. That is why they wish we would have "just Disappeared."

Had the Mixed Blood Uinta's disappeared as they all hoped and wished we would! Then they never would have been "confronted" with the "Injustices" that were perpetrated against the Mixed Blood People and caused such heartbreak, pain and suffering for the Mixed Blood Uinta's of Utah and their descendents... But We didn't disappear and we never will! We're Here to Stay!!!

~~ Who can say who we are? ~~

By Stan Winn

Who can say who we are? Are we Mixed Blood, well are we, if so then why? Or is the fact of the matter that we have been given this classification as a convenient way of justifying our being pushed away, swept under the proverbial rug? This just may have been the question poised which resulted in our becoming "Mixed Bloods".

In the 1930's our parents and grandparents were full blood, then in the 1950's they become Mixed Bloods, an interesting change of events. If I were alive in that place and time how would I have answered the question "are you Ute?" would I have said yes, and forgot the fact that I was Uinta? Considering that over 2/3rd of the Tribal population was Ute, how else could one answer? If you knew that your father and mother were not Ute, what does that make you? We became known as Mixed Blood Utes, and thus have had to use this title while dealing with the Government.

What tribe do we belong to, or which belongs to us? Are we Shoshone, Paiute, Cheyenne, Ute, Apache, or White? Where does our blood come from? Because if we can't answer that question! No one else can either.

I am not saying that we should shun those who are Ute, Uncompagre, White River or Uintah; I am only asking what makes us different than them? If anyone has the answer to my questions or any comments on this subject, I would enjoy hearing them, whether they are positive, negative or somewhere in between.

The Mixed Blood's Direction

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Let us know your thoughts and what is happening with the people we all shared our lives with, write and let us know. To submit an article, comment or news about a person. Write to the Mixed Bloods Direction at the address below or by e-mailing edenver@bak.rr.com. We're looking forward to hearing from you. Submit 30 days after date of this publication...

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