

In the United States Claims Court

No. 102-63

(FILED MAY 14, 1987)

JESSIE SHORT, ET AL., )  
 )  
 Plaintiffs, )  
 )  
 v. )  
 )  
 THE UNITED STATES, )  
 )  
 Defendant, )  
 )  
 and )  
 )  
 THE HOOPA VALLEY TRIBE OF INDIANS, )  
 )  
 Defendant-Intervenor.)

THIS OPINION WILL NOT  
 BE PUBLISHED IN THE  
 U. S. CLAIMS COURT  
 REPORTER BECAUSE IT  
 DOES NOT ADD SIGNIFI-  
 CANTLY TO THE BODY  
 OF LAW AND IS NOT OF  
 WIDESPREAD INTEREST.

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William C. Wunsch, Ida O. Abbott, and Michael S. Greenberg, San Francisco, California, attorneys for the plaintiffs.

Pamela S. West, Harry H. Kelso, and Laura R. Ouverson, Washington, D.C., with whom was Assistant Attorney General F. Henry Habicht II, for the defendant.

Thomas P. Schlosser and Glenn W. Kadish, Seattle, Washington, attorneys for The Hoopa Valley Tribe of Indians.

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OPINION FIVE OF FIVE

MARGOLIS, Judge.

QUALIFICATION OF LESLIE AMMON, NO. 106,  
 UNDER STANDARD A OR THE MANIFEST INJUSTICE EXCEPTION

Plaintiff Leslie Ammon seeks qualification as an Indian of the Hoopa Valley Reservation (Reservation). Trial was held in San Francisco, California from March 30, 1987 through April 4, 1987 to determine his qualification under Standard A or the manifest injustice exception to the A - E Standards. See Jessie Short, et al. v. United States, 719 F.2d 1133, 1144-45 (Fed. Cir. 1983), cert. denied, 467 U.S. 1256 (1984) (Short III).

The defendant United States and the defendant-intervenor Hoopa Valley Tribe assert that Leslie Ammon's connections to the Hoopa Valley Reservation are minimal and do not warrant qualification under manifest injustice. Defendants further argue that he is not an allottee of the Reservation, and he has failed to demonstrate lineal descent from an allottee ancestor as required under Standard A. Leslie Ammon is a member of the Kidd family group composed of thirty-eight (38) Short plaintiffs, who share some common disputed issues of fact with him. To the extent that Leslie Ammon's qualification determination addresses these common factual issues, they are applicable to the Kidd family plaintiffs who have not yet qualified.

The court has considered Leslie Ammon's claims and concludes that he has failed to demonstrate that he is a lineal descendant of an allottee as required under Standard A. Nonetheless, he has established a sufficient nexus with the Hoopa Valley Reservation to qualify as an Indian of the Reservation under the manifest injustice exception.

#### DISCUSSION

Plaintiff Leslie Ammon seeks qualification under Standard A based upon a claim of descent from an allottee ancestor, Old Woman Jacko. Standard A requires a plaintiff to have been alive on October 1, 1949 and be an allottee or a lineal descendant of an allottee of the Hoopa Valley Reservation. Short III, 719 F.2d at 1144. Although the plaintiff was born within the relevant time period, he has failed to adequately prove descent from Old Woman Jacko or any allottee ancestor, and his claim under Standard A is without merit. See transcript, p. 1157 and Short v. United States, No. 102-63, slip ops. two and three (Cl. Ct. May 14, 1987).

Leslie Ammon also claims to qualify under the manifest injustice exception to the A - E Standards on the basis of his personal and ancestral connections to the Hoopa Valley Reservation. To qualify as an Indian of the Reservation under the manifest injustice exception, a plaintiff must adequately demonstrate:

- 1) a significant degree of Indian blood,
- 2) personal connections to the Reservation shown through a substantial period of residence thereon, and
- 3) personal ties to the land of the Reservation, and/or ties to the land through a lineal ancestor.

The plaintiff claims that he possesses 1/4 Hoopa Indian blood which is not contested by the defendants. Leslie Ammon has also lived on the Reservation for nearly ten years since 1977. Leslie Ammon does not have any allottee or assignee ancestors. Although he does not personally possess interests in Reservation lands, he does have some personal ties to the land of the Reservation, as he currently resides in Hoopa, California on the Reservation.

The plaintiff also claims other Reservation contacts including schooling on the Reservation, visits to the Reservation, utilization of natural resources, use of medical services, participation in Indian cultural activities, and other community activities to support his claim. These additional factors are not as significant as the objective criteria of blood, residence, and ties to the land personally or through a lineal ancestor, which constitute the matrix of the A - E Standards.

Leslie Ammon does have a sufficient degree of Indian blood, has lived on the Hoopa Valley Reservation for nearly ten years, and although he does not possess a lineal ancestor who is an original allottee or assignee, he currently resides on the Reservation. Weighing together the three manifest injustice qualification factors, Leslie Ammon has established a sufficient nexus with the Hoopa Valley Reservation, and his exclusion from recovery would therefore constitute manifest injustice.

#### CONCLUSION

The plaintiff has failed to establish descent from an allottee ancestor of the Hoopa Valley Reservation required to qualify under Standard A. However, Leslie Ammon's 1/4 degree of Indian blood, residence on the Hoopa Valley Reservation for nearly ten years, and his

personal ties to Reservation land qualify him under the  
manifest injustice exception to the A - E Standards.

*Lawrence S. Margolis*  
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LAWRENCE S. MARGOLIS  
Judge, U.S. Claims Court

May 14, 1987