

FILED

JUL 01 2013

**IN THE TRIBAL SUPREME COURT OF THE
MISSISSIPPI BAND OF CHOCTAW INDIANS**

**CHOCTAW SUPREME COURT
BY: _____
COURT CLERK**

Virgie Lee Beard Henry

Appellant

vs.

SC 2011-08

Dalton J. Henry

Appellee

**JUDGMENT ON MOTION OF MISSISSIPPI BAND OF
CHOCTAWS FOR REHEARING**

Virgie Henry filed for a divorce on March 6, 2011 in California and served Dalton Henry with process in Mississippi on March 29, 2011. Dalton Henry is a member of the Mississippi Band of Choctaw Indians. Virgie Henry will be referred to as "Virgie."

Dalton Henry filed for a divorce on February 22, 2011 in Mississippi and allegedly served Virgie Henry with process in California on April 3, 2011. Virgie Henry is not a member of the Mississippi Band of Choctaw Indians. Dalton Henry will be referred to as "Dalton."

A Final Judgment of Divorce was rendered on June 15, 2011, by Judge Webb within the Choctaw Tribal Court. There is no dispute that a Clerk's Entry of Default was entered on May 6, 2011 after a Motion for Default was filed by Dalton on May 5, 2011. A hearing was conducted on June 7, 2011 as Virgie's attorney was orally objecting to a "default" hearing claiming insufficient process, lack of jurisdiction and other defenses. Dalton's attorney proceeded because no answer or appearance had been filed on behalf of Virgie prior to the hearing date. Virgie's attorney participated in the hearing.

It is from this backdrop an appeal was taken by Virgie aggrieved of the ruling and on the issue of Mississippi jurisdiction. No notice had been provided to the Mississippi

Band of Choctaw Indians Attorney General with reference to the jurisdictional dispute as required by C.T.C. §1-7-1(2).

This Court granted relief prior to the appearance of the Attorney General's office as outlined in the Court's Order of January 29, 2013 after oral argument. Thereafter, Mississippi Band of Choctaw Indians entered an appearance through the Attorney General's office and requested to be heard which was granted and set for further argument on June 17, 2013.

On June 17, 2013 the Plaintiff's attorney, Honorable Tim L. Taylor appeared, the Defendant's attorney Honorable Steven D. Settlemires appeared, and Honorable Donald L. Kilgore, Attorney General appeared for the Tribe.

After argument and recognizing that this is a case that involves construction of the rules of process of Choctaw Tribal Code and the effectiveness of the ruling of a Final Judgment previously entered, does hereby adjudicate; as follows,

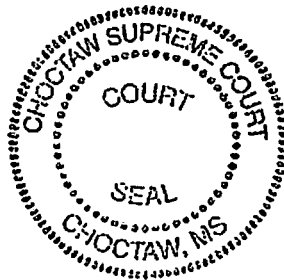
1. The Tribal Court of Mississippi Band of Choctaw Indians has jurisdiction over the pending subject matter and the necessary parties to this litigation;
2. The Motion for Rehearing is granted and jurisdiction is vested in the Choctaw Tribal Court.
3. That the prior Orders of this Court are affirmed and after reviewing the Report of Judge Webb, this matter is to be set for trial in the Choctaw Tribal Court calendar after conference with the parties attorneys.
4. The Final Judgment of June 15, 2011 is still set aside.
5. The parties shall have until July 19, 2013 at 4:30 p.m. to file any additional pleadings or amended pleadings to proceed with a trial on the merits of a pending divorce and related issues between the Henrys.

6. That the litigation shall be expediently set for trial after July 19, 2013 as the rules and respective calendars so allow.
7. That a certified copy of this Judgment be forwarded to the Superior Court of California in Cause No. SWD 1100668 by the Clerk so as to provide notice to said Court of this ruling.
8. The hearing of June 7, 2011 was conducted in part as a result of an unnecessary Default Judgment entry, in part on an oral jurisdiction dispute and ended as a partial trial on the merits. The combination of these conflicting events leaves this Court little option other than as outlined herein.
9. Additionally, if a divorce is granted by the Choctaw Tribal Court, a full decision of equitable division of marital assets along with a determination, of any non-marital assets and the other proper relief requested should be adjudicated pursuant to a Judgment outlining the facts and ultimate opinion upon which the ruling was based.

These parties were married on June 15, 1973 and have been separated for years, this case is ripe for a final disposition of any of their marital issues.

SO ORDERED, this the 1st day of July, 2013.

Per Curiam



CERTIFICATE OF SERVICE

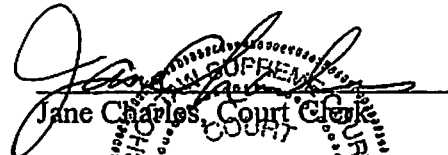
I do hereby certify that I have this, the 2nd day of July 2013 caused to be forwarded by United States Mail a true and correct copy of the above and foregoing document to the below listed counsel of record.

Honorable Timothy L. Taylor
Attorney At Law
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Choctaw, MS 39350

Honorable Steven D. Settlemires
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Mississippi Band of Choctaw Indians
P.O. Box 6358
Choctaw, MS 39350

Honorable Jeff Webb
Choctaw Tribal Civil Court
(Hand Delivery)


Jane Charles, Court Clerk
SEAL
CHOCTAW, MS
COURT