

MSIM v. U.S.

Introduction

- Identifies Mdwakanton Sioux Indians of Minnesota (MSIM) as a BAND.
- Sues the U.S. to “acknowledge” the MSIM.

Jurisdiction

- Administrative Procedures Act

Parties – plaintiffs

- MSIM – consisting of the Lineal Descendants
- MSIM – identified by 1863 Act as a BAND of Indians.
- No Congressional Act has terminated the BAND.
- Margo Bellanger – Lineal Descendant
- Tina Jefferson – Lineal Descendant
- Michael Childs Jr. – Lineal Descendant

Statement of Facts

Paragraph

1. Congress never terminated the MSIM.
 - Prior to 1934 IRA Act, Indians not residing on 1886 lands did not sever tribal relations. 38
 - Indians residing on 1886 lands severed tribal relations and could not organize as a tribe, only as a community of Indians “residing on a reservation” 41
2. Only Congress can terminate a tribe.
 - DOI recognizes MSIM as part of IRA. 50
 - BIA Commissioner Collier establishes communities as “non-tribal” because of their severing of tribal relations. 52
 - DOI approved three community constitutions that reflect the MSIM as the larger group upon which the communities draw their legal identity. 59
3. DOI’s practices fail to recognize MSIM as the “tribe” separate from the communities.
 - DOI is considering approval of a PIIC constitutional amendment eliminating all reference to MSIM. 77
4. At the request of PIIC, Congress revokes the PIIC corporate charter.
 - The 1980 Act placed the land assignment responsibilities in the PIIC corporation. 104
 - After revocation, the PIIC community council assumed that they retained that control. 114
 - The PIIC council took over land assignment responsibilities (including 6096 Whipple Way, Joseph Campbell’s land). 115
 - Erick argues that this responsibility should have gone to the MSIM. 115
5. New DOI rules exclude MSIM
 - PIIC is requesting approval of an election to remove MSIM from their constitution and land assignment system. 123

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| 6. The requested PIIC changes terminate MSIM without congressional approval. | |
| • The changes revise the PIIC status from “residing on reservation” to “tribal”. | 127 |
| • MSIM has been acknowledged as the tribe since 1934. | 148 |
| 7. The 1994 changes to the IRA allowing the DOI to <u>NOT</u> acknowledge MSIM violates federal law. | |
| • MSIM is the sole entity entitled to sue the US for the land claims, the communities cannot. | 174 |
| 8. MSIM has rights to the 12 square miles. | 220 |
| 9. DOI refuses to acknowledge MSIM | |
| • MSIM has been acknowledged in the past. | 224 |
| • The lack of recent recognition by the DOI does not preclude the fact that MSIM was acknowledged as a tribe in 1934. | 230 |
| Count I - Declaratory Judgment | |
| 1. Plaintiffs request Court to find the DOI violated the statutory rights of the MSIM. | 252 |
| Count II – Injunction | |
| 1. Plaintiffs request injunction to force DOI to consult with MSIM on land assignments and provide possession of the 12 square miles or a legal equivalent. | 259 |
| Prayer for Relief | |
| 1. Grant injunctions | |
| 2. Pay attorney fees | |
| 3. Reimburse plaintiffs | |