IN THE

Supreme Court of the United States

MAHICAN TRIBE AND MI'KMAQ TRIBE,

Complainants,

v.

CANADA, FRANCE, NETHERLANDS, PORTUGAL, RUSSIA, SPAIN, UNITED KINGDOM AND UNITED STATES,

Respondents.

Motion for Leave to File a Motion for Leave to File a Document in Excess of Word Limits in Extraordinary Circumstances and Related Relief

(Art. III, §2, ¶2 and rr. 17.3, 17.4, 18.13, 22 and 33.2)

AMENDMENT TO MOTION, FOR RELATED RELIEF

Under letter dated March 18, 2011, the Clerk refused to docket this case consisting in the motion for leave to file a bill of complaint, the bill of complaint and the motion to modify compliance in extraordinary circumstances and related relief, tendered for docketing March 17, 2011, on the ground: "Pursuant to Rule 9 of the Supreme Court Rules you must be a member of the Supreme Court Bar in order to file a document in a representative capacity."

In fact the case was not tendered for filing by its signatories "in a representative capacity" but rather, as appears from the executing signatures at page 30 of the motion for leave to file a bill of complaint and page 25 of the Bill of Complaint, by its signatories as the particular "public Ministers" personally "affected" within the meaning of Article III, §2, ¶2, which article concedes them party status capable of maintaining the proceeding on a *pro se* basis.

If this is in error the submission is, the error is one of form not substance and, failing reasonable and fair accommodation by the Clerk in respect of the form so as to accommodate the substance, the complainants hereby apply to amend their motion for a judicial waiver of compliance, to accommodate an additional "Extraordinary Circumstance," the existence and nature of which justifies an Order permitting the case to proceed on an unrepresented basis.

The extraordinary circumstance, already amply apparent in the text of the tendered documents, is that the legal profession, as such, labors under such a profound and intractable structural conflict of interest with regard to the constitutional question of jurisdictional law alone to which the case is restricted, as to preclude the possibility of genuinely independent and impartial representation by any member of the profession.

Secondly, as also is readily apparent from a reading of the documents tendered, the legal research adduced in resolution of the constitutional jurisdictional question hereto is far too specialized and sophisticated to be within the competence of any lawyer presently practicing at the US Supreme Court bar. None is able, let alone willing and ready, and the complainants have tried, again and again and again.

Thirdly such lawyers as do promote themselves and are considered and recommended by others as specialists in the field of Indian Affairs and Indigenous Rights in fact are *parti pris* as *de facto* agents of the genocide of which complaint is made. All, without exception, earn their wages steering aboriginal peoples away from Indian Tribal Sovereignty based solely upon original occupation and the constitutional and treaty law protecting it, toward relying instead upon the very federal law pursuant to which the genocidally unconstitutional invasion, occupation, usurpation and dispossession historically was made and is being maintained. There is no money to be made acting for Indian Tribal Sovereignty, only for acting to sell it out or in order to obtain casino rights or other federal perquisites obscenely antithetical to the *raison d'être* of true indigenous culture.

THEREFORE this motion is for relief from the abuse of process by which substance is subrogated to form and the crime is committed or, alternatively, for the designation of a court-appointed counsel for the sole purpose of filing the case but without any other jurisdiction or authority whatsoever to compromise or speak to the constitutional jurisdictional issue on its merits.

March 23, 2011.

Rick Vanguilder, Public Minister
Mahican Tribe

Gary Metallic, Public Minister
Mi'kmaq Tribe

HONORABLE CLERK: Please consider:
APPENDIX "A": ALTERNATIVE PRETENCES
APPENDIX "B": CONSTITIONAL DUTY
APPENDIX "C": ALERNATIVE AMENDEMENT TO STYLE OF CAUSE

APPENDIX "A": ALTERNATIVE PRETENCES

The Clerk can not, legitimately, reject for non-compliance with 28 USC §1251(b)(1) EVEN THOUGH the case complies with Article III, §2, ¶2 of the *Constitution*, without the Tribes being afforded the opportunity to point out the existence of the conflict between the two enactments and make their submission that in consequence of the conflict Article III, §2, ¶2 governs and, therefore, 28 USC §1251(b)(1) is null and void.

The crucial difference between Article III, §2, ¶2 and 28 USC §1251(b)(1) is that the latter pretends to amend the former by adding to it the restrictive phrase "of foreign states are parties." Under Article III, §2, ¶2 as the case presented establishes on the merits it is enough that the case "affects" Ambassadors or other public Ministers. Whether they be of Indian Tribes or foreign Nations is of no constitutional consequence. In contrast 28 USC §1251(b) enacts, "The Supreme Court shall have original but not exclusive jurisdiction of: (1) All actions or proceedings to which ambassadors, other public ministers, consuls, or vice consuls of foreign states are parties." Article §2, ¶2 contains no such limitation to "foreign states."

The 28 USC §1251(b)(1) *de facto* amendment of Article III, §2, ¶2 by Congress is void for non-compliance with the Article V Amendment Clause for the same reason as the *Appropriations Act, 1871,* is *prima facie* null and void. The 1871 statute pretended to repeal the previously established sovereign jurisdiction of the Tribes to contract Treaties pursuant to the Treaty Clause, as remarked by Thomas, J, in the 2004 *Lara* case. As the *Appropriations Act* unconstitutionally pretended to repeal the right of tribal sovereignty so also 28 USC §1251(b)(1) pretends to repeal that constitutional right's corresponding constitutional remedy.

The same reasoning applies with regard to the 1831 case of *Cherokee Nation v. State of Georgia* in which the Tribe there in question complained, specifically and only, pursuant to the sub-clause of Article §2, ¶2 concerning cases "between a state...and foreign states." The Court held a Tribe is not "foreign" and, on this basis, this Court held [p.20], "this court cannot interpose; at least in the form in which those matters are presented."

The Mahican Tribe and Mi'kmaq Tribe present their complaint upon an entirely different sub-clause, *i.e.,* in a different "form," as implicitly was authorized by the Chief Justice. The risk nevertheless is, the Clerk may prejudge the issue as *res judicata* when, for a legal certainty, it is easily provable not to be. The Tribes justifiably and quite rightly chose to leave their rebuttals of any attempt by any respondent to rely upon either 28 USC §1251(b)(1) or the *Cherokee* case to the response stage of the pleadings. It would be a manifest miscarriage of justice of genocidal consequence were the Clerk by refusing to docket the case to preempt those perfectly valid responses.

APPENDIX "B": CONSTITUTIONAL DUTY

TO THE CLERK OF THIS COURT: This *praecipe* requires you as chief administrative officer of this Court to implement the paramount constitutional administrative duty to interpret and apply the procedural law to serve, rather that to evade, the substantive record of the Defence, Treaty, Commerce and Amendment Clauses read together and declared by this Court in the original, authoritative and therefore constitutive interpretive precedents, the substance of which is that the case urgently needs to be addressed by the Court in order to prevent genocide by upholding the *Constitution*.

WHEREAS THE CLERK'S implementation of Rule 9's procedural law stipulation *de facto* preempts compliance by each individual Justice of the Court with each such Justice's primary personal constitutional duty, at least according to this Court in *Marbury v. Madison*, to uphold one's oath of fealty by addressing and implementing the preceding constitutional question of fundamental jurisdictional law alone, instead of inflicting genocide by ignoring the question and the un-contradicted law resolving it.

GARY METALLIC AND RICK VANGUILDER beg you as a fellow human being please do not maintain the reign of terror over them by withholding from the Court itself the only constitutional question that matters above all others. Your decision to docket, or not, determines whether the law and the rule of law rule, or whether you rule and, rule by ensuring the unconstitutional war and genocide continues. You should by law let the judges decide but you can, apparently, get away with ensuring the continuity of the anti-law with otherwise preventable genocide by subrogating the substantive law preventing it to the Catch-22 that only a lawyer can file the case, in circumstances where it is the legal profession's refusal to address the law that is the cause of the complaint. By every standard of fairness and truth in justice it is genocidally criminal to insist on having a lawyer when the monopoly of the lawyers is the reason the Indian Tribes' right has been and is being nullified in practice by the systemic and systematic stonewalling of the substance. Please don't do this. Please let the judges think about and decide.

APPENDIX "C": ALTERNATIVE AMENDMENT TO STYLE OF CAUSE

Alternatively the ostensible but merely cosmetic non-compliance with Rule 9 perhaps most easily, speedily and least expensively can be resolved simply by amending the style of cause more adequately to display on its face the fact that the complainants *prima facie* are entitled to complain *pro se* in compliance with the precise wording of Article III, §2, ¶2: "In all Cases affecting Ambassadors, other public Ministers and Consuls...the supreme Court shall have original Jurisdiction". TO WIT:

<u>Amended</u> Fresh Style of Cause

GARY METALLIC and RICK VANGUILDER complaining *pro se* pursuant to the *Constitution*, Article III, §2, ¶2 in this case with regard to judicial inactivity genocidally "affecting" them as "Ambassadors and public Ministers" of the Mi'kmaq and Mahican Tribes respectively,

Complainants,

v.

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Respondents.