

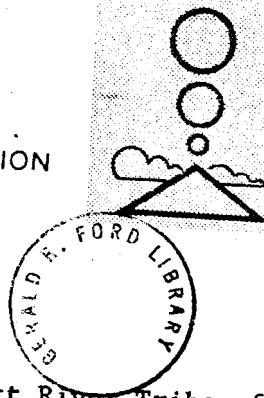
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WASHINGTON, D.C.--(AIPA)--The Pitt River Tribe of northern inland California has asked the Supreme Court to order a review of its claims after receiving no response to requests for White House intervention, and following unsuccessful attempts to prevent logging operations on ancestral lands claimed by them, and subsequent to dismissal of petitions to the Federal Court of Appeals and the U.S. Court of Claims for a reopening of their case.

The tribe, represented by San Francisco attorney Aubrey Grossman, filed a petition in the Supreme Court Apr. 15 requesting that the high court order a review by the U.S. Court of Claims of a 1964 Indian Claims Commission (ICC) judgment that the Pitt River claim to 3,500,000 acres had been resolved by the overall settlement of California Indians awarded at that time.

In seeking the review, the Pitt River Tribe claims that discrepancies existed in the election supervised by the Bureau of Indian Affairs (BIA) to determine whether the 1964 ICC settlement was acceptable to the tribe, that payment of 47 cents per acre awarded by the ICC was significantly less than the value of the land, and that the tribe was prevented from dismissing counsel and obtaining the services of an attorney willing to appeal the ruling.

In a statement announcing filing of the petition, Grossman said that Pitt River would like an opportunity to prove they were denied a fair election on their participation in the California settlement. "It offered to prove that many persons who voted, from a list prepared by the BIA, were not Pitt River Indians--and that some were not even Indians," he said. Grossman stated that the tribe has been prevented from proving any of its claims because "its attorney was wedded to the settlement and argued for it; and that government refused to let the tribe change attorneys" and "also refused to let the tribe appeal the case to the Court of Claims."

The tribe claims that their attorney refused to act in their interest, and that the BIA would not approve a contract with a lawyer who would act in accord with their wishes. In 1964, when the tribe tried to retain Atty. Melvin M. Belli to enter an appeal in the ICC California settlement, the BIA Commissioner notified Belli that his contract would not be approved because the BIA was not notified in advance of the tribal meeting in which the decision was made to retain Belli and because that meeting "was not called by a (BIA) representative" as prescribed by federal regulations.

The tribe maintains that it was prohibited from entering into a new contract because the government wanted to prevent an appeal of its case. Grossman agreed to represent the tribe without fee in order to avoid the necessity for government approval of his contract. Yet, by the time he entered a petition for reopening the case in September of 1972 with the Court of Claims, the petition was dismissed on grounds of the statute of limitations.

The Pitt River petition provides much emphasis on the tribe's difficulties in directing counsel to appeal the ICC judgment. In part, the petition states: There is certainly no other case where an Indian tribe has been unable to file an appeal because the government would not let them change attorneys in order to obtain an attorney

who would agree to file an appeal, and then were barred from court on grounds of statute of limitations..." Other reasons set forth by the tribe for the granting of the petition include:

--The tribe claims that California Indians were misled into accepting payments amounting to a figure of from two to 19 percent of land values established by the ICC and Court of Claims under normal appraisal rules;

--Tribal enrollment for the purpose of participation in the settlement was so much increased against the wishes of the tribe that claims money was distributed among persons with less than one percent of Indian blood;

--Because of dismissal of its petitions for review or appeal, the tribe claims, a conflict exists with right to counsel decisions of the Supreme Court and decisions of other courts of appeal in cases of negligence of counsel and attorney participation in fraud.

In a telephone interview, Grossman told AIPA that a decision on whether the case may be reviewed will probably not be made until after the Supreme Court begins its term in October. Grossman added that the best he could hope for was a determination from the court that the tribe was denied the right to counsel and the right to appeal the ICC judgment and, on these grounds, that the court would remand the case to either the ICC or Court of Claims for review. "Legally, deprivation of counsel is the one thing they can't possibly dodge," he said.

He held little hope that the court would consider other points raised in the petition, such as alleged mismanagement of the election which voted acceptance of the 1964 judgment and the amount established by the ICC for payment of the settlement, believing them to be "small questions" more properly belonging in a lower court.

Should the high court decide not to order the case reopened, the only opportunity remaining for the tribe to regain possession of any of its ancestral lands would rest in an appeal for congressional action. Approximately two-thirds of the acreage claimed lies within the jurisdiction of the U.S. Forest Service, with the remainder being under private ownership. Grossman estimated that restoration of 10,000 acres of this land would permit the tribe to become economically viable.

Among the California Indian population of about 80,000, the Pitt River Tribe with less than 500 members is believed to be the only group fighting for land restoration. Other California Indians have formed an organization called California Indians for a Fair Settlement (CIFS) and are seeking additional cash payments for their 64 million acre settlement.

