

David Bales v. Chickasaw Nation Industries

606 F. Supp. 2d 1299 (2009)

Facts

- a. This case was brought before the United States District Court for the District of New Mexico. The decision was made March 19, 2009.
- b. David Bales, a non-Native American, sued Chickasaw Nation Industries for employment discrimination. Chickasaw Nation Industries is wholly owned and operated by the Chickasaw Nation of Oklahoma and conducts business in New Mexico.
- c. Bales sued under Title VII of the Civil Rights Act of 1964, the federal Age Discrimination in Employment Act (ADEA), and New Mexico common law.
- d. Chickasaw Nation Industries moved to dismiss the suit for lack of subject matter jurisdiction based on sovereign immunity. Chickasaw Nation Industries argues that tribal sovereign immunity bars this lawsuit because the corporation is wholly owned by a federally recognized tribe.
- e. A provision of the Oklahoma Indian Welfare Act permits Native American tribes in Oklahoma to request a charter of incorporation; the charter of incorporation provides a tribal corporation any other rights or privileges given to the Native American tribe.

Questions

1. Does Chickasaw Nation Industries enjoy tribal sovereign immunity due to its status as an incorporated corporation wholly owned by the Chickasaw Nation?
2. Has Congress annulled Chickasaw's tribal sovereign immunity in regards to Title VII or the ADEA?
3. Is New Mexico state law applicable or enforceable against Chickasaw Nation Industries?

Decisions

- a. Bales did not demonstrate that Chickasaw Nation Industries did not enjoy tribal sovereign immunity.
- b. Chickasaw Nation Industry was a chartered corporation under the Oklahoma Indian Welfare Act. Because Chickasaw was a chartered corporation, sovereign immunity transferred from the tribe to its corporation, even though the tribe was participating in commercial acts.
- c. Because congress has never specifically annulled Chickasaw Nation's tribal sovereignty in regards to Title VII or ADEA cases, and New Mexico common law is not controlling, the Court dismissed this case due to lack of subject matter jurisdiction.

Principles

- a. Sovereign immunity shields sovereign states from having to respond to suits in the courts of

another country. Restrictive immunity only shields foreign governments from suit when they were acting like a sovereign and not a private merchant.

b. Tribal immunity is a matter of federal law and is not subject to diminution by the States.

c. Tribal sovereign immunity can be waived only if a tribe waives it or if Congress specifically annuls tribal sovereign immunity for a specific statute.

d. United States Supreme Court precedent established that tribes enjoy tribal sovereign immunity from suit by a non-Native American entity no matter if the actions by the tribe involved governmental or commercial activities and whether they were made on or off a reservation.

Conclusions

The decision in *Bales v. Chickasaw Nation Industries* recognized Chickasaw Nation's sovereign immunity, as well as the sovereign immunity of an economic arm of the Chickasaw Nation. The decision in this case synthesized various District and Supreme Court decisions and put to rest a few important questions: whether Native American Tribes and their chartered corporations have sovereign immunity, whether non-Native Americans can sue Native American Tribes for corporate actions in another state, and whether state law applies to Native American Tribes. Although this is only the District Court of New Mexico, it will be controlling for any trials regarding Native American sovereign immunity in the state of New Mexico.

Bibliography

David Bales v. Chickasaw Nation Industries; 606 F. Supp. 2d 1299 (2009)

Kiowa Tribe of Oklahoma v. Mfg. Techs., Inc., 523 U.S. 751

Submitted

Bianca Vazquez, October 8, 2009