

Proposed Finding

Against Acknowledgment of

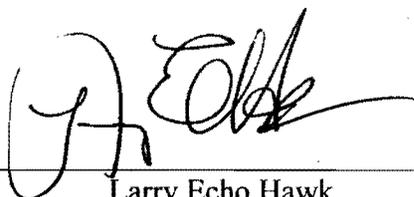
The Central Band of Cherokee  
(Petitioner #227)

Prepared in Response to the Petition Submitted to the Assistant Secretary – Indian Affairs for  
Federal Acknowledgment as an Indian Tribe

**AUG 06 2010**

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(Date)



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## BIBLIOGRAPHY

## ABBREVIATIONS OR ACRONYMS USED IN THIS REPORT

AS-IA	Assistant Secretary – Indian Affairs
BIA	Bureau of Indian Affairs
CBC	Central Band of Cherokee, the Petitioner (formerly the Cherokees of Lawrence County, TN)
CFR	Code of Federal Regulations
FD	Final Determination
FR	<b>Federal Register</b>
IBIA	Interior Board of Indian Appeals
OFA	Office of Federal Acknowledgment
PF	Proposed Finding
SECCI	Southeastern Cherokee Confederacy, Inc. (also SECC), a previous petitioner for Federal acknowledgment
TA	Technical Assistance
TN	Tennessee
U.S.	United States

**Summary under the Criteria and Evidence for the  
Proposed Finding against the Federal Acknowledgment of the  
Central Band of Cherokee**

**INTRODUCTION**

The Office of the Assistant Secretary – Indian Affairs (Assistant Secretary or AS-IA) within the Department of the Interior (Department) issues this proposed finding against Federal acknowledgment as an American Indian tribe in response to the petition the Department received from the group known as the Central Band of Cherokee (CBC), Petitioner #227, with its office located in Lawrenceburg, Lawrence County, Tennessee. The petitioner seeks Federal acknowledgment as an Indian tribe under Part 83 of Title 25 of the Code of Federal Regulations (25 CFR Part 83), “Procedures for Establishing that an American Indian Group Exists as an Indian Tribe.”

The acknowledgment regulations, 25 CFR Part 83, establish the procedures by which groups may seek Federal acknowledgment as an Indian tribe entitled to a government-to-government relationship with the United States. To be entitled to such a political relationship, the petitioner must submit documentary evidence that the group meets all seven mandatory criteria set forth in section 83.7 of the regulations. The Department shall acknowledge the petitioner as an Indian tribe when it determines that the group satisfies all of the criteria in sections 83.7(a)-(g), and shall decline to acknowledge a petitioner as an Indian tribe if it fails to satisfy any one of those criteria. The Office of Federal Acknowledgment (OFA) within the Office of the AS-IA has responsibility for Federal acknowledgment, administering the regulations and evaluating petitions based on the evidence in the administrative record.

In the case of Petitioner #227, the Assistant Secretary completed an expedited review of its petition under section 83.10(e) of the regulations that provides:

Prior to active consideration, the Assistant Secretary shall investigate any petitioner whose documented petition and response to the technical assistance letter indicates that there is little or no evidence that establishes that the group can meet the mandatory criteria in paragraphs (e), (f), or (g) of §83.7.

(1) If this review finds that the evidence clearly establishes that the group does not meet the mandatory criteria in paragraphs (e), (f), or (g) of §83.7, a full consideration of the documented petition under all seven of the mandatory criteria will not be undertaken. . . . Rather, the Assistant Secretary shall instead decline to acknowledge that the petitioner is an Indian tribe and publish a proposed finding to that effect in the **Federal Register**.

OFA’s September 17, 2009, letter advised Petitioner #227 that this review would be conducted under the guidance and direction outlined in Section VI of the May 23, 2008, **Federal Register** notice, which stated:

The Department may issue an expedited proposed finding against Federal acknowledgment under section 83.10(e), prior to placing the group on the Ready list. OFA may prepare an expedited proposed finding as appropriate, once a petitioner has formally responded to a TA review letter or when a petitioner requests to be placed on the “Ready” list or states in writing in a document certified by the petitioner’s governing body that the petition is complete or that the Assistant Secretary should proceed with the active consideration of the petition.

OFA completed the initial TA review on the documented petition in March 2007. Petitioner #227 responded with additional materials and made two requests that its petition be reviewed under the seven mandatory criteria (White et al. 10/12/2008, 7/12/2009). Petitioner #227 also stated in an August 9, 2009, letter signed by its governing body, that its petition is “complete” and requested that the group be placed on the “Ready List” (White et al. 8/9/2009).

After the technical assistance phase and prior to placing Petitioner #227 on active consideration, OFA investigated whether Petitioner #227 qualified for an expedited finding under 83.10(e) because the petition documentation and response to the TA review letter indicated that there was no evidence that Petitioner #227 could meet the mandatory criterion 83.7(e) for descent from the historical Indian tribe. There is no evidence in the record submitted by the petitioner or in the evidence located by Department researchers that demonstrates any of the group’s claimed ancestors were members or descendants of the historical Cherokee tribe. Neither is there evidence that any of the claimed ancestors were members or descendants of any other tribe of American Indians. This complete lack of evidence that the petitioner could meet criterion 83.7(e) triggered a fuller review under 83.10(e) that allows the Department to issue expedited proposed findings before placing a petitioner on active consideration.

The petitioner submitted copies of censuses, voter lists, and other historical documents that mentioned some of the petitioner’s claimed ancestors. It also submitted undocumented genealogical charts, reports, and individually produced or self-published genealogies that included family legends or traditions that some of those individuals were Cherokee or other Indians. However, the petitioner did not submit evidence acceptable to the Secretary to validate any of the claims or traditions that those individuals were Indian descendants. Additionally, OFA was not able to find any documents to verify the petitioner’s claims of Indian ancestors, even though OFA’s investigation located the petitioner’s claimed ancestors on Federal censuses, marriage records, and other readily available sources. Those ancestors (both men and women) were consistently identified in those sources as non-Indians. In fact, the evidence clearly demonstrates that the petitioner’s ancestors were not Indians, but were White settlers coming to Tennessee in the early and mid-1800s from disparate locations. This expedited review finds that the evidence clearly establishes that the group does not meet the requirements of criterion 83.7(e). Therefore, a full review under all seven of the criteria is not undertaken.

The following sections review the claims and materials submitted by Petitioner #227 in its documented petition and OFA’s analysis of that evidence. This analysis also considers the materials that were discussed in the Department’s 2007 TA letter, the evidence the group

submitted in response to the TA letter, and the additional evidence gathered by OFA in the review process.

In accordance with the regulations set forth in 25 CFR Part 83, the failure to meet any of the seven criteria requires a determination that the petitioning group is not an Indian tribe within the meaning of Federal law. The Department's review of Petitioner #227 under the provisions of 83.10(e) demonstrates that the evidence clearly shows the petitioner fails to meet criterion 83.7(e), which permits the AS-IA to make a negative determination under this single criterion. Therefore, the AS-IA proposes to decline to acknowledge Petitioner #227, the group known as the "Central Band of Cherokee."

### Regulatory Procedures

The acknowledgment regulations under 25 CFR Part 83 establish the procedures by which a non-federally recognized group may seek Federal acknowledgment as an Indian tribe, thereby establishing a government-to-government relationship with the United States. To be entitled to such a political relationship with the United States, the petitioner must submit evidence documenting that the group meets the seven mandatory criteria set forth in section 83.7 of the regulations. Failure to meet any one of the mandatory criteria will result in a determination that the group is not an Indian tribe within the meaning of Federal law. Therefore, failure to meet criterion 83.7(e) results in a negative finding.

The acknowledgment regulations in section 83.10 set forth time periods during active consideration of documented petitions. Publication of the notice of the proposed finding in the **Federal Register** initiates a 180-day comment period during which the petitioner, and interested and informed parties, may submit arguments and evidence to support or rebut the proposed finding. Such comments should be submitted in writing to the Office of the Assistant Secretary – Indian Affairs, 1951 Constitution Avenue, N.W., Mail Stop 34B-SIB, Washington, D.C. 20240, Attention: Office of Federal Acknowledgment. Interested and informed parties must provide copies of their submissions to the petitioner.

The regulations at 25 CFR 83.10(k) provide petitioners a minimum of 60 days to respond to any comments on the proposed finding submitted during the comment period. At the end of the response period for the proposed finding, OFA shall consult with the petitioner and interested parties to determine an equitable time frame for consideration of written arguments and evidence that are submitted during the comment and response periods. OFA shall notify the petitioner and interested parties of the date such consideration begins.

After consideration of the evidence, the AS-IA will issue a final determination (FD) regarding the petitioner's status. The Department will publish a notice of the FD in the **Federal Register**. If evidence submitted during the comment period is sufficient to demonstrate the petitioner meets criterion 83.7(e) under the reasonable likelihood of the validity of the facts standard, then the Department will issue an amended proposed finding on all seven criteria following standard procedures for non-expedited cases. If, in the response to the proposed finding, there is not

sufficient evidence that the petitioner meets criterion 83.7(e) under the reasonable likelihood standard, the AS-IA will issue the FD based upon criterion 83.7(e) alone.

### Administrative History of the Petitioner

On September 9, 2000, the Department received a letter of intent to petition for Federal acknowledgment as an Indian tribe from a group called the "Cherokee's of Lawrence County, TN Sugar Creek Band of the SECCI," Petitioner #227 (White et al. 9/9/2000).<sup>1</sup> This letter was signed by five members of the governing body, including Joe Harlan White, "Council Elder," who has been the primary correspondent for the group and is currently identified as the group's "Principal Chief." In November 2007 the Department received notification that the group officially changed its name to the "Central Band of Cherokee" (White et al. 11/20/2007).

OFA completed the initial TA review of the petition under section 83.10(b) on March 7, 2007 (Souther 3/7/2007). The TA review letter described obvious deficiencies and significant omissions apparent in the petition materials that Petitioner #227 submitted on September 14, 2000; May 3, 2002; August 8, 2003; May 21, 2004; February 1, 2005; and December 12, 2006, as well as in other materials and correspondence that had not been certified by the group's governing body as part of its documented petition.

Petitioner #227's response to the TA letter included Joe H. White's cover letter and 26 pages of his handwritten annotations to a copy of the TA letter (White, 3/31/2007), various other submissions in 2007, 2008, and 2009, as well as the request to be placed on the "Ready List."

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<sup>1</sup> The "SECCI" appears to be the acronym for the "Southeastern Cherokee Council, Inc.," formerly known as the Southeastern Cherokee Confederacy, Inc., (SECC) a group that initially organized in 1976 in Leesburg, Florida, and petitioned for Federal acknowledgment (Petitioner #29) in March 1978. The Department issued a final determination in 1985 that the SECC did not meet four of the seven mandatory criteria (83.7(a), (b), (c), and (e)) and was not an Indian tribe under Federal law. The Department found that the SECC petitioner was not a historical or legal successor to the historical Cherokee tribe, but was composed of individuals joining "in an effort to get in contact with and learn more about their own Indian heritage" (FR 50, 12872). The SECC or now SECCI continues to exist: it is composed of a number of "bands" located in different states (eight "bands" in 1985) including new "bands," that were formed after the FD was issued. See the Department's Internet site <<http://www.bia.gov/whoware/ASIA/OFA>> for copies of the 1985 PF and FD for the SECC for additional details.

In September 2000, the petitioner stated that 50 (unnamed) of the 150 members of the group had become members of the SECCI within the last 10 months, but that "We are only a 'band in formation' to the SECCI" and that the BIA's prior dealings with the SECC "has no effect on us and our group" (White et al. 9/14/2000). In February 2001, the petitioner claimed a distinction between the "Southeastern Cherokee Confederacy, Inc.," which they claim they did not belong to, and the "Southeastern Cherokee Council, Inc.," which Joe H. White admits he joined in 1999, and others joined in 2000. Joe White also stated "none of us had any knowledge that joining a 501 C3 Educational Organization could affect our position for Federal Recognition as a Tribe with the BIA" (White 2/14/2001). The petitioner changed its name twice since its initial petition for Federal acknowledgment, dropped the references to SECCI in its name, and has not provided any evidence that it completed "forming a band" under the SECCI or under SECCI's current manifestation as the "American Cherokee Confederacy." The Department's researchers reviewed the names on the 1984 membership lists for the various bands of the SECC, but did not find anyone who was a resident of Lawrence County, TN, and did not find any of Petitioner #227's members' names on those SECC lists. The Department determined, therefore, that Petitioner #227 is not the same as or a part of Petitioner #29, a group that has been denied Federal acknowledgment as an Indian tribe (83.3(f)). Therefore, Petitioner #227 is eligible to continue in the acknowledgment process.

While proceeding with the acknowledgment process, in 2006 “Chief Joe Sitting Owl White” filed an action in the United States Court of Federal Claims on behalf of the “Cherokee of Lawrence County, Tennessee,” including an application to proceed *in forma pauperis* [a poor person not liable for court fees or costs], to “pursue a takings claim against the United States challenging the alleged failure of the Government to deliver clear title and deed to the 1806 Congressional Reservation, including the Smoky Mountain National Park and the Cherokee National Forest” (*Cherokee of Lawrence County, Tennessee v. U.S.*, 2006 U.S. Claims LEXIS 482, at \*1). The court granted Defendant’s motion to strike the Plaintiff’s complaint because Joe H. White is not an attorney and thus not qualified to represent the Plaintiff in the case.

### Historical Overview

The petitioner claims its members are descendants of Cherokee Indians who had not given up their rights to the lands in Tennessee that were identified in an 1806 treaty with the historical “Cherokee nation of Indians.” However, despite the petitioner’s many assertions, there is no evidence that the petitioner’s named ancestors were a part of the Cherokee nation in 1806 or at any other time. There is no evidence that its claimed ancestors were identified as Indians or that they were in Tennessee prior to 1806 and a part of the tribe identified by the treaty. There is no evidence that a remnant of the historical Cherokee remained in Tennessee after the 1806 treaty or that the petitioner’s non-Indian ancestors who migrated to Tennessee after 1806 married Indians who were part of such an alleged remnant band of the Cherokee in Tennessee. All of the evidence points to the petitioner’s male and female ancestors being non-Indians living as part of the general population.

The petitioner claims that some of its ancestors living in Tennessee evaded removal or escaped when the Cherokee were removed from North Carolina and resettled in what would become Oklahoma in the late 1830s. The petitioner referred to maps of the Cherokee Removal routes that showed that “Bell’s Route” passed through Lawrence County, TN, in 1838 (White 3/31/2007). The petitioner’s apparent belief that some of the Cherokee left their tribe and settled in Lawrence County during the removal is unsupported speculation. There is no evidence submitted by the petitioner or located by OFA that links the petitioner or its known ancestors with these events.

The petitioner also claims that the group “has proven through the written historical record and scientific DNA that the Cherokee, and many Eastern Tribes are Hebrew, and a ‘Lost Tribe of Israel’” (White 3/31/2007, 9; and see 3/31/2009 Exhibit B “Cherokee Hebrew Archaeological Record,” and Exhibit H: “The Story of the Cherokee Camp, Sugar Creek Patch”). Such claims do not demonstrate the petitioner’s descent from the historical Indian tribe required under criterion 83.7(e). Even if the statements are accurate descriptions of DNA analysis in various populations, the data does not demonstrate any relationship between the petitioner’s ancestors and the historical Cherokee tribe.

The material in the record, which includes the documents reviewed for the 2007 TA letter, the group’s submissions since then, and OFA’s research, shows that Petitioner #227 is a recently

formed group of individuals who each claim to have Indian ancestors, but who have not documented any of those claims. There is no evidence that the group now known as the “Central Band of Cherokee,” existed prior to its emergence in 2000 as the “Cherokees of Lawrence County, TN Sugar Creek Band of the SECCI.” The regulations provide that the Department may not acknowledge associations, organizations, corporations, or groups of any character formed in recent times (83.3(c)).

The Petitioner #227 submitted no evidence that it existed by any name prior to 2000, or that its members descend from any historical Indian tribe. The Department’s researchers investigated the petitioner and looked in places where we would expect to find evidence of descent from the historical tribe. This investigation located evidence that clearly shows the petitioner’s members do not descend from any Cherokee group or any other Indian tribe. This lack of evidence for descent from the historical tribe allows an expedited proposed finding against Federal acknowledgment under section 83.10(e), prior to active consideration. The Department’s analysis of the group’s genealogical data finds that the evidence in the record demonstrates that Petitioner #227’s membership clearly does not consist of individuals who descend from a historical Indian tribe or from historical Indian tribes that combined and functioned as a single autonomous political entity. The evidence clearly establishes that the petitioner does not meet mandatory criterion 83.7(e), as required by the regulations at section 83.7(e) as modified by 83.10(e).

#### Petitioner’s Membership Criteria in its Governing Document

On May 3, 2002, OFA received a copy of the “Bylaws of the Cherokees of Lawrence County Tennessee, Sugar Creek Band of the SECCI” that was “adopted Spring Meeting, 2000-Center Point, TN” (White et al. 5/3/2002). It was signed by two individuals: Charles P. Brown and Joe H. White, on March 1, 2000. OFA is treating these as the current bylaws. Section 2 states that the “Cherokees of Lawrence County Tennessee, Sugar Creek Band of the SECCI” was incorporated as a non-profit corporation for charitable and religious purposes under the Tennessee nonprofit corporation code (CBC Bylaws, 1).<sup>2</sup> The November-December 2007 issue of the group’s newsletter stated that the membership and council voted in October 2007 to change the name of the group officially to the “Central Band of Cherokee” (See *Administrative History* section above and White et al. 11/20/2007.)

Section 4.1 of the current bylaws states that the “membership of the corporation shall be open to all persons of Native American ancestry” and that the corporation “accepts the integrity and veracity of Native American descendants.” Section 4.2 states that “Proof of Native American ancestry will be required by the Council prior to approval of the application or at any time during the period of active membership of the member” (CBC Bylaws, 1). [Emphasis added.]

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<sup>2</sup> A January 25, 2000, letter from Vicky Garland, Joe White, and others, to Vivian Lawson, Council of Southeastern Cherokee, Inc. asked permission to form a band in Lawrence County and choose the name “Sugar Creek Band of the SECCI.” The letter claimed that they had 50 members and expected to have over 200, as “we are actively assisting and encouraging our members in their efforts of completing their genealogical records that may apply for membership with the SECCI” (Garland 1/25/2000). Ms. Garland and several other members resigned from Petitioner #227 in 2001 and 2002 (White et al. 3/14/2003).

Presumably, this last item means the bylaws do not require members to document descent from their claimed Indian ancestors prior to joining the group. This governing document also states that non-Indians may be “associate members” with full privileges (except holding office), and that “spouses of full members are automatically accepted as blood members” (CBC Bylaws, 1). Thus, the petitioner’s bylaws do not require members to be Cherokee descendants or to document their claims of Indian descent.

Enclosed in that same submission was a page from the group’s website which states that the yearly membership fee is \$10.00, and explained the group’s membership requirements, concluding with “If your Ancestors told you, and your oral history and your ancestry chart is done and notarized that you have Native American Blood, and you believe them. Then you can come share your Heritage with us. If you know in your Heart that you are Native American, then to us you are” (CBC 7/21/2000). The very liberal terms for membership allow the petitioner to include anyone who claims Indian heritage to join the group. Since the potential member is not required to provide evidence to support the claim, it appears that the organization accepts self-identifications without question. This description of evidence required by Petitioner #227’s governing document to demonstrate descent from a historical Indian tribe conflicts with the requirement and types of evidence required to demonstrate descent in the acknowledgment regulations at §83.7(e)(i)-(v).

The May 2002 submission also included a copy of the membership application for the group known as the “Southeastern Cherokee Council, Inc.” (SECCI), and a separate application for the “Cherokees of Lawrence County, TN” as Petitioner #227 was then known. OFA printed from the group’s website on October 15, 2009, a revised copy of the membership application, which asks for the names of the applicant’s father and mother and their tribe. A new question on the application [not on the 2002 copy] asks, “Do you have any documented historical proof of ancestry?” The form includes blanks to check for census records, Bible records, birth or death certificates, oral history, and photographs, with the remark, “Please submit if possible” (CBC ca. 2007, print date 10/15/2009). Neither the application form, nor the documented petition includes any evidence that the individuals on the membership list provided the petitioner with any of the suggested types of evidence.

The petitioner also enclosed a sample membership application. It asks for the applicant’s current legal name, maiden name, birth date, gender, roll number, address, home telephone number, and “names of relatives.” OFA assumes this means names of other family members who are members of Petitioner #227. The application also asks “Are you Native American?” and “What Tribe?”

The minutes of the petitioner’s June 8, 2008, meeting stated that the bylaws were last revised in 2005, but OFA has not located a copy of revised bylaws, or found evidence that any revisions changed the membership requirements. The petitioner’s 2007 membership list identifies approximately 407 individuals.

OFA's Analysis of the Membership Criteria

The group's governing document does not require that applicants for membership provide evidence of descent from a historical Indian tribe, Cherokee or otherwise. The petitioner has not submitted evidence that any of the members documented their descent from the ancestors identified in self-produced "genealogical reports" or privately published family histories. The petitioner has not submitted any evidence that shows it requires, or has in its possession, documentation to verify a member's ancestry.

**SUMMARY UNDER THE CRITERIA (25 CFR 83.7 as Modified by 83.10(e)(1))**

- 83.7(e) The petitioner’s membership consists of individuals who descend from a historical Indian tribe or from historical Indian tribes which combined and functioned as a single autonomous political entity.**
- 83.7(e)(2) The petitioner must provide an official membership list, separately certified by the group’s governing body, of all known current members of the group.**

In order to meet criterion 83.7(e), a petitioner must demonstrate that its current members descend from a historical Indian tribe, or tribes that combined and functioned as an autonomous political entity. Thus, the petitioner must (1) identify its current members, (2) document the historical Indian tribe and the individuals in that historical tribe from whom the petitioner’s current members descend, and (3) document the members’ descent.

The petitioner submitted a November 20, 2007, membership list, separately certified by the group’s governing body, which listed 407 living members of the group with their full names (including maiden name), date of birth, and current residential address.<sup>3</sup> OFA used the 2007 list in its analysis for this proposed finding. Therefore, the petitioner has provided a membership list with the required elements, which satisfies one of the three requirements under criterion 83.7(e). However, the petitioner has not satisfied the two other requirements. First, although the petitioner submitted genealogical descent reports and family histories that illustrate at least half (219 of 407) of the current members’ generation-by-generation connections to their claimed ancestors, the petitioner has not documented those claimed connections. Lastly, the petitioner has not provided evidence acceptable to the Secretary that the ancestors identified in the genealogical descent reports or family histories were part of the historical Cherokee tribe, or any other historical Indian tribe.<sup>4</sup>

The petitioner did not provide copies of each member’s own birth, baptismal, or other reliable, contemporary record that names the individual and his or her parents. The petitioner did not provide evidence that documents each of the preceding generations that would connect the current member to the historical tribe. However, as shown in this report, the readily available evidence located by OFA researchers clearly establishes that the petitioner’s ancestors did not descend from an Indian tribe; rather they were descendants of non-Indians who migrated to

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<sup>3</sup> There were 511 names on the 2007 list, but as explained below, after OFA removed the duplicate entries and the names of the deceased and resigned members, the resulting list has 407 current, living members.

<sup>4</sup> The criterion identifies several types of “evidence acceptable to the Secretary which can be used” for demonstrating descent from the historical tribe. The types of evidence include: rolls prepared by the Secretary on a descendancy basis for purposes of distributing claims money, providing allotments, or other purposes; State, Federal, or other official records; church, school, and other similar enrollment records; affidavits of recognition by tribal elders, leaders, and “other records or evidence identifying present members or ancestors of present members as being descendants of a historical tribe or tribes that combined and functioned as a single autonomous political entity” (83.7(e)(1)(i)-(v)).

Tennessee from disparate places and at different times, and began to settle after 1812-1818 in what is now Lawrence County.

### Description of the Petitioner's Evidence for Descent from the Historical Indian Tribe

The TA review advised the petitioner that there were significant deficiencies in the submissions for descent from the historical Indian tribe and requested that the group submit ancestry charts and supporting evidence, such as vital records, to demonstrate the links between the current members and their claimed ancestors (Souther 3/7/2007, 14-17). Petitioner #227 responded by repeatedly stating that the group's submission "easily meets and exceeds all seven required criteria" (White et al. 3/31/2007) and that the petition is fully documented and ready for a review (White et al. 3/31/2007, 8/9/2009).

The governing document describes who is eligible for membership and the group's genealogical reports identify the claimed Indian ancestors and family lines. This review for descent from the historical tribe is based on the materials in the petitioner's documented petition and documents gathered by OFA to verify the group's claims. The following discussion provides a brief summary of the various submissions that identify the members and the genealogical evidence submitted by the petitioner or found by OFA.

In November 4, 2002, the group submitted some documents and explanations of group membership or enrollment procedures. One document described how the group maintained its membership list.

The membership is with the clans, and not with the tribe. It is clan responsibility to keep the tribe informed of new members, births, deaths, adoption, etc. The tribe keeps the roll by what is supplied by the clans. . . . Even if there is only one member of a clan then that individual is responsible for keeping the tribe informed of status. (White 11/4/2002)

The petitioner did not provide any evidence that there were "clans" that performed these functions, or evidence demonstrating this claimed procedure, or that it had been in existence prior to 2002.

The three membership lists in the documented petition show that the names of individuals who were members in 2002 and 2007. The number of members increased from 132 to 510 over a three month period in 2002. The petitioner's revisions of the 2002 list [510 names] resulted in the certified membership list dated November 11, 2007, identifying 407 members in the current group. There are no earlier membership lists or other evidence indicating the number of members of Petitioner #227 prior to 2002.

#### *Previous Membership Lists*

The May 3, 2002, submission included a folder with the copy of the current membership list and the cover letter with the number "0785-1-.03" that states "[a]ll current members are Cherokee

and established descendency by oral family traditions (history) and /or genealogical, published books, forensic science, census, birth certificates, written family histories, letters and clan activities” (White et al. 5/3/2002). The cover letter describes two types of members: (1) “Non roll # members – those members who have verbally given up their Cherokee oral history and other evidence but are not members of the SECCI” and (2) “Roll # members of the SECCI. Have produced written evidence, genealogies, and testified to the truth of the evidence before a notary public and are legally Cherokees” (White et al. 5/3/2002).

This submission included a “Membership Report” with the names of 132 individuals. There are no birth dates, addresses, or maiden names on this list. The May 2002 submission also included a list of 17 individuals who were “No Longer Members,” one with the note “quit to start own Band,” and one with the note “membership terminated by council” (White et al. 5/3/2002). A third report in this same submission identified two members who died in 2000.

A letter dated August 1, 2002, and signed by six individuals, certified that an enclosed membership list (71 pages) was “properly completed” (White et al. 8/1/2002). The names on the list appear to be arranged in family groups, with some pages having only 1 or 2 names and others with 5 or more, or up to a full page with 13 names. The “roll number” field starts with “001” and ends with “0511”; however, several of the numbers are “crossed out” and a note on the page states this is a duplicate and the number has been reassigned (White et al. 8/1/2002). The petitioner did not include an electronic copy of the handwritten membership lists, making it difficult for OFA researchers to track individuals, families, and changes in the membership, or to connect the names on the membership list with the names in the genealogical reports. There were almost 400 more names on the August 1, 2002, list than on the “Membership Report” that was printed three months earlier in May 2002 and had 132 names on it.

#### *The Current Membership List*

The TA letter advised the group that the 2002 membership list lacked much of the required information, and asked the group to revise the current list and submit it in electronic format to ease the review process (Souther 3/7/2007, 16). The group sent a paper copy of the membership list dated November 20, 2007, which bore the title “Roll #1, the First 500 Five Hundred; total 511 [*sic*] Brothers and Sisters; Membership Roll of Cherokee of Lawrence County, TN 38464 as of 8-1-2002.” This appears to be a typed version of the handwritten membership list previously submitted in August 2002. However, the petitioner annotated the 2007 list to show 11 persons were deceased, 85 individuals had resigned, and 8 names were duplicates. Thus, the November 20, 2007, list identifies 407 current, living members. Although, the petitioner did not send an electronic copy as requested, the certified membership list submitted in November 2007 has all of the elements required under 83.7(e)(2) for this review process.

The 2007 membership list includes each individual’s name, address, birth date, and birthplace, and phone number. In almost all instances, the list also includes the full names of each member’s parents, and their birth dates and places. Therefore, the list includes the maiden name of a married woman, and the maiden name of the member’s mother. Those individuals who were born before 1930 could then be located on the 1930 Federal census, where they were often found living with parents or grandparents. Once living individuals can be linked to the Federal

censuses, it is often possible to locate their ancestors living in 1920, 1910, 1900, or the 19th century.

The petitioner submitted genealogical descent reports that start with the earliest claimed ancestors (primarily non-Indian) and list the children in each generation from the earliest generation to the present generation. These descent reports included some notes about various individuals in each generation; in particular the notes included undocumented family traditions or assertions of Indian identity.<sup>5</sup> The petitioner's genealogical descent reports do not include a membership number or other designation to identify which of the individuals in the reports are members of the group (White 11/20/2007). Some names in the descendant reports are highlighted, but there is no clear explanation for this distinction since many highlighted names are not on the certified membership list.

OFA searched the petitioner's various descent reports and family histories for the names that appeared on the 2007 membership list. This review found 219 of the 407 living members were identified in the descent reports or family histories. Because the petitioner did not submit copies of birth, death, or marriage records to verify any of the lineages, these 219 individuals have only illustrated, not documented, the claimed descent.

Twelve individuals on the membership list are missing birth dates or birthplaces, their parents' names, parents' birth dates and birthplaces, or information that could connect them to other individuals on the membership list or in the petitioner's descent reports or family histories. Therefore, there is no evidence that illustrates or documents their descent.

The remaining 176 individuals on the membership list appear to fall into two categories: (1) individuals who were born in or whose families lived in Lawrence County, Tennessee, and are perhaps related to individuals in the undocumented descent reports or family histories prepared by petitioner's members, or (2) individuals who do not appear to have any connection to the individuals identified in those family histories or descent reports. In the first category, 96 individuals on the membership list appear to be descendants of siblings, in-laws, or collateral relatives of individuals named in the descent reports or family histories. For example, according to the family history created by one of the group's members titled *History of the Cherokee Descendants of Chief Tuttle & Pokerhunter of South Carolina*, an Ingram married a Pennington descendant named Durham, but that history did not identify Ingram's parents or siblings and did not include any children of the Ingram-Durham marriage. The petitioner's membership list includes many individuals named Ingram and Durham, and individuals whose parents or grandparents were named Ingram or Durham, but these individuals are not named or documented in the Pennington histories or the petitioner's descent charts. OFA's review of the censuses and marriage records for Lawrence and adjoining counties identified some of the family connections between the individuals named in the family histories or descent reports and the individuals who appear to be the parents or grandparents of the petitioner's current members, but documentation to support Indian descent could not be located.

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<sup>5</sup> The petitioner did not submit ancestry charts that start with the current member and illustrate the generation-by-generation connection between the member and his or her claimed Indian ancestors or to other family members. The petitioner did not submit the genealogical information in electronic format so that OFA could generate such ancestry charts, or create other useful reports. (See Souther 3/7/2007, 3, 15).

In the second category, about 80 individuals on the membership list do not appear to have any previous connection (genealogical or historical) with the Lawrence County families the petitioner claims were their Indian ancestors in Tennessee. The birthplaces for these individuals are given as Ohio, New Hampshire, Missouri, Pennsylvania, Maryland, West Virginia, Oklahoma, California, and Alabama. Thirty-two of the 80 individuals are descendants of an Adams family, who listed their birthplaces as Scioto County, Ohio, and identified the birthplaces of their parents as Scioto County, other Ohio locations, or Kentucky. None of the surnames of this Ohio family appear in the petitioner's descent reports or family histories, and there is no evidence that these families were ever in Tennessee, Lawrence County or elsewhere. Similarly, another family in this category was from Exeter, New Hampshire, but now resides in Lawrence County, Tennessee. The membership list identifies one member of this New Hampshire family as having been born in 1981 in Florence, Lauderdale County, Alabama, which adjoins Lawrence County. However, the petitioner claimed that member's father is "Blackfoot" (b. 1953 in Tennessee) and her mother (b. 1941 in Missouri) was Cherokee. The petitioner did not provide any evidence that verifies the claimed "Blackfoot" ancestry or that connects this New Hampshire family to the other individuals the petitioner claims were Cherokee Indians in Lawrence County. None of the members from Exeter, NH, were born before 1930 and only two individuals listed in the "Name of Parents" column were born before 1930. In these two cases, no birthplace is listed for the man born in 1915 and no maiden name or birthplace is listed for the woman born in 1917. OFA could not confirm any of the petitioner's claims about Cherokee ancestry for these individuals from other publicly available resources.<sup>6</sup>

The evidence clearly shows that the petitioner does not meet criterion 83.7(e). The petitioner has not provided evidence that any of the 407 individuals on the 2007 membership list descend from the historical Cherokee tribe or any other tribe. The descent reports or family histories provided by the petitioner illustrate the claimed ancestry for at least half of the current members (219 of 407); however, the petitioner did not provide evidence that documented the claimed descent. The petitioner did not provide evidence, and OFA did not locate any evidence to substantiate the petitioner's claim that some of the individuals in the descent reports or family histories were Cherokee Indians. The petitioner did not provide ancestry charts or other evidence to illustrate the family lines for the other 188 individuals on the 2007 membership, nor did the petitioner provide any documentary evidence that these individuals were descendants of the historical Cherokee or other Indian tribes. Therefore, the petitioner not only failed to document its members' descent from their claimed ancestors, but also, the petitioner failed to demonstrate that those historical individuals were Cherokee Indians or members of any other Indian tribe. Similarly, OFA did not find any such evidence. Further, the evidence located by OFA demonstrates that petitioner's ancestors were non-Indians living in the general non-Indian population.

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<sup>6</sup> The child of this couple was born in New Hampshire in 1946. Using that birthplace as a clue, OFA reviewed the 1920 Federal census for New Hampshire as the possible birthplace of the father who was born in 1917. OFA found a family that included a young son with the same name and age as the man identified on the petitioner's membership list. This family was identified as White and all of the family members and their parents were born in New Hampshire. The individual born in 1981 and her two children are the only individuals on the petitioner's membership list who have claimed this Blackfoot Indian descent. Even if this claim could be verified, it would not affect this PF that the petitioner clearly does not meet the requirements of criterion 83.7(e).

*Descent Reports*

The November 15, 2004, submission appears to contain the bulk of the group's genealogical claims. It included about 20 descent reports [the print dates were May 15 or 16, 2004], most of which were identified with a heading for Freemon, Hughes, or Fincher families, with separate reports for heads of families within each of the major headings. (See Appendix A for a complete list and additional information in the descent reports.)

Although these descent reports illustrate the family lines of the various members, they clearly do not demonstrate descent from the historical tribe. In fact, they do just the opposite: they show that the petitioner's claimed ancestors immigrated from the British Isles, France, and Germany over long periods to the American colonies, in particular to Virginia, the Carolinas, and Georgia, and that over time their descendants moved as individuals or small family groups to Tennessee. Neither these descent reports nor other evidence in the record show that the immigrants married into the Cherokee tribe or were otherwise associated with it, or any other tribe. After about 1818, descendants of the immigrants began to appear in what is now Lawrence County, TN. At this time, some of the ancestors were also in Lauderdale or Limestone Counties, AL, situated just south of Lawrence County, TN.

The petitioner's claims of Indian ancestry in the genealogical descent reports are described below. However, the petitioner did not submit, and OFA did not find, reliable original records, either primary or secondary sources, to support these claims. The evidence shows that both the male and female ancestors were, in fact, not Indians. For example, the Pennington men, who migrated from South Carolina to Tennessee before 1818, were listed along with their wives and young children as "free Whites" on the 1820 census of Giles County, TN. Likewise, these same men and their wives and children, or widows and orphans in some cases, were "free Whites" on the 1830 census of Lawrence County, TN. The wives or widows who survived past 1850 were all identified as "White," and listed their birthplaces as North Carolina, Virginia, or Tennessee on the 1850 Federal census for Lawrence County. Thus, the census records do not support the claim that the wives (named or unnamed) were Indian descendants who had stayed in Tennessee after 1806 and later married the immigrant White settlers, or that they escaped the Cherokee removal in the late 1830s. In their own lifetimes, the petitioner's Pennington ancestors were identified as White, not Indian.

Such identifications on Federal censuses alone do not exclude the possibility of Indian ancestry; however, there is nothing else in the materials that Petitioner #227 submitted or that OFA located that indicates the Penningtons, or the other ancestors named in the descent reports, were ever identified as Cherokee Indians or descendants of the historical tribe; rather, the contemporary records consistently identified them as White.

The petitioner's descent reports do not provide reliable evidence that the individuals named in them were Cherokee Indians, including the few instances when the petitioner identified a wife by her given name, but no surname or parents, and asserted that she was "said to be" Cherokee Indian. There is no evidence in the record that the women who married into the family lines identified in the descent reports were Cherokee descendants. At best, these descent reports include unsubstantiated claims that an individual in the family tree was supposed to be an Indian,

but does not provide any more than vague family traditions and hearsay. OFA could locate no evidence to corroborate their claims.

William Hughes: The report on the descendants of William Hughes (b. 1783 SC – d. 1854 in Limestone County, AL) claimed that his wife Eledia or Lydia, who died in Lawrence County after 1870, was half Cherokee, based on a “family legend.” Another woman in the Hughes genealogy is also attributed with Cherokee ancestry. The report stated that Aron Emery Hughes, born in 1815 in South Carolina, married Elizabeth W. Bates, who was born in Alabama in 1822, the daughter of a Dr. Bates and Nancy Lewis. However, the notes section on the same page makes a different claim: “Family history states: the hush-hush story was that Elizabeth was the child of a Cherokee woman who had a tryst with Colonel David Crockett. This was back when Crockett was a big Indian rights proponent in Lawrence County. Elizabeth was born about the time that Crockett left Lawrence County” (Anonymous, Descendants of William Hughes 5/16/2004, 3). The only source for this claimed Cherokee connection was the “family legend,” reportedly handed down to a great-great-great-grandson of Elizabeth W. Bates.

There are no contemporary sources that verify or substantiate either the claim that Elizabeth (Bates) Hughes, wife of Aron Hughes, was the child of a Cherokee woman and David Crockett or had Cherokee descent through either of her parents: Nancy Lewis or “Dr. Bates.” For example, the 1850 Federal census lists that Aron (age 35, born SC) and Elizabeth (28, TN) Hughes in Limestone County, AL with their five children (ages 10 years to 2 months, all born in Alabama). Elizabeth’s parents, William W. Bates (56, TN) and his wife Nancy (Lewis) Bates (52, NC) and six children (ages 28 to 7, and born in Tennessee or Alabama) are also in Limestone County. All of the Hughes and Bates family members were identified as White in the column for “color.” In 1860, the Federal census shows Aron (45, SC) and Elizabeth Hughes (37, AL) and children are now in Giles County, TN. Again all members of the family are identified as White. The birthplaces for their children show that they arrived in Tennessee between 1850 and 1852. The 1870 and 1880 Federal censuses show Aron and Elizabeth Hughes living in the 9th District of Lawrence County, TN. In both 1870 and 1880, Elizabeth’s birthplace was listed as Tennessee, and in 1880 the census recorded that both of her parents were born in South Carolina. That Elizabeth (Bates) Hughes’ birthplace was sometimes listed as Tennessee and sometimes as Alabama does not provide evidence of a Cherokee (or David Crockett) connection. There is nothing in Petitioner #227’s submissions that supports the reported “family legend,” nor did OFA find other evidence of Indian descent. The evidence clearly and consistently identified Aron and Elizabeth (Bates) Hughes as White.

Billie Brazier: In another example, the Billy Brazier (no dates or birthplace) descent report makes the claim of Indian ancestry based on the statement that his daughter Inez Brazier (born Lawrence County, but no birth date given), who married John Randall, was “a small woman under 5 feet, said to be of Cherokee Indian blood line.” The report did not provide citations to contemporary documentary evidence to support the Cherokee claim, nor did it indicate whether Inez’s Cherokee descent came through her father’s or mother’s family. The Federal census entries, located by OFA, in 1850, 1880, 1900, and 1910 for Lawrence County did not identify Inez Brazier [a.k.a. Idah E.] or any of the other Brazier or Randall families [under various spellings] as Indians. These families were consistently identified as White farmers who owned land.

Samuel Freemon: Under the heading of “Descendants of Samuel ? Freemon” [*sic*] the petitioner appears to make a claim of Indian ancestry through a collateral relative who reportedly married a Creek Indian woman in Alabama in 1824. However, the Freemon descent report does not trace the descendants of William Freemon or provide any evidence to support the statement.<sup>7</sup>

The petitioner’s opening note for the first generation of men named Samuel Freemon states “The Freemon/Freeman name derived from the city of Phrygia which means ‘Freeman’ in Greek” [located] in Anatolia (Turkey), which was destroyed along with Troy causing the Hittites who lived there to flee, many to Hesse, Alsace Lorraine, etc. along the Rhineland into Northeastern and central France. Their leader was Paris, son of Priam King of Troy and they developed cities like Paris, Troyes” (Anonymous, Descendants of Samuel ?Freemon 5/15/2005, 1). This introduction then summarized the “second generation” as the Freemons who owned many beautiful estates in Normandy, and concluded with a statement that “It is believed that our descendant, Samuel came to America in the early 1600’s on Gov. Winthrop Ships” to the Massachusetts Bay Colony, but that he did not like the climate in Massachusetts and he then went south to North Carolina. This report goes on to claim that Samuel’s descendant of the same name served in the Revolutionary War from North Carolina. This family narrative [author not stated] identified two of the immigrant’s children by name: Samuel born in 1776 in North Carolina and William (no dates) who was traveling with David Crockett (1786-1836) from Franklin County, TN, into Lawrence County, TN, and then went to Alabama where he (William Freemon) married a Creek Indian woman in 1824. The petitioner provided no evidence to support this claim, nor did OFA find any. The petitioner, nonetheless, does not claim descent from William Freemon, but from his brother, Samuel Freemon (b. 1776) who married Mary Lynch (b. 1793) in North Carolina, the daughter of Thomas Lynch. Petitioner #227’s descent report then states that this branch of Freemons moved to Tennessee in 1806, first to Maury, then Giles, finally to Lawrence County. The narrative claims that one of their daughters, Ann (b. abt. 1813 NC), learned from the Indians how to gather herbs and make medicines. Nothing else in the report about the Freemon and Lynch families or any of the other materials submitted by the petitioner, or located by OFA, connects them to Cherokee Indians, or identifies an Indian ancestor.

Contemporary documents from the 19th century identify all of the Freemon family members as White. OFA found that according to the 1850 Federal census of Lawrence County, Samuel Freemon (age 77) was a miller, and he and his wife Mary (age 51) and their seven children living at home, who ranged in age from 14 to 30, were all identified as White and born in North Carolina. If these birthplaces are accurate, this Freemon family moved to Tennessee sometime after 1836, when the youngest child was born in North Carolina. There is a Samuel Freeman in Giles County, TN, in 1840, who appears to be the petitioner’s relative. There is an October 17, 1807, marriage bond in Orange County, NC, for a marriage between Samuel Freeman and

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<sup>7</sup> The petitioner’s descent chart did not provide any information about what happened to William Freeman, whether he remained in Alabama or moved elsewhere. However, following up on the one statement that he married in Alabama, OFA found two William Freemans in Alabama (Jackson and Fayette Counties) in 1830; both were free White males between 30 and 40 years old, with families also listed as free Whites. In 1850, there were three William Freemans in Alabama who were of an age to be either of the two men living in 1830: Wm. Freeman in Blount County was born 1796 in South Carolina; William Freeman in DeKalb County was born 1787 in Virginia; and William Freeman in Jackson County was born in 1798 in Virginia.

“Polley” [frequently used as a nickname for “Mary”] Lynch.<sup>8</sup> There is no indication that either of these two individuals were Indians.

Captain Robert Messer: Another report gives the descendants of Robert Messer, who was born about 1734 and executed on June 19, 1771, Orange County, NC, for his part in the “Regulator Wars.” Petitioner #227’s report states without any supporting evidence that “Family records indicated he was a Cherokee Indian Chief, although this has not been proven” (Anonymous, Descendants of Captain Robert Messer 5/15/2004, 1). Thus, by the author of the report’s own statement, the petitioner admits there is no evidence of Indian ancestry. The petitioner did not submit any of the “family papers” that were reportedly the basis for the statement. Robert Messer was a well documented historical figure among the American settlers in Orange, Anson, and Granville counties who were protesting high taxes and allegedly corrupt local officials in North Carolina. There is no historical evidence to support a claim that he was a Cherokee Indian. Further, the context of the Regulator Wars, which involved non-Indian settlers, and Messer’s well documented role in that conflict, would point to his being non-Indian. Indeed, some of the genealogies published on the Internet state that Robert Messer was born in Hamburg, Germany; however, since it was clear that Robert Messer was not a “Cherokee Indian Chief,” the Department did not undertake a further investigation of the claims about his birthplace. (See Ancestry.com for Public Member Trees for Robert Messer.)

These examples are typical of the claims made sporadically throughout the genealogical reports. In almost all cases, no evidence is cited to support a “family legend” of claimed Cherokee connections. These unsubstantiated claims, family legends, and family traditions are not evidence acceptable to the Secretary to demonstrate descent from the historical tribe. The problem is not merely a “lack of evidence” to support the claims, but that OFA also found other evidence that clearly identified the same individuals as non-Indians. This evidence shows the claimed Indian ancestors did not reside with other Indians and that they were never identified by their contemporaries as Indians. Thus, the evidence clearly demonstrates that the petitioner’s claimed Indian ancestors, including women whose parentage is unknown, were either non-Indian immigrants themselves or the descendants of non-Indians who moved to Tennessee.

#### *Articles and Books*

The petitioner also submitted published articles, such as “Communities of Lawrence County, Tennessee” by Bobby Alford, which provide background information about people and places in Lawrence County. The article on Tarkington, Miller, Ross, and other families who lived in

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<sup>8</sup> According to *North Carolina Research Genealogy and Local History*, “The marriage bond was the principal record of marriages in North Carolina from 1741 to 1868; indeed, it was the only public record prior to 1851. Bonds were required only for persons intending to marry by license, so that many marriages were accomplished without them” (Leary and Stirewalt 1980, 135). The groom posted a bond guaranteeing the marriage would take place unless an impediment was found to exist. [The “impediment” might be that the groom had a wife living in another state, the bride and groom were too closely related, or the bride and groom belonged to different races. In many cases, the bond is the only evidence of the marriage, and then only evidence that the marriage was intended, not that it actually occurred. If other evidence (deeds, probate records, censuses) shows the couple living together, having children, and accepted as husband and wife by family and friends, then in all probability there were no impediments and the marriage ceremony actually took place.

Rosboro, Lawrence County, identified Francis Ross who owned and operated a gristmill in the mid-1800s, but did not state that he or any of the families mentioned were Cherokee Indians. Bobby Alford's article did not name specific Cherokees who lived in Lawrence County and did not name individuals whom the petitioner claims were Cherokee descendants (whether Francis Ross, the petitioner's ancestors, or others). The only source for the claim is Joe H. White's handwritten note that stated, "Bobby Alford testified to me personally that John Ross was an 'Indian' according to a very old man he interviewed years ago." The unsupported claim is not evidence of descent from the historical tribe.<sup>9</sup>

The November 15, 2004, submission also included several photographs of people, some of whom were identified by name, or name and birth date, but others were not so identified. From the clothing styles and birth or death dates for some of the individuals, most of the photographs appear to have been taken between about 1900 and the 1930s, and a few appear to be from the current decade. The petitioner's comment that "any forensic anthropologist worth his salt" could easily identify the individuals as Cherokee Indians just by looking at the photographs is not evidence of descent from the historical tribe acceptable under the regulations. These unsupported assertions about the claimed Indian heritage of the unidentified individuals are not evidence of the Indian ancestry for the persons in the photographs and certainly not for the petitioner's ancestors, whose relationship to these persons is unknown.

The petitioner also submitted abstracts from county histories, or from Internet genealogical sites (such as Rootsweb.com) about Indians or Indian lands in Tennessee. For example, one of the Internet sources included a history of Maury County, which states it was formed from Williamson County and Indian lands. "The Cherokee Indian title was bought at Washington, DC on January 7, 1806, for \$10,000 and \$100 per year annuity paid to 'Old Black Fox' who surrendered all claims to lands stretching from Duck River to Alabama. (What is now Maury had been part of that Middle Basin land that the Cherokees, Chickasaws, and sometimes Shawnees and Northern tribes, claimed as their own preserve, defended against trespass by all others)" (Unknown, [www.tngenweb.org/maury/history.htm](http://www.tngenweb.org/maury/history.htm), print date 7/7/2000). These abstracts did not mention or provide evidence of Indian descent for petitioner's ancestors.<sup>10</sup>

The petitioner also sent *The End of the Trail of Tears*, by Dale Casteel, a short novel based on Casteel's dream that his grandmother, Annie Moore Haney, was a Cherokee child orphaned during the Trail of Tears and raised by A. J. Moore and his wife Ruth. Casteel's own foreword

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<sup>9</sup> The petitioner makes no specific claim that its ancestor named John Ross was related to the John Ross (1790-1866) who was the first elected chief of the Cherokee Nation, nor is there evidence in the record that the Francis or John Ross in Lawrence County were related to the famous chief. The coincidence of having the same name as a Cherokee leader does not provide evidence of Cherokee descent.

<sup>10</sup> The May 21, 2004, submission included a genealogical report about the James/Sisk Family of Lawrence County, TN; and photographs of McGee, Gordon, and Tennison family members. The James/Sisk genealogical report identifies the descendants of Frank James Sr. (1836-1915) and Hiram Sisk (1877-1948), but does not identify either of these men, their spouses, or their descendants as Indians. The report was printed in December 2000, but the author is not identified. There are no sources listed for the names, dates, or places listed in the report. Thus, the James/Sisk report does not provide evidence of descent from an Indian tribe.

states, “This story is written just the way it came to me that night. Is it true? Well, to me it is but I would never argue any phase of this book” (Casteel 2005, 7).

Works of fiction, whether based on current or historical events, are not evidence acceptable by standard genealogical research required under the regulations. However, since the author identified some of his ancestors by name and included some birth dates, OFA reviewed the Federal censuses to verify any of the claims that might be based on contemporary documentary evidence and whether that evidence linked to the petitioner. According to the 1880 Federal census, Annie Moore Haney, whom Casteel identified as his great-grandmother orphaned during the Cherokee removal (1838-1839), was born in Alabama about 1860, at least 20 years after Cherokee removal. She was enumerated as a 20-year-old White woman in 1880, married and the mother of a 3-year-old child. Her husband’s and child’s names matched the names listed in Casteel’s book (Casteel 2005, 106). If Dale Casteel took “artistic license” by condensing the generations between his claimed Cherokee ancestor and this known great-grandmother, neither he nor the petitioner provided evidence that identified an actual Cherokee ancestor. The petitioner has not submitted copies of primary sources or other reliable records, contemporary to the lives of the historical individuals. The self-published works of fiction, unsubstantiated handwritten genealogies, privately published and undocumented genealogies, modern oral histories asserting facts not witnessed by the persons being interviewed and without substantiating documentary evidence, and other undocumented sources are not the types of evidence acceptable to the Secretary to establish either the generation-to-generation genealogical links from current members to ancestors, or the membership in or descent from the historical tribe. Nor did OFA find any evidence of Indian ancestry for these individuals.

*Case Studies of Two Officers of Petitioner #227*

OFA refrains from identifying individual group members in proposed findings or TA review letters for privacy reasons. However, officers of the governing body are public figures with known identities and, for that reason, the Department’s reports and letters often use them in examples illustrating its review of the evidence. In this case, OFA reviewed the records for two officers in the group because they are public figures. Joe H. White (a.k.a. Joe Sitting Owl White) is identified as the “principal chief” of the group. Ray Pennington is listed as the group’s historian and the petition includes considerable information on the Pennington and other families related to them. These two examples are typical of the petitioner’s other genealogical claims.

Joe H. White did not submit a copy of his own genealogy to demonstrate his descent from a claimed Cherokee ancestor; however, his parents’ names (James Guy White and Letha Harlan) were listed on his entry in the group’s 2007 membership list.<sup>11</sup> Both parents died in the 1990s

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<sup>11</sup> The petitioner’s November 4, 2002, submission included a copy of a note “To: Archives, Cherokee of Lawrence County, TN. From: Joe Sitting Owl White” on the subject of “evidence” in which White states “The Luffman Clan has proof by using DNA that we have a direct line thru history to Israel. The DNA testing was done by familytracedna.com.” In the context of this, and other statements made by Joe H. White, it appears that he is connecting the DNA test result supposedly showing Jewish ancestry in the “Luffman clan” with claims that Cherokee Indians were the “Lost Tribe of Israel;” thus, apparently concluding that his Luffman ancestors were Cherokee Indians. In another submission, he stated that “Mr. and Mrs. Luffman” spoke Cherokee, but did not say which Luffman couple he was referring to, when they lived, or provide any documentary evidence to support the claim. The Luffmans were all identified as White on the Federal censuses.

and OFA located their full birth and death dates from the Social Security Death Index, which is available to the public on the Internet (SSA, Ancestry.com print date 10/21/2009). OFA also located his mother and father in 1930 when they were each listed as children in their respective parents' households on the Federal census (Census 1930, Lawrence County, 8B, 6A). The 1930 census identified Joe H. White's four grandparents' names, ages, and birthplaces, as well as the birthplaces of each of their parents (See Appendix B). His paternal grandfather, Jesse M. White, was born about 1895 in Alabama. Joe H. White's paternal grandmother, Naomi ("Omie") Springer, was born about 1896 in Tennessee. Naomi's maiden name is documented in her 1918 Lawrence County marriage record to Jesse M. White. Joe H. White's maternal grandfather Robert Harvey Harlan was born about 1901 in Tennessee. Joe H. White's maternal grandmother, Emma Luffman, was born about 1905 in Tennessee. Emma's maiden name is documented on her 1923 Lawrence County marriage record to Robert Harvey Harlan. None of Joe H. White's parents and grandparents were identified as Indians on the Federal censuses or any other records.

Using readily available public records, OFA also located what appears to be all eight of Joe White's great-grandparents. According to the 1880 Federal census, Jesse M. White's father and mother were born in Alabama and Omie Springer White's, Emma Luffman's, and Harvey Harlan's parents were all born in Tennessee in the mid-1800s. Most were found on the Federal censuses in Lawrence, County, TN, after 1850. The eight family lines revealed through this search (White, Springer, Smith, Wilcoxson, Harlan, Palmer, Luffman, and Claburn or Claborn) were not identified as Indians on any of the Federal censuses from 1850 through 1930. They were consistently listed as White in the column for "color" or "race" on the censuses and were primarily identified as land owners and farmers or merchants.

None of the eight surnames were among the major family lines the petitioner identified in its descent reports discussed above, nor do they appear in the indexes to the Pennington genealogies submitted by the petitioner. The evidence that is the basis for this evaluation on Joe H. White's genealogy is unique in that he did not provide his own genealogy. He does not claim his ancestors are some of the individuals identified in the petitioner's descent reports or Pennington genealogies. He has not demonstrated that any of his ancestors claimed in their own life-times to be, or were identified by others as, Cherokee Indians. He has not shown that any of his ancestors were genealogically related to any of the petitioner's other ancestors whom they claim were Indians. The only thing these eight great-grandparents OFA has identified as Joe H. White's ancestors appear to have in common with the petitioner's other named ancestors is residence in Lawrence County, TN, or adjoining counties in Tennessee or Alabama. There is no evidence to show that Joe H. White's great-grandparents were Indian descendants, or part of a historical Indian tribe. Rather, the evidence shows them as part of the general population of settlers coming to Tennessee or Alabama in the mid-19th century.

The 1880 and later Federal censuses includes the birthplaces of each individual enumerated, as well as the birthplaces of the father and mother of each person enumerated. All eight of White's great-grandparents were found on at least one of the 1880, 1900, and 1910 Federal censuses. Those censuses also provide evidence that Joe H. White's 16 great-great-grandparents were born in South Carolina, Alabama, Kentucky, or Tennessee. Thus, there is no evidence that these families were together before arriving at different times in Lawrence County, or that they were

living with the Cherokee tribe, or any other Indian tribe. (See the Appendices B and C for OFA's findings on the origins of the Joe H. White's ancestral families.)<sup>12</sup>

Given the varying places of origin of these families, and the fact that they migrated to Tennessee at different times from different places well after the 1806 treaty with the Cherokee, it is clear that they were not part the historical Cherokee tribe in North Carolina or part of a remnant band of Cherokee that petitioner alleges remained in Tennessee after the 1806 treaty. Notwithstanding the fact that the petitioner did not submit any primary or reliable secondary sources to document Joe H. White's ancestry, it is clear that his apparent ancestors were not members of, or descended from, a historical Indian tribe. The Department's researchers identified his ancestry on all lines to the early 1800s. None of these documented ancestors linked to the Cherokee or any other Indian tribe, or to any Indian individual. The issue is not that the evidence is too skimpy to determine who his ancestors were in the mid-1800s; rather the evidence clearly shows who his ancestors were and that they were not Indians, or the descendants of Indians.

The Pennington family claims Cherokee descent through Mary Tuttle (born 1755-died aft. 1821), who married Jacob Pennington and settled in what is now Lawrence County, TN. She is supposed to be the daughter of "Chief Tuttle." A family genealogy called *History of the Cherokee Descendants of Chief Tuttle & Pokerhunter of South Carolina* by Larry Pennington stated:

One letter shows Mary to be of Indian descent. It referred to her father as "Old Chief Tuttle" and her mother's name as Pokerhunters (spelling on her name may not be correct). This is not proven but is interesting and the only information we have at this time. A couple of other Pennington men are supposed to have married Indian women in this area at this same time period. It is logical to assume that Chief Tuttle and wife were Cherokees as the Penningtons lived neighboring the Cherokee Reservations. (Pennington 2002, 2)

The family history did not identify the author or date of the referenced letter or include a copy of it in their submissions, nor did they provide any historical evidence to support the claimed Cherokee ancestry. However, the petitioner included a letter postmarked July 18, 2000,<sup>13</sup> from Ruth Dickey (who was the author of a history of Henryville, Lawrence County, TN, and a history of the Pennington family) in which she stated that "according to family tradition" she was a direct descendant of "Cherokee Indian Chief Tuttle and his wife Pokerhunters." According to Ruth Dickey, "Chief Tuttle" was from western South Carolina; his daughter, Mary Tuttle, married Jacob Pennington in South Carolina; and they moved to Georgia before settling in Tennessee. Her published histories of the Penningtons who settled in Tennessee repeated family traditions of "Indian blood in the Pennington family," but provided no contemporary documentary evidence to support the family stories she relates in recent times. Ruth Dickey also

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<sup>12</sup> This projection of the first four generations of Joe H. White's ancestry is based on easily accessible public records. If the petitioner has other evidence that identifies Joe H. White's ancestors in earlier generations, and genealogical connections to the historical Cherokee tribe, then it should submit that evidence as part of its comments to this proposed finding.

<sup>13</sup> A copy of the letter and envelope addressed to Joe H. White is in the petitioner's May 3, 2002, submissions, and is identified by the petitioner as document number "1H."

wrote a family history called *The Penningtons of Big Buffalo*, which recounts the history of the same Pennington family's move from South Carolina to Tennessee and includes abstracts of many historical records she used to document the family. In this book Ruth Dickey shifted her emphasis from accepting family tradition to taking a documented approach to her research:

One tradition which I found many times was that there was a lot of Indian blood in the Pennington family. There is always the possibility that this is true, as the Penningtons lived near the Cherokee Indians both in South Carolina and in Georgia. But nowhere did I find anything which would verify this belief.  
(Dickey, n.d., i)

Ruth Dickey's early writings provide no evidence for Indian ancestry for the Penningtons, and she apparently distanced herself from these "traditions" in her later writings.

The petitioner's November 2002 submission referred to Penningtons listed as Cherokees on the "Dawes Rolls" (the Final Rolls of the Citizens and Freedmen of the Five Civilized Tribes in Indian Territory). The petitioner submitted pages from the general index of applicants for the Final Rolls, which included applicants from six states and the Indian Territory. Among the applicants were Andrew J. and Lillie Pennington from Tennessee, but neither of them appeared on the Final Rolls of members of any of the Five Civilized Tribes. The petitioner did not provide, and OFA did not find, any evidence that the petitioner's members or ancestors named Pennington were on the general index or on the Final Rolls. Nor did the petitioner attempt to document how its Pennington members were related to the people with the same surname who were on the "Dawes Rolls." The individuals named Pennington [or Penington] on the Dawes Roll were residents of Indian Territory during 1898-1914, at the same time as the documented Pennington ancestors of the petitioner were in Tennessee.

Department researchers also consulted the applications from individuals attempting to participate in the distribution of funds due the descendants of the Eastern Cherokee Indians in U.S. Court of Claims cases. In 1906, Guion Miller was appointed by the U.S. Court of Claims to identify which of the applicants were entitled to share in the fund. His report, which summarizes information gathered concerning the about 46,000 applicants, has been reproduced by the National Archives on 12 rolls of microfilm (M695). Abstracts of these applications were published in *Cherokee by Blood Records of Eastern Cherokee Ancestry in the U.S. Court of Claims 1906-1910* by Jerry Wright Jordan, a copy of which is in OFA's files. One of the applicants was a Claban Pennington, who was born about 1831 in Virginia and lived there until "after he was grown," when he moved to Hawkins County, TN. His application was rejected. He claimed he was related to the Sizemore family who had numerous applicants for the Cherokee fund. However, Miller rejected the Sizemore and Pennington applications because they were not Cherokee Indians and had never lived in the "Cherokee Indian domain." Miller found that the Sizemores migrated from South Carolina to North Carolina. Claban Pennington said he did not apply because he thought he was Indian, but because he was related to the Sizemores, and that he had been persuaded by some of the Sizemores to apply (Jordan, Vol. 1, for Special Report #41, 117-132 for a summary of Sizemore claims, 155-156 for Claban Pennington's statement). OFA did not find anything in the published abstracts of applications

for Eastern Cherokee funds that confirmed Cherokee ancestry for the petitioner's Pennington ancestors.

The petitioner sent copies of two books: *Cherokee Heritage Book #1 A Ride for Madelynn* and *Cherokee Heritage the Path* by "Pearl Seeker" (printed in 2003 by Ray and Penny Pennington). The first is an illustrated children's book written by two members of Petitioner #227 recounting a day with their grandchildren at the Sugar Creek campgrounds. The second is a longer story for and about the authors' grandchildren, which incorporates tales of Indian heritage. Neither of these works, which may be either non-fiction memoirs or fiction, provides evidence acceptable to the Secretary for descent from the historical tribe. The petitioner did not submit any primary or reliable secondary sources to verify the claimed Indian ancestry for the Pennington family, and OFA found none.

The 1880 Federal census enumerated J.J. [James Jackson] Pennington as age 61, or born about 1819, and born in Tennessee, with his father's birthplace listed as South Carolina and his mother's as Virginia. According to Ruth Dickey, James Jackson Pennington was a son of Isaac Pennington, (b. 1794) and Elizabeth (b. abt. 1800). Her history *The Penningtons of Big Buffalo* has considerable information on Isaac Pennington, who built the first grist mill on Buffalo Creek and had 560 acres at the time of his death in 1838. She included a transcript of his will and an inventory of his estate, as well as census entries for his family (Dickey n.d., 35-52). Isaac Pennington was the son of the Jacob Pennington who settled in Lawrence County in 1816. The records show that the Penningtons arrived in Lawrence County well after the 1806 treaty and at least 20 years before the "Trail of Tears." The Dickey books included citations to and abstracts of historical documents such as wills and deeds, as well as censuses. These public records identify the Penningtons as settlers who had land, money, and education, but none of these records identified them as Indian. There is no evidence in the record to support a claim that the Penningtons were Cherokee Indians.

These two samples (White and Pennington) are typical but not exhaustive of the petitioner's undocumented claims of descent from the historical Cherokee Indian tribe. The claims are based almost entirely on family legends that cannot be corroborated by any documents produced at the time the 19th century ancestor lived. If these members or other members of the group have Indian ancestors, they have not demonstrated their claims, and OFA could not locate evidence to support these claims. Instead, the records show that the petitioner's ancestors identified in the descent reports, the Pennington genealogies, the other genealogies submitted by the petitioner, or the records located by OFA, were non-Indians who settled in Lawrence County, TN, or adjoining counties. They were never identified as Cherokee Indians, or Indian, in their own life-times. They came from several different states and moved as individuals or small family groups to Tennessee over several decades, primarily in the first half of the 19th century. The fact of their diverse origins is demonstrated by tracking the clearly identified families through the Federal censuses and confirming the birthplaces of the heads of the families and each child in the household. Not one of the Federal censuses taken during the 19th century identified any of the petitioner's ancestors, male or female, as Indian. The Federal censuses after 1880 identified the birthplaces of the parents of each individual in each dwelling. The individuals who were over 80 years old in 1880 had parents born before 1780, and such ancestors of the petitioner had birthplaces identified as Virginia, South Carolina, North Carolina, and Georgia. OFA

researchers did not find any evidence that any of the petitioner's 18th century ancestors in these various locations were Cherokee Indians, or Indians of any other tribe.

As part of the evaluation, OFA researchers reviewed the 1835 Cherokee East of the Mississippi Census and the 1851 Chapman Roll of Eastern Cherokees for names of the petitioner's ancestors. None of the petitioner's ancestors who were identified in its genealogical descent reports or family genealogies and known to be living in Tennessee, Alabama, Georgia, or North Carolina in the 1830s or 1850s were on either of these lists of Cherokee Indians (See transcripts and indexes of the 1835 and 1851 rolls at [www.accessgenealogy.com/native/1835census](http://www.accessgenealogy.com/native/1835census), and [www.tngennet.org/cherokee\\_by\\_blood/chapman.htm](http://www.tngennet.org/cherokee_by_blood/chapman.htm)).

OFA reviewed the available Federal censuses for 1900, 1910, 1920, and 1930 for the petitioner's claimed ancestors or others who may have been identified as Indians and for an Indian entity. This search found that the petitioner's ancestors were not identified as Indians, but were consistently identified as "White." They were living among the rest of the general population. The petitioner's ancestors did not live with other individuals who were identified as Indians. The search found one man identified as an Indian in Lawrence County in 1910, William Peene, who was born in Wisconsin and worked at the local lumber mill. His wife was identified as a White woman born in Indiana (Census 1910, Buffalo Road, Lawrence County, TN, #94/96). There is no evidence that either of these people were related to the petitioner's ancestors. If the petitioner's ancestors were Indian, it is expected that they would have been identified as Indian in at least some of these censuses.

OFA found that the evidence demonstrates the petitioner's known ancestors were individuals or families who moved from disparate locations, beginning about 1812-1818, to either Giles or Franklin counties or to what later became Lawrence County, TN. OFA found that they were not part of an Indian tribe before arriving in Tennessee and no evidence that they were living among Indians once they settled in Lawrence County. Instead, the evidence demonstrates that as early as 1818 the petitioner's male ancestors in Tennessee were identified as free, White, and voters.<sup>14</sup> These men and their wives, who were living at the time of the 1850 census, were identified as White. The women who were born in Tennessee before 1820 and who might have been Indians remaining in Tennessee as the petitioner claims, were also listed as White.<sup>15</sup>

OFA's review of the Federal censuses and other historical documents, which identified the birthplaces of the petitioner's male and female ancestors, showed that the individuals who moved to Lawrence County were from South Carolina, North Carolina, Alabama, Georgia, Kentucky,

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<sup>14</sup> The petitioner submitted a copy of the "Lawrence County, Tennessee 1818 Voters List" printed from <http://www.tngenweb.org/lawrence/1818cen.htm>. The group's Pennington and Voss ancestors were listed as voters in John Ray, Esquire's district.

<sup>15</sup> The categories for "color" or race on the 1850 census were "White, Black, or Mulatto" and census enumerators generally left the column blank if the individual was "White." However, OFA has several examples from other states where the enumerator identified Indian men and women as "Ind" or "I" or "½ Ind" on the 1850 Federal census, including instances when Indian women were wives of White men. (See for example 1850 Lewis County, Oregon Territory, 59a and 59b.) OFA's search of the 1850 census of Tennessee found one woman in Cannon County who was identified as Indian. Agness Bain was 48 years old and born in Virginia (1850 Cannon County, TN, 393b). There is no known connection between this Indian woman and the petitioner's ancestors.

Virginia, and Maryland (*Goodspeed's History of Tennessee* 1886, Biographies of Lawrence County Citizens, 1; Censuses 1850-1880). There is no evidence that these men and women from divergent origins were part of the historical Cherokee Nation in North Carolina, descended from it, or came together in a single location before migrating to Tennessee. There is no evidence that the wives, some of whose maiden names are not known, were Cherokee or other Indians; in their own life-times, they were identified on the census records as White. None of the petitioner's ancestral families were identified as Indians on any of the Federal censuses of Lawrence County or elsewhere. Not a single one of the known ancestors was on a historical list of Cherokee Indians, nor could they be connected to the historical Cherokee Nation in North Carolina or elsewhere. The earliest records in Tennessee identified the petitioner's claimed ancestors as free White males over 21 who were paying taxes. See for example the *Giles County, Tennessee 1812 Tax List* that included at least one of the petitioner's claimed ancestors: Jacob Pennington (Hughes n.d., 15).

### Summary of the Evidence

The Petitioner #227 has submitted genealogical reports, published materials, works of fiction, and some published records that purport to identify ancestors of members of the group. Almost all the submissions appear to be compiled by members of the group and are unsupported self-identifications as Indians. The evidence submitted by the petitioner and the evidence located by OFA in the verification process identifies the petitioner's ancestors as non-Indian settlers living as part of the general population. The evidence clearly does not identify the petitioner's ancestors as members of the historical Cherokee Indian tribe or as descendants of the Cherokee Indian tribe or any other Indian tribe. Nor does the recent decision of the Tennessee Commission on Indian Affairs to grant state recognition to the CBC provide evidence of Indian descent acceptable to the Secretary.

The evidence shows that the group known as the "Central Band of Cherokee" is a recently formed group of individuals who claim to have Indian ancestry, but who have not documented those claims. The petitioner did not submit evidence acceptable to the Secretary, and OFA was not able to find any documents, to validate any of the claims or traditions that the individuals were Indians or Indian descendants. Rather the evidence about the petitioner's ancestors consistently identified them as "White." Neither the petitioner nor OFA could document a genealogical link between the petitioner's ancestors and the historical tribe of Cherokee. The evidence in the record clearly establishes that the petitioner does not meet criterion 83.7(e), descent from a historical tribe, Cherokee or otherwise.

### Conclusion

The AS-IA issues this expedited proposed finding against Federal acknowledgment under section 83.10(e) of the regulations, and the guidance and direction regarding OFA's internal procedures described in the May 2008 **Federal Register**. Because the evidence clearly establishes that the group does not meet the mandatory criterion 83.7(e), the regulations

(83.10(e)(2)) provide there is no need to make conclusions regarding the other mandatory criteria described in §83.7.

The Department's analysis of the evidence submitted by the Central Band of Cherokee in Lawrence County, Tennessee, and of the evidence located by the its own researchers demonstrates that there is no evidence in the record to link any of the group's members or their ancestors to a Cherokee Indian tribe or any other historical Indian entity. The evidence, in fact, demonstrates clearly that the member's ancestors were not Cherokee and were not Indians; rather they were non-Indian settlers moving into Tennessee in the early and mid-1800s from disparate places and at different times. Thus, the group known as the Central Band of Cherokee in Lawrence County, TN, clearly does not meet the requirements of criterion 83.7(e) because there is no evidence in the record that establishes that any of the petitioner's 407 members descends from the historical Cherokee Indian tribe, or any other tribe.

## APPENDIX A

### The Petitioner's Claims of Indian Descent Found in the Descent Reports

This abstract of the petitioner's claims includes the birth year and birthplace of the heads of families to show the date ranges and disparate origins of these claimed ancestors.

#### **Under the general heading of "Hughes" there were separate reports on the descendants of:**

William Hughes (born about 1783 SC), married Eledia/Lydia \_\_\_\_ (no maiden name given but descent report implies her maiden name may also have been "Hughes" who was b. abt 1784, SC per 1850 census). Petitioner claims she was "half Cherokee." She is named in William Hughes' will and was identified as White on the Federal censuses.

John Wesley Franks (1813 TN), married Elizabeth Ann Rogers, daughter of George Rogers and Elizabeth (no maiden name). Petitioner does not claim she was Indian.

Billy Brazier (no dates, places or information) and no wife named. Petitioner claims his daughter Inez was "small woman under 5 feet, said to be of Cherokee Indian blood line", but does not state or document which of her ancestors was supposed to be the Indian. (See the 1900 census, John Randell [*sic*] and wife "Idah E" [age, and birth date blank] were listed as White and the "Eb and Mary Brashier living next door are of the age to be Inez's parents and are both listed as White, and b. in TN).

John Randal (petitioner gives no dates or places, but he married the daughter of Billie Brazier, before the 1900 census). The 1900 census identified him was White, b. abt 1876 in TN. Petitioner does not claim he was Indian.

William Grady Tidwell (1835 TN and states the Tidwells were of English descent), married Sarah Amanda Kelley. Petitioner does not claim she was Indian.

Andrew Frank Hunt (1852 TN), married Sophia D. McCrory, daughter of Wade McCrory and Martha Collins. Petitioner does not claim she was Indian.

#### **Under the general heading of "Fincher," there were separate reports of the descendants of:**

Jonathan Fincher (1773 Orange County, NC), married Betty Pitman (b. abt 1797, Rowan County, NC). Petitioner does not claim she was Indian.

Andreas Heiss (1678 Wuerttemberg, Germany), Married Catharina Mercklin, daughter of Michel Mercklin and Ursula Wolff; grandson George Hise (b. bef 1721 in Germany), immigrated abt 1737, and d. abt 1794 in Greene County, TN. He married, Mary \_\_\_\_ (maiden name unknown) no dates, but their child was b. 1740 Rowan Co., NC. Petitioner does not claim that Mary, wife of George Hise, was Indian.

David Jones (no dates, but a son b. 1755, in Rowan County, NC), married Hannah \_\_\_\_ (maiden name unknown). Petitioner does not claim she was Indian.

John Love (born in Ireland, no dates, but a son b. 1731 in Ireland), married Elizabeth \_\_\_\_ (maiden name unknown, also b. Ireland); their granddaughter Frances E. Love b. 1768, immigrated with her parents to York County, SC before 1791, where she married Robert Ferguson. Petitioner does not identify the claimed Indian in this family.

Sir Robert Laurie (1631-1660 in Scotland), married Jean Riddle (“she was born in Riddell of Minto...daughter of Riddle of Minto”). Petitioner claims that their daughter Annie Laurie married a Ferguson, ancestors of the William Ferguson (1777-1831) who died in SC, husband of Eleanor White, parents of Robert Ferguson. Petitioner does not identify the claimed Indian in this family.

William Ferguson (no dates, but a son b. 1642 in Scotland), married Sara Grierson, born in Scotland; their descendant, William Ferguson and his wife Eleanor White immigrated to York County, SC bef. 1764. Petitioner does not identify the claimed Indian in this family.

Michael Turpin (1773 GA); no wife listed. Petitioner claims his child John M. Turpin b. abt 1773 in Franklin County, GA, married Elizabeth Carter in Halifax Co., VA in 1797, but this came from a “GenForum message #398” and it appears the petitioner has added the parents and grandparents of its claimed ancestor named James Holland Turpin b. 1794 in Franklin Co., GA, who married Nancy Jane Messer in 1827, from this Internet site. However, the dates and places do not ‘line up’ and this connection appears to be in error. Petitioner does not claim Elizabeth Carter, or the unnamed wife of Michel Turpin, were Indians.

**Under the general heading of the Freemon lines were separate reports on the descendants of:**

“Samuel ? Freemon” (no dates for the first Samuel, or the first “two generations” of Hittites at Troy who went to France), but see Samuel Freemon (b. 1776 NC), married Mary Lynch. Petitioner does not claim she was Indian.

“Ples Phillips” (no dates, but claims he was buried in Lawrence County, TN), married Dora Atkins. Petitioner does not claim she was Indian.

William Jacob LaCroix (1796 Baden, Germany), married Mary Catherine Radford in 1827 Lawrence County, TN (she was b. abt 1802, in TN, parents b. VA and NC per 1880 census). Petitioner does not claim she was Indian.

James Johnston (no birth date, died 1816 VA), married Elizabeth \_\_\_\_ [perhaps with maiden name Joyce]. Their daughter Crocian was b. in VA and she married John Thompson in 1814 in Charlotte County, VA. Petitioner does not claim Elizabeth \_\_\_\_ or Crocian Johnston were Indians.

John W. Thompson (1789 VA), no parent's names. Petitioner does not claim he was Indian, only that he married 1814 in VA, Crocian Johnston, the daughter of James Johnston and Elizabeth \_\_ (maiden name unknown). John W. and Crocian's daughter Elvira Elizabeth Thompson married Alfred Samuel Freemon. Petitioner does not claim she was Indian.

Jim McDougal (no dates, but born in GA and a child b. 1862 in GA). The name of his wife was not listed. Petitioner does not claim she was Indian.

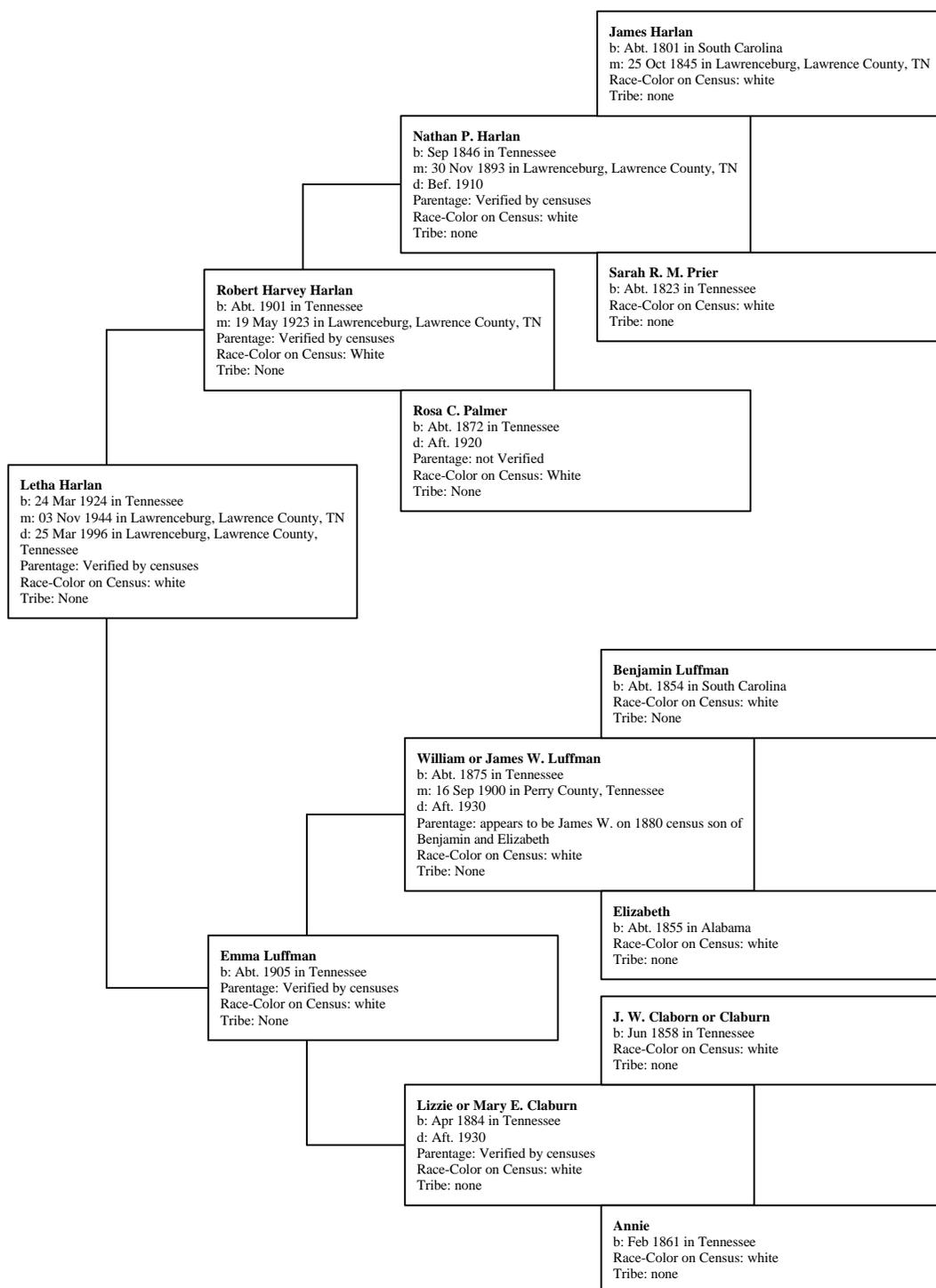
**Three other reports were for the descendants of:**

Captain Robert Messer (1734, no birthplace), petitioner makes unsupported claim that he was a "Cherokee Indian Chief." See explanation in this finding. Messer's wife was Mary \_\_\_\_ (maiden name unknown). Petitioner does not claim she was Indian.

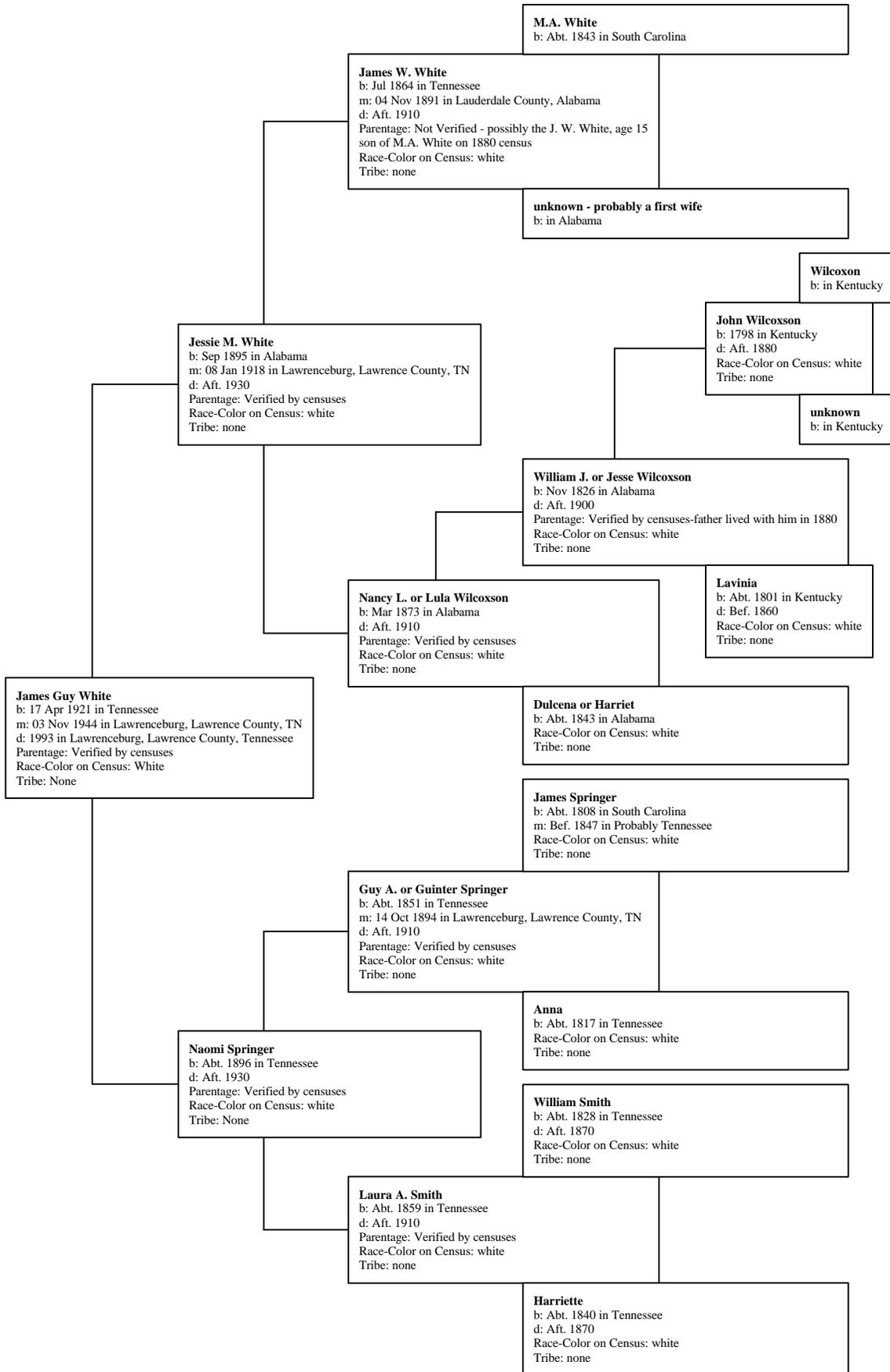
Nancy Clark (b. abt. 1849 TN), "family history says she was scalped by Indians, but this has not been confirmed; family history also states she was Cherokee full blood, her daughter Nannie [Robards] and son-in-law William A. Fincher passed this information on to their children." Petitioner claims Nannie Robards was Indian. However, the evidence shows that Nancy, wife of William Robarts, was b. abt 1849 in TN and both of her parents were born in NC. They were all listed as White on the 1880 census.

"George Robarts-Robards-Roberts" (1802 NC), married Keriah \_\_\_\_ (maiden name unknown, b. SC). Petitioner does not claim she was Indian.

## APPENDIX B: Joe H. White's Maternal Ancestors



## APPENDIX C: Joe H. White's Paternal Ancestors



## APPENDIX D

### The Petitioner's Other Claims and Evidence

The petitioner also made claims under the criteria 83.7(a), identification as an Indian entity since 1900; (b), distinct community; and (c), political authority. OFA reviewed these materials for evidence of a Cherokee band in Lawrence County or other Indian entity from which the petitioner might demonstrate of descent. The following summarizes these claims as they relate to criterion 83.7(e).

#### *Identifications*

In 2000, the petitioner submitted a number of letters from individuals who stated that they were “aware of Cherokees” in Lawrence County.<sup>1</sup> In 2003, the petitioner submitted letters from local and State officials who expressed their support for the “recognition of the Cherokee of Lawrence County” and the group’s efforts to keep the “memory and rich heritage alive” of the Cherokee in Tennessee. (Bailey 1/27/2003, Long 1/31/2003, Purser 2/17/2003.) These letters of support of the current group’s efforts to preserve Indian heritage through State or Federal recognition did not provide evidence of the group’s existence before 2000 nor evidence of an on-going or historical relationship with an earlier Indian entity, and do not provide genealogical evidence that the petitioner descends from any historical Indian tribe.

The petitioner asserts that the maintenance of the group’s campgrounds since 2000 (“Cherokee Camp: Sugar Creek”), and the books, music, and other materials submitted by the group, identify the community because “[t]hese are from Cherokee people inside the 1806 Congressional Reservation that have their roots here. It does serve as evidence that we still exist and are active in these areas” (White 3/31/2007, 16). The evidence however, does not show a Cherokee or other Indian community in Lawrence County at any time after the 1806 treaty. As stated earlier, the petitioner’s ancestors arrived in Tennessee from divergent origins. Over time, some of those ancestors bought land within the territory of the ceded lands. Some of these settlers or their descendants married some of the other settlers or their descendants. Some lived near one another, attended the same churches, and milled their flour at the same mills. These standard activities among the general population in a frontier and growing population do not provide evidence that the petitioner’s ancestors were Indian. Petitioner #227 appears to equate its ancestors’ settlement on and the current group’s location on lands that were ceded to the United States by the Cherokee and Chickasaw as evidence of the continuation of an Indian community. However, the evidence does not show that these ancestors were Indians, or that they

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<sup>1</sup> A letter from a State representative stated: “As per your request, here is my statement of fact: I am aware of Cherokees in Lawrence County, Tennessee. I have been aware for many years of the Cherokees” (John M. White 6/14/2000). A local attorney stated: “I have followed your endeavors with respect to your Cherokee ancestry over the past several months. This is particularly interesting to me due to the fact that I have Cherokee ancestry . . . I am interested to learning more about your efforts and I commend the same” (Bates 6/12/2000). A local businessman stated: “Pettus-Turnbo Funeral Home just recently became aware that we have a large group of our friends in Lawrence County that are descendants of the Cherokee Indian Tribe. We have long been aware of historical things regarding the Trail of Tears, but not aware of Cherokee Indian activities. We are delighted to have been enlightened to such. Our best wishes to all of you in your endeavors of recognition” (Pettus 6/21/2000).

moved together, settled together, or acted together as a group in any capacity prior to 2000 when the group submitted a letter of intent to petition.

The petitioner has not submitted any evidence that an Indian entity existed in Lawrence County, TN, at any time since 1900, nor did OFA find any evidence of such a group before 2000. The petitioner did not submit and OFA did not locate any newspaper, magazine articles, or books identifying the group's members or ancestors as part of an Indian entity prior to 2000. In that year a few newspaper articles report that members of the group were cleaning a cemetery or campgrounds, and were reporting claims of vandalism to property. These articles did not name any of the petitioner's ancestors or identify them as Cherokee Indians.

### *Historical Community*

The petitioner submitted certified copies of the 1806 "Congressional Reservation Treaty" (Statutes at Large 7:101). The subsequent 1807 "Elucidation" clarified the boundaries of the ceded lands identified in 1806 and noted that the Cherokee had ceded to the United States "all the right, title and interest which the said Cherokee nation ever had to a tract of country contained between the Tennessee river and the Tennessee ridge (so called)" which had been claimed by both the Cherokee and Chickasaw tribes (Statutes at Large 7:103).<sup>2</sup> None of the petitioner's ancestors descend from the men named in this treaty, nor has the petitioner shown that any of its ancestors were otherwise a part of the treaty tribe.

OFA did not locate reports from Federal, State or local authorities describing their dealings with an Indian entity in Lawrence County, or reports from anthropologists, historians, or other scholars who identified a historical Indian entity in Lawrence County or the surrounding area,

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<sup>2</sup> The petitioner cites an 1806 treaty with the Cherokee which ceded Cherokee lands north of the Tennessee River and "westward of a line to be run from upper part of the Chickasaw Old Fields, at the point of an island, called Chickasaw island, on said river, to the most easterly head waters of that branch of the said Tennessee River called Duck River excepting the two following described tracts, viz. [. . . description of tracts . . . ] which first reserved tract is to be considered the common property of the Cherokees who now live on the same, including John D. Chesholm, Au, tow, we and Cheh Chuh, and the other reserved tract on which Moses Melton now lives, is to be considered the property of said Melton and of Charles Hicks, in equal shares" (Article I). Article II lists what moneys will be paid the Cherokee tribe and that a gristmill will be built in Cherokee country. Article III states that the U.S. will "use its influence" to prevail on the Chickasaw tribe to agree to a boundary between the Cherokee and Chickasaw tribes; however, the U.S. would not force the boundary line be established, but would "endeavor to prevail on the Chickasaw nation to consent" (Article III). The last article states that the U.S. agreed that the "claims which the Chickasaws may have to the two tracts reserved by the first article of this convention . . . shall be settled by the United States in such manner as will be equitable, and will secure to the Cherokees the title to the said reservations" (Article IV) (Statutes at Large 7:101-103).

In 1807, the provisions of the 1806 treaty were clarified in an "Elucidation of a convention with the Cherokee Nation," which stated that the Cherokee had intended and the Secretary of War understood that the Cherokee were to cede to the U.S. "all right, title, and interest which the Cherokee nation ever had to a tract of country contained between the Tennessee river and Tennessee ridge (so called)" which had since 1794 been claimed by both the Cherokee and the Chickasaw. The Cherokee nation was paid additional monies and it was stated that "Cherokee hunters as hath been the custom in such cases, may hunt on said ceded tract, until by the fullness of settles it shall become improper" (Statutes at Large 7:103-104). This document was not a separate treaty, but "just an elucidation of Article I" of the 1806 treaty. The petitioner makes an issue of the fact that it is located in the same territory covered by the 1806 treaty as "evidence" of its Cherokee heritage. Location is not acceptable evidence of descent.

after the Indian lands were ceded in the early 1800s. OFA reviewed the Federal censuses, Indian records, and other records from the 1800s for evidences of an Indian entity in Lawrence County, but found none. It is expected that if a Cherokee group existed in the area before 2000, it would have been documented in these kinds of sources.

The TA letter suggested that the petitioner use the Federal censuses beginning in 1930 and work back through time to identify the group's ancestors, other relatives, or neighbors who might have formed or have been a part of an Indian community and to describe the composition and location of that community at different historical times (Souther 3/7/2007, 8-9). The petitioner's response was that "[t]he number one activity was to hide from the U.S. Government and not be caught. Individuals that were obviously Cherokee in appearance was not allowed to go to the city out of fear" (White 3/31/2007, 14). The petitioner did not provide any evidence that such a discriminatory climate existed in Tennessee throughout the 19th and 20th centuries.

### *Political Influence*

The TA letter stated that the petitioner had not addressed the issue of a distinct, autonomous political entity or how the group had exercised political influence over its membership from historical times to the present. It is such a historical, continuously existing entity that the petitioner needs to link to genealogically. In its response to the Department's request that they clarify the historical entity they claim to link to, the petitioner provided not further direction and only asked rhetorically, "[w]hat part of hiding from the U.S. Government does the BIA Office of Federal Acknowledgment not understand? Mass hiding in plain sight successfully is another example of political control" (White 3/31/2007, 4).<sup>3</sup> Petitioner #227 did not submit any additional documents to address political authority from historical times to the present, but stated the evidence was "[a]lready furnished in our petition. Black Dutch & Black Irish, hiding in plain sight. Minding our own business, military service, etc.," and included copies of some marriage records showing "Joe Sitting Owl White, Principal Chief," performed a few marriage ceremonies after the year 2000, as evidence of his own political authority (White 3/31/2007, 18 and attachments A and B). However, if an Indian group had existed in the Lawrence County area after the 1806 treaty, it is expected that there would be at least some references to it in the almost 200 year period between 1806 and 2000.

The petition materials includes the names of the group's council members beginning in 2000, but no evidence that there was a previous, historical governing body or political entity to which the group's current members link. Some of the petition materials included copies of treaties or other historical documents that identified leaders of the historical Cherokee, but the petitioner did not submit and OFA did not find evidence that any of the petitioner's known ancestors were listed on documents naming members and leaders of the historical Cherokee tribe or that the actions of the Cherokee leaders had any influence on, or connection with, the petitioner's ancestors' lives.

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<sup>3</sup> The regulations at 83.6(3) state that "Evaluations of petitions shall take into account historical situations and time periods for which evidence is demonstrably limited or not available." However, such a situation does not apply in this case. The historical records amply document Petitioner #227's ancestors in Lawrence County, and they are neither Indians nor in Indian entities. They are well documented members of the non-Indian general population.

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