

IN THE MUSCOGEE (CREEK) NATION SUPREME COURT

SUPREME COURT
FILED

NOV 15 2011

CONNIE DEARMAN, Deputy
ROSANNA L. FACTOR, COURT CLERK
MUSCOGEE (CREEK) NATION

PRICILLA HARKNESS,)
Personal Representative of the)
ESTATE OF KYRA ZUBAH, a minor child,)
)
PRICILLA HARKNESS and)
TIMOTHY ZUBAH,)
)
)
Plaintiffs/Appellants,)
)
v.)
)
MUSCOGEE (CREEK) NATION,)
)
)
Defendant/Appellee.)

Case No. **SC 2011-10**

(District Court Case No. CV-2011-51)

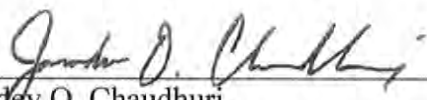
ORDER

Before CHAUDHURI, Chief Justice, SHIRLEY, Vice-Chief Justice, and McNAC, HARJOWARE, SUPERNAW and DEER, Justices.

PER CURIAM

The circumstances surrounding the instant appeal are both tragic and unfortunate. This Court is not unsympathetic regarding the loss Appellants have suffered. The Court is, however, barred from asserting jurisdiction in this matter. Respectfully, the Court is unable to provide Appellants with the relief they seek because no waiver of tribal sovereign immunity is present. Creation of such a waiver does not originate with this Court and we cannot interfere with sovereign functions constitutionally delegated to other branches of the Muscogee (Creek) Nation's government. Absent a waiver, this Court is unable to create a new exception to the longstanding and well-established doctrine of sovereign immunity.

IT IS THEREFORE ORDERED this 15th day of November, 2011, that the Order of the District Court dismissing the above-captioned proceeding is unanimously **AFFIRMED**.



Jonodev O. Chaudhuri
Chief Justice

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CERTIFICATE OF DELIVERY

I, Connie Dearman, Supreme Court Deputy Clerk for the Muscogee (Creek) Nation, do hereby certify that on this 15th day of November, 2011, that I faxed and mailed a true and correct copy of the foregoing Supreme Court's with proper postage prepaid to the following:

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Connie Dearman, Supreme Court Deputy Clerk