

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

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ANDREW JONES, et al.,

Plaintiffs,

vs.

5:98-CV-374

JAMES J. PARMLEY, et al.,

Defendant.
-----x

Transcript of *MOTION ARGUMENT* held on September 27,
2016, at the James Hanley Federal Building, 100 South Clinton
Street, Syracuse, New York, the HONORABLE FREDERICK J.
SCULLIN, JR., Senior District Judge, Presiding.

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A P P E A R A N C E S

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(Pro Se)

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Robert Bucktooth, III
Robert Bucktooth, Jr.
Andrew Jones
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Karen Jones
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GABRIEL BOUVET-BOISCLAIR, ESQ.

1 (Open court:)

2 THE COURT: Thank you for being here. As I
3 advised Ms. Horn, she had requested the subpoenas to be
4 issued and I advised that you have brought a motion to quash
5 the subpoenas.

6 And, so, we have to decide whether or not the
7 subpoenas of Mr. Lyons and Mr. Gibson should go forward or
8 not.

9 I received your papers and your motion.

10 Ms. Horn, did you receive a copy of the?

11 MS. HORN: I just got it. I just glanced at it a
12 few minutes ago.

13 THE COURT: Well, so that we're clear on it,
14 the testimony you wish to elicit from either Mr. Lyons or
15 Mr. Gibson, I think you advised me that they were
16 eyewitnesses to the incident on Route 81 on June 18th, 1997;
17 is that correct, they were present?

18 MS. HORN: That's part of it but they were part of
19 down at the fire station. There were people who saw them
20 there with -- when the group was coming together. Also, they
21 have --

22 THE COURT: I'm sorry, fire station? I'm not
23 familiar with what you're talking about.

24 MS. HORN: In Nedrow. In Nedrow. But also --

25 THE COURT: Regardless, the fire station has to do

1 with what?

2 MS. HORN: The grouping of the police before the
3 I81 Indian detail getting ready to --

4 THE COURT: You mean the staging area where the
5 State Police gathered that day?

6 MS. HORN: Yes, yes.

7 THE COURT: But the -- I'm not clear. What was the
8 testimony you wish to elicit from them in that regard?

9 MS. HORN: Well, there's quite a lot of information
10 in Dennis Blythe's interrogatory about the relationship
11 between New York State and the Onondaga Nation -- I'm
12 sorry, the Onondaga chiefs and he calls himself a chief and
13 Mr. Gibson, also, calls himself a chief.

14 THE COURT: Well --

15 MS. HORN: So we need to --

16 THE COURT: -- regardless --

17 MS. HORN: We need to ask -- we need to ask
18 questions about what his role is. I think it's in the
19 interrogatories.

20 THE COURT: Well --

21 MS. HORN: So we want to corroborate it.

22 THE COURT: As I've explained to you, though, a
23 number of times: That is not an issue in this trial.

24 MS. HORN: No, I know that.

25 THE COURT: This trial is about your claims that

1 you have concerning the incident that occurred on May 18th,
2 1997, First Amendment claims and some other claims.

3 But, in any event, whatever Mr. Lyons and
4 Mr. Gibson could testify to are relevant to what happened on
5 that property, in that area that day, if they were present
6 may be subject to subpoena. I'll hear your argument on that.
7 But, certainly, whatever they discussed before that with the
8 officials of the State Police or anyone else, would not be.
9 Wouldn't be relevant. It's another issue. You're talking
10 about some other concern you have not relative to your claims
11 in this case.

12 MS. HORN: Well, the -- I am, as part of this --
13 our group, our own detail, I was there and I was subjected,
14 like everybody else, to what happened.

15 THE COURT: Where now?

16 MS. HORN: So what --

17 THE COURT: You say you were there. What do you
18 mean there when?

19 MS. HORN: I was there at the site when we were
20 attacked.

21 THE COURT: On May 18th?

22 MS. HORN: Yes, on May 18th.

23 THE COURT: We're talking about --

24 MS. HORN: Now --

25 THE COURT: -- Mr. Lyons and Mr. Gibson. Were they

1 there?

2 MS. HORN: They were at the fire station.

3 THE COURT: I heard you say that.

4 MS. HORN: Yes.

5 THE COURT: Were they there at the site?

6 MS. HORN: I didn't see them at the site. However,
7 they were working with the New York State Police to set this
8 whole thing up. So, we want to question them what his role
9 is in this -- what happened on -- in 1997 because it
10 profoundly affects every last one of us here that are -- you
11 know that...

12 THE COURT: I'm familiar.

13 MS. HORN: Are we arguing this right now?

14 THE COURT: Arguing the subpoenas, yes.

15 MS. HORN: Okay. Well, then, I would like some
16 things to be explained by my colleagues, one of my colleagues
17 here.

18 (Discussion held off the record between plaintiffs.)

19 MS. HORN: Well, yeah, we're concerned about the
20 fact that he's refusing to come here and to answer a few
21 questions. Why would he be afraid to come here, if these are
22 the people he claims to represent?

23 THE COURT: Well --

24 MS. HORN: So we need him here. We do need him
25 here.

1 THE COURT: I understand your feelings about
2 needing him here. But I have to rule upon legally whether or
3 not I can enforce a subpoena to bring him here.

4 Mr. Heath has some arguments he brought up relative
5 to Mr. Oren -- Mr. Lyons, Oren Lyons, and Mr. Alston Gibson's
6 status as chiefs of the Onondaga Nation, and, as such, they
7 have enjoyed immunity from process.

8 MS. HORN: Okay, now, I think that should be
9 answered. They are not immune to being served with subpoenas
10 because they are not representative -- they do not represent
11 our people. They represent the corporation that's been set
12 up called the Onondaga Nation of New York -- I think, I don't
13 remember what the official name is -- but they are a
14 corporation. They are not the Iroquois Confederacy. We are
15 the Iroquois Confederacy. So, he --

16 THE COURT: All right. Mr. Heath, why don't you
17 present your argument with respect to these subpoenas so we
18 have a record.

19 MS. HORN: Can I --

20 (Discussion between plaintiffs in Native language.)

21 MR. HEATH: Judge, the basis for the motion to
22 quash, first of all, it wasn't timely and that's one of the
23 grounds under 45.(3). But, more importantly, is the
24 sovereign immunity issue. The Nation is sovereign. It's not
25 subject to either being sued or being hauled into court via

1 subpoena and the same thing is true of Nation officials.

2 In the time that I've had, I presented to the Court
3 the laws on that. I think I was very clear.

4 THE COURT: I read your submissions.

5 MS. HORN: Can you speak louder, please.

6 NIKKI JONES: We can't hear you.

7 THE COURT: Lean over. The mike is kind of short
8 there. As best you can, speak right into the microphone.

9 MR. HEATH: I'm sorry.

10 THE COURT: Can you speak right into the
11 microphone.

12 MR. HEATH: Say it again.

13 THE COURT: Speak into the microphone.

14 MR. HEATH: I'm just not hearing you, Judge.

15 THE COURT: Can you speak into the microphone.

16 MR. HEATH: Is that better?

17 THE COURT: That's better.

18 MR. HEATH: Okay. I wasn't sure they wanted to
19 hear me.

20 So, they are Nation officials. There's no doubt
21 about that. They were not on the scene on Route 81 when the
22 confrontation occurred. I've reviewed that video. I'm sure
23 it's in evidence here. If anybody can point out either of
24 their presence, I would be shocked. They have met repeatedly
25 about this problem over the last 19 years and that's where my

1 familiarity as to those facts come from. I've, also, spoken
2 with Chief Gibson today. He assures me that he was not on
3 the scene at Route 81.

4 Even if they had been, Judge, they would have been
5 there in their official capacities as representatives of the
6 governing body of the Onondaga Nation and still would be
7 protected by the sovereign immunity.

8 But what Ms. Horn just laid out is that she wants
9 to get into the governmental communications that they claim
10 happened between the State of New York, the State Police, and
11 the chiefs. That is, clearly, a governmental operation and,
12 clearly, protected by sovereign immunity. There's no doubt
13 that both are members of the council. And, so, given that
14 they're being subpoenaed in their official capacity, they are
15 enjoying sovereign immunity in these motions and these -- and
16 these subpoenas should be quashed.

17 THE COURT: All right. Thank you.

18 Any other response to that?

19 ANDREW JONES: Your Honor. Your Honor, to do with
20 this sovereignty issue, if they can bring in the State Police
21 and Onondaga County sheriffs and they can't do their own job,
22 then there is no sovereignty issue because --

23 THE COURT: Mr. Jones, I know you have opinions but
24 we're talking about the --

25 ANDREW JONES: This is law. This is a court case

1 that, that -- that I was involved in with my parents and the
2 judge ruled that, that when they use the State Police and the
3 sheriffs, they cannot hide behind sovereignty. They have to
4 step forward and be like us. They can't hide behind
5 sovereignty because they're using them against us. It's
6 their people.

7 THE COURT: It's Ms. Horn's subpoena.

8 Ms. Horn, you want to rebut the arguments here?

9 MS. HORN: I'll wait for my colleague here -- he
10 is, also, pro se -- to speak.

11 THE COURT: It's your subpoena.

12 MS. HORN: Yes, I know. But we're all one. We're
13 all one people.

14 THE COURT: Are you asking him to voice on your
15 behalf?

16 MS. HORN: Yes.

17 PAUL DELARONDE: I'd like to clarify this hiding
18 behind sovereign immunity. First of all, people need to
19 understand that, that this Onondaga Tribal Council is not a
20 council of the Confederacy under our Constitution. Our
21 Constitution clearly states that should someone, anyone, a
22 council, or more than part of a council, try to establish
23 something that is contrary to our Constitution, it shall be
24 deemed that they have alienated themselves and forfeited
25 their birth right and that they would lose their Clan and

1 they would, also, lose the right to use a Native name.

2 And these -- this council, years ago, had
3 incorporated under the Bureau of Indian Affairs to get
4 recognition and, under the Bureau of Indian Affairs,
5 recognition does not mean they recognize you as being Native.
6 What it means is that the federal definition is that these
7 people have accepted all the laws, rules and regulations of
8 the United States of America. That's what recognition means.
9 And so they incorporated and that. So, they no longer can
10 claim sovereign status when they do this.

11 The people of Onondaga are the sovereign people,
12 not the council. But the council has, for years, posed as
13 being the so-called legitimate government of the people. But
14 the fact is that the council is not the government. It is
15 the 49 families of the Confederacy that are the government
16 and that the appointees to the office of Royaner -- not
17 chief -- Royaner, which, in our language, clearly states that
18 he has a path to follow and he cannot stray from that path.
19 He has to follow that. Otherwise, if he cannot do that, he
20 will be removed.

21 And today, these men have not done this. And they
22 have been appointed to office and they have gone through what
23 they referred to as a condolence. But the condolence is not
24 conducted in accordance with Gayanashagowa, which is our
25 Constitution. They are ordained under a religion called the

1 Code of Handsome Lake and that puts them in this title.

2 First off, Oren Lyons, himself, has never been a
3 chief. He cannot hold a title among the Onondaga families
4 because he is a Seneca and that he has to follow under his
5 mother's family and their title and that would be out in
6 Western New York and that. So, he has no right under
7 Constitution to be claiming that he is an Onondaga title
8 holder because he is not.

9 And if you -- if you were to go to Onondaga and
10 speak to all the people in the community, they will tell you
11 very clearly that he's a Seneca. You can go to Cattaraugus,
12 Tonawanda, Allegany among the Seneca people and they will
13 tell you: He is a Seneca. And there's a -- there's a lot of
14 dispute as, also, is the lineage of Aly Gibson and that the
15 people of Onondaga say he is not an Onondaga.

16 There are many people sitting on that council, sir,
17 and have in the past and it's been very hard for the people
18 to correct what's going on because these guys hide behind the
19 United States government and anybody who opposes them, they
20 bring in the outside police forces and that. And, so, the
21 people are having to stand back because the people don't want
22 to get beat up. They don't want to go to jail or they don't
23 want to get shot. And, so, the people are being terrorized
24 today and in the past.

25 And earlier Mr. Blythe mentioned about when he was

1 there witness on Route 11 when they bulldozed people's
2 businesses down, which they had no authority to do. The
3 economy of the territory is not in the hands of the Council.
4 But it is the right of the people, especially the women. The
5 women are the ones who control the economies of our
6 territory, not the Council.

7 And the former man by the name of Leon Shenandoah
8 who was -- had the title of Tadodaho, which means that he's
9 the, basically, when the Council -- Grand Council meets, all
10 the 49 family representatives meet, that he is the one who
11 makes sure that our procedure and protocol is followed in
12 accordance with our Constitution.

13 And that -- and when the Onondaga Council started
14 to take over -- talk about taking over the people's business,
15 Leon Shenandoah, himself, told them you have no right to
16 interfere with the economy of the people. That belongs to
17 the people and that yours is only to sit in council on behalf
18 of the people. And that, and so they -- they turn around and
19 wanted to decloque him. But the Onondaga Council did not
20 have the authority because that is a Confederacy title and
21 not a family title.

22 And, so, there have been many things going on and
23 this is -- because of all of this -- back in 1976, we had a
24 Mohawk man who held a title known as aragowa (phonetic) and
25 that what was a family title. He's supposed to represent the

1 family. This man brought outside police into a longhouse and
2 beat up on children and that and the very people who were
3 asking to come here, they were part of putting out a letter
4 saying that this man would no longer be respected or
5 recognized as being a royaner because he violated our
6 Constitution by going and establishing a jurisdiction of a
7 white -- of a outside entity into ours. And, so, every
8 family throughout the whole Confederacy across -- right
9 through Canada, Quebec, Ontario, all across New York State,
10 every territory, every community put a letter out stating the
11 same, that they had brought outside.

12 It would be no different than if New York State or
13 somebody within New York State and that, a clergy brought in
14 the Soviet Union to enforce the clergy's wishes upon the
15 people of the United States. That would be the same thing.

16 So, the thing is that, when they claim sovereign
17 immunity, they are not immune from U.S. jurisdiction because
18 they've incorporated under the -- through the Constitution of
19 the United States under federal Indian law. This is what --
20 this is what they have done.

21 So, for this man here today to come here and,
22 again, try to mislead the court.

23 RONALD JONES: Yep.

24 PAUL DELARONDE: This is what's wrong. And we are
25 here today with this court is because what was established

1 between United States and the Iroquois Confederacy is that
2 there is a formula to resolve any disputes between us. There
3 is a, an -- in order that disputes could be settled
4 peacefully. These men have prevented those -- that kind of
5 action to take place. And this is the oldest agreement that
6 exists between ourselves, the Iroquois Confederacy, the other
7 Native people and the Europeans. It's called, in our
8 language, Guswenta or Tawagonshi (phonetic), which you might
9 have heard of called the Two Row Wampum agreement.

10 And this was one of mutual respect and that we
11 would not try to steer each other's vessels but we would
12 travel through life side by side as equals, as brothers and
13 sisters. And that any time we needed help, we would assist
14 each other. Any time there was a dispute, then it would be
15 done by the protocol that were set in order to maintain the
16 peace between our peoples.

17 And these guys are supposed -- trying to hide
18 behind this. They're frauds. This is why they have such a
19 problem with the people. This is why they didn't have
20 authority to go to New York State and to try to enter into a
21 taxing compact. They had never brought this issue to the
22 people whom it affects, but only served their own purpose
23 where they would come into sharing the taxes that were
24 collected. And they would use those taxes to control people,
25 such as they're doing today. There's a family here, couple

1 of families here, who have no running water and they have no
2 electricity because they have a difference opinion with these
3 people. Not only in Onondaga but it's in Tonawanda and it's
4 going on in Tuscarora. And all three councils incorporated
5 under the United States at the same time.

6 And, so this is why we're here today, because the
7 formulas to keep the peace have never been able to be applied
8 because of treasonous people, people who work and conspiring
9 and so on. And they have been acting as informants to the
10 New York State Police for years -- and he mentioned years,
11 that this -- these informants have continued to give
12 information, lies and so on. They distorted the roles of
13 people within our society. And such as the -- I mean, some
14 of the things that were said, they said that the warriors
15 were coming. Where were the warriors? If an action was
16 going to be called, the warriors inside would have never sent
17 grandchildren and grandmothers --

18 ANDREW JONES: No.

19 PAUL DELARONDE: -- to the front line, women. I
20 mean, that was ridiculous. I, myself, am a (speaking in
21 Native American). I am a warrior. I went to that gathering
22 (speaking in Native American). I went there because, as a
23 (speaking in Native American), I have a responsibility to my
24 people. I was appointed to the dialogue team to inform the
25 people as to what was taking place, what was going on and it

1 was update. That's why the news media was called, also, to
2 update the news media so the American public could stay
3 informed of what was going on.

4 And we, also, went there because it was a family
5 time. It was a time we could eat with our grandmothers, with
6 our grandchildren, our children, our nieces and our nephews.
7 But, instead, the only thing our people ate were billy clubs.

8 I don't know how much more I have to say. But I
9 believe that you're an intelligent man and that you can --
10 you can understand where we are coming from.

11 (Speaking in Native American.)

12 THE COURT: Mr. Delaronde, that was very eloquent,
13 quite frankly, and very sincere. I appreciate your thoughts
14 and I think you described your dispute and your disagreement
15 quite clearly.

16 However -- you may be completely right -- but
17 you're arguing in front of the wrong forum. I have no
18 jurisdiction to change what the United States government has
19 recognized as the leadership of the Onondaga Nation. I
20 cannot do that. I must recognize it.

21 So, although you may have a legitimate dispute.
22 You may be a hundred correct, you're talking about --

23 RONALD JONES: But the --

24 THE COURT: Although you may be a hundred percent
25 correct, you're talking to the wrong person.

1 RONALD JONES: The --

2 THE COURT: There's nothing I can do.

3 Excuse me, Mr. Jones, let me finish. You may sit
4 down, please.

5 I have to apply the law that exists. I have to
6 enforce the law of the United States government and the
7 Constitution of this country and you may disagree with what
8 has happened and I understand. That was, really, a very
9 eloquent argument that you put forth. But there's nothing
10 whatsoever I can do.

11 Now, in as far as this council is recognized and
12 Mr. Lyons and Mr. Gibson are recognized as chiefs of the
13 council, Mr. Heath has a legitimate argument that they do
14 enjoy immunity, as such. In so far as -- I may disagree with
15 your part of that, I mean, as far as their official capacity,
16 they do enjoy immunity. There's no question about that.

17 However, as to their -- if they actually were
18 present at the scene and saw things happening, I think the
19 factual information they possess may be subject to subpoena.
20 There's a dispute about that. I don't a hundred percent
21 agree with that.

22 But, as I understand your request to have these
23 people testify has nothing to do with their being present on
24 Route 81 that day. It's about their gathering ahead of time
25 and the discussions ahead of time and, if such, if that's the

1 case, that would not be relevant to your claims in this case.

2 So, anything else you want to put on the record,
3 you may do so now, but I think you've done a very good job of
4 articulating what the problem is here. I've been trying to
5 remind you people: I can't change that. All I can do is
6 deal with the claims from this court.

7 CHERYL BUCKTOOTH: Excuse me, sir. May I put into
8 record that Joe Heath was in a dispute with Doug Anderson in
9 federal court where he -- where Doug Anderson mailed him a
10 letter, federal letter saying that he was going to, I don't
11 know, hurt him on the res or something. Well, Joe Heath took
12 him to court and in the court documents, Joe Heath perjured
13 himself three times and I just want to make sure --

14 THE COURT: Mrs. Bucktooth, this is --

15 CHERYL BUCKTOOTH: -- that this man is discredited
16 because his information is incorrect and what he tells people
17 are lies.

18 THE COURT: Mrs. Bucktooth, my ruling is based upon
19 the law, not upon Mr. Heath. And Mr. Heath is an officer and
20 member of the bar of this court.

21 CHERYL BUCKTOOTH: I'm sorry, but he is still a
22 liar.

23 ANDREW JONES: He perjured himself.

24 THE COURT: You may have personal opinions.

25 CHERYL BUCKTOOTH: This is in federal court. This

1 is on record, sir. Doug Anderson --

2 THE COURT: This is not the place or time to make
3 those statements against anyone. Please -- I don't want to
4 hear that any more.

5 Ms. Horn.

6 MS. HORN: On the other hand, you're saying that
7 you have to uphold the law. Then, if this man is supposed
8 to -- these chiefs are supposed to be representing us, then
9 they should be here in the court with us, standing beside us.
10 And, so, I'm presenting another part, another argument that
11 they profess to be our leaders, well, then, they should be
12 here.

13 THE COURT: I can't enforce that. Okay. Anything
14 else?

15 ROBERT BUCKTOOTH, JR.: I have a question. I just
16 lost my train of thought, sorry.

17 THE COURT: That's all right.

18 CHERYL BUCKTOOTH: I wanted to state we were
19 exercising our rights that day by using our own ginagawa and
20 that was what we were out there for. We were exercising our
21 own personal rights that day and for the chiefs to say that
22 we don't have that right, I was just going to -- you know, I
23 just want you to know that those are part of the problems
24 that we have with people like Joe Heath who claim to
25 represent the Nation but they don't represent the people.

1 THE COURT: All right.

2 CHERYL BUCKTOOTH: They just try to --

3 THE COURT: We have that on the record clearly.

4 CHERYL BUCKTOOTH: Thank you.

5 ANDREW JONES: I think it's relevant that Aly be
6 here at least because he was the one that provided the false
7 information about us, as I stated before.

8 THE COURT: I understand -- I understand your
9 question.

10 CHERYL BUCKTOOTH: We should be able to address our
11 accuser.

12 RONALD JONES: Yeah.

13 THE COURT: I understand your concerns. As I just
14 said, I do not have authority to order him to be here.

15 RONALD JONES: Chief Alston Gibson is
16 African-American. He isn't native. How can he hold title of
17 chief or be sovereign?

18 THE COURT: That's not for this court to decide.
19 Again, I can't change what's recognized by the United States
20 government.

21 Is there anything further?

22 RONALD JONES: United States government --

23 THE COURT: My ruling is I cannot enforce the
24 subpoenas and the motion to quash is granted.

25 MR. HEATH: Thank you, Judge.

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THE CLERK: Court is in recess.

(Proceedings adjourned.)

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C E R T I F I C A T I O N

I, DIANE S. MARTENS, Registered Professional Reporter, DO HEREBY CERTIFY that I attended the foregoing proceedings, took stenographic notes of the same, that the foregoing is a true and correct copy of same and the whole thereof.

DIANE S. MARTENS, FCRR