

**TESTIMONY OF HON. LEBARON BYRD
CHIEF OF THE MOWA BAND OF CHOCTAW INDIANS
BEFORE THE SENATE COMMITTEE ON INDIAN AFFAIRS
MARCH 23, 2022**

Chairman Schatz, Vice Chair Murkowski, Members of the Committee, my name is Lebaron Byrd and I am the elected Chief of the MOWA Band of Choctaw Indians. Thank you for the opportunity to testify today for my tribe. On behalf of the MOWA Band, I also must thank Senator Shelby for his long-standing friendship and support of our people and our quest for full federal recognition.

Sen. Shelby's introduction of S.3443, the MOWA Band of Choctaw Indians Recognition Act, is his latest effort on our behalf to provide federal recognition to the MOWA Band allowing us to join the family of federally recognized Indian tribes that has been a part of the United States since its founding.

For over four decades the MOWA Band has sought federal recognition to overturn both historic and modern injustices to our communities. Today we are asking this Committee support Senator Shelby's effort to finally recognize the MOWA Band of Choctaw Indians as member of the federal family of Indian nations.

Who are the MOWA Band of Choctaw

The MOWA Band has been part of United States history since its earliest days. Initially part of the greater Choctaw Nation that entered into treaties with the United States, the MOWA are a descendant community of the Choctaw Nation that stayed in our homelands after Indian Removal policies took most of the Choctaw people to what is now Oklahoma. Since that time, we have lived in, worked in, shed blood for, and contributed socially and culturally to our country and the state of Alabama.

In the Treaty of Dancing Rabbit Creek, the federal government promised our ancestors the right to stay in our homeland and receive federal homesteads or allotments of land. Thousands of Choctaws remained in Mississippi and Alabama, attempting, often unsuccessfully, to have the federal government protect their rights under the treaty. While many later became members of the federally recognized Mississippi Band of Choctaw Indians, there is clear historical proof that hundreds of Choctaws continued to reside in Mobile and surrounding areas well into the 1850s. Very few received the Indian homesteads promised them by the Treaty because the federal agents charged with that responsibility refused to register the names of our ancestors who asked for lands. Our ancestors, most of whom spoke no English, were dependent upon these federal agents to record their names and provide them promised allotments of lands.

When the federal government broke its promises, our ancestors were left to fend for themselves. This they did by keeping their community together and supporting each other. By the Civil War era, the MOWA Choctaw people had become an identifiable Indian enclave, separated from surrounding white and black communities by our genetic origins, social and cultural ties, and political leadership.

How Did the MOWA Band Survive?

Following removal of the Choctaw Nation in the 1830s, the MOWA Band continued to occupy the frontier territory around and north of Mobile, and post-Civil War, clearly occupied their current and more

definitively bounded homeland in Mobile and Washington Counties. In doing so we remained a distinct, Indian enclave.

Our ancestors also wisely worked to recover some of our traditional lands. Without the benefit of the Treaty rights promised, they gradually acquired ownership of land centered around our homeland of today. In this manner they built the foundation upon which our community has survived. We have been able to build homes, churches and schools--all on Indian owned land, even if not "federal trust land."

In fact, all-Indian churches and schools became central to both the identity and survival of the MOWA Band from the late 19th Century through most of the 20th Century. Of course, this is not unique to the MOWA community. Most non-federally recognized indigenous groups in the Southeast (many of whom secured federal recognition after the BIA established its acknowledgment regulations in 1978) were anchored by Indian churches. In the MOWA territory, several all-Indian churches date to the mid-nineteenth century, and several all-Indian schools were created in the late-nineteenth century as part of the development of segregated public school systems. Until federal court cases of the 1960s mandated integration, a three-way racially segregated educational system was established in the MOWA Choctaw homeland.

The MOWA Band Today

The MOWA Band today continue to comprise the same distinct Indian enclave that remained in Alabama. Currently our homeland constitutes an area approximately twenty miles north to south and ten miles east to west. Within this territory, we provide government and community services to our citizens, including community policing, legal aid, housing, and medical services.

Like our sister Choctaw tribes, we have moved away from our traditional leadership structure to adopt a more modern democratically elected government, with a written constitution and formal membership criteria. In addition to community services programs, we have begun restoring our community's cultural traditions by establishing language and history programs. A group of our women leaders organized a powwow that has become a nationally known annual powwow with dancers from across Indian country.

The Tribe has been recognized by the State of Alabama since 1979, and by federal agencies such as HUD and HHS. The National Congress of American Indians, other federally recognized tribes, and notable scholars have identified the MOWA Band as a surviving tribal community in the Southeastern United States. Renowned native legal experts such as Vine Deloria, Jr., author of *Custer Died for Your Sins: An Indian Manifesto*, former Executive Director of the NCAI, and political science professor, stated that the MOWA Band was a surviving tribal group.

Sadly, the Department of the Interior is the only major federal agency that does not recognize us as an Indian tribe.

MOWA Recognition Efforts

Federal recognition is very important to the MOWA people. Recognizing our sovereignty as a tribe is not just symbolic recognition of our struggle to survive in our homeland after the vast majority of our brothers and sisters were removed to Oklahoma. It is crucial to our self-determination as an Indian tribe, and to our continued ability to take care of our people. The federal tribal programs that provide basic support to tribal governments require federal recognition. Our continuing efforts to restore language,

culture and history depend on that recognition for long term support. The medical care, education, and housing programs that tribal communities like ours depend on must have the support of the federal government.

When the Department of the Interior first promulgated Federal recognition regulations in 1978, we were among the first tribes to submit a petition. However, by the time our petition moved through the queue the Bureau of Indian Affairs recognition process was already being denounced as “broken.” Given the summary denial of our petition, I must agree with that criticism.

In 1997 the Department of the Interior denied the MOWA Band’s petition for acknowledgement through a summary review process, that focused exclusively on the scarcity of federal records listing MOWA ancestors dating from 1830s removal period or earlier. They did this despite their knowledge that the MOWA Band, like many tribal communities remaining in the Southeast after Removal, suffered from a lack of federal documentation directly because of the unwillingness of federal agents in the 1800s to fulfill their responsibilities under treaties. They did this despite knowing that there were virtually no other federal records or lists of names created because the MOWA Band, like many others east of the Mississippi, were not recognized as a federal responsibility until the late 20th Century.

I want to make this point clear: the malfeasance of federal agents in the 19th century, in not fulfilling their federal treaty responsibilities, provided the rationale for federal agents in the 20th century to deny the MOWA tribe federal recognition.

Unfortunately, the OFA regulations provide no opportunity for reconsideration, even if regulations are revised in a manner that would significantly affect our petition. Therefore, the only avenue open to the MOWA Band now is recognition through legislation by the United States Congress.

This summary denial sought to delegitimize our history and our ancestry. We are determined to not let that injustice stand any longer.

Changes in Federal Recognition Policy

While it doesn’t provide an opportunity for the MOWA Band, it is significant that, since denial of our petition, the Department of the Interior has fundamentally changed the criteria necessary for recognition through its regulatory process. Among the most important changes made in 2014 to the regulations at 25 C.F.R. Part 83, is the date for recognition of existence of a tribal entity. That important criteria was amended from a date of “time of first contact” to the year 1900.

For instance, this change would make relevant the United States Census beginning in 1910. That census was the first that lists MOWA Band ancestors as being Indian. We believe this change in Departmental regulations would make the MOWA Band a strong petitioner for a full review. However, as there is no reconsideration after the 1997 denial, Congressional action is needed to recognize the MOWA Band.

Congress has the Authority to Recognize the MOWA Band

Federal recognition by an act of Congress is a long-standing and often used exercise of the Plenary Power of the Congress. It was most recently exercised to recognize tribes in Virginia and Montana during the 115th and 116th Congresses, including a tribe that had its petition denied by Interior. We humbly ask that this Committee support the exercise of that power to recognize the MOWA Band of Choctaw Indians.

Conclusion

Thank you for the opportunity to testify today on behalf of my tribe. I stand ready to answer any questions the Committee may have for me.