

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA

SOUTHERN DIVISION

OCT 16 2002

CASIMIR LEBEAU and VERNON
ASHLEY,

Plaintiffs,

-vs-

UNITED STATES OF AMERICA,

Defendant.

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CIV 99-4106

ORDER


CLERK

The Court previously ruled in favor of plaintiffs on their breach of trust claim and found that each of the plaintiffs are entitled to an award in the amount of \$482.79 plus interest to be determined by the Court as a part of their damages. (See Memorandum Opinion and Order, Doc.122, July 29, 2002.) The defendant submitted a response calculating the interest portion of the damages award as ordered by the Court, Doc. 133. The interest was calculated to be \$422.54 on the principal amount of \$219.70 from January 1983 through October 1, 2002. Thus, the total damages to be awarded to plaintiffs on their breach of trust claims is \$905.33 (\$482.79 + \$422.54).

While plaintiffs prevailed on their breach of trust claim, the Court previously granted motions for summary judgment against plaintiffs on their claim that the Mississippi Sioux Tribes Judgment Fund Distribution Act of 1998 ("the 1998 Act"), Pub. L. No. 105-387, 112 Stat. 3471 (codified at 25 U.S.C. § 1300d-21 *et seq.*) is unconstitutional. (See Memorandum Opinion and Order, Doc. 85, September 25, 2001.) On January 30, 2002, the Court denied a motion for Rule 54(b) certification regarding the Court's decision that the 1998 Act is constitutional, which was filed by the previously dismissed intervenors-defendants, the Sisseton-Wahpeton Sioux Tribe, the Spirit Lake Tribe and the Sisseton-Wahpeton Sioux Council of the Assiniboine and Sioux Tribes ("the Tribes"). (See Order, Doc. 106, January 30, 2002.)

All of the issues having been resolved in this action, the Court will enter Judgment consistent with the following: (1) Memorandum Opinion and Order, Doc. 85, September 25, 2001; (2) Memorandum Opinion and Order, Doc. 122, July 29, 2002; and (3) this Order. Accordingly,

IT IS ORDERED:

1. That plaintiffs are entitled to recover from the defendant United States of America damages for breach of trust in the amount of \$422.54 in addition to the damages in the amount of \$482.79 previously awarded to plaintiffs as set forth in the Court's Memorandum Opinion and Order, Doc. 122, dated July 29, 2002.

Dated this 16th day of October, 2002.

BY THE COURT:



Lawrence L. Piersol
Chief Judge

ATTEST:

JOSEPH HAAS, CLERK

BY: 
DEPUTY