



Congress of the United States House of Representatives

June 14, 2019

Pamunkey Indian Tribal Office
1054 Pocahontas Trail
King William, VA, 23086

Dear Chief Gray,

I found your January 2019 responses to my August 2018 inquiry into Pamunkey enrollment unresponsive to the central question. Specifically, troubling questions remain unanswered on the use of the 1900-1910 census as the Pamunkey base roll as a convenient proxy for race. The use of the census of 1900-1910 as a threshold excludes descendants of mixed-race African-Natives who would otherwise be eligible for enrollment but for the peculiar history of race relations in Virginia, including within the Pamunkey Tribe. I am sure that the Tribe is eager to move beyond this shameful chapter of racial animus to permit the Tribe to begin its new chapter of federal recognition free from stains or sin. Accordingly, I would like the opportunity to meet with you in person to discuss why the shameful legacy of the Black Laws still stain the Tribe until the legacy and damage of those laws are ameliorated or undone for modern descendants of the Pamunkey people.

As you allude in your reply, the Pamunkey enacted “Black Laws” that mirrored Virginia laws at the time, which means that from approximately 1861 to 2014 it is not only possible but nearly certain that whole family lines were expunged from the Tribe during this period. A 1954 tribal governing document, *Ordinance of the Pamunkey Indian Reservation*, states that members may “marry only [W]hite or Indian.” Until at least 2014, the stated penalty for violating the Tribe’s Black Law was banishment from the Tribe. For reference, the Office of Federal Acknowledgment’s Proposed Findings (January 16, 2014, at 86) described the practice and quoted Section J of the Tribe’s laws, as certified in 2011:

If a member of the Tribe is permanently banished, then the member’s name shall be removed from the membership roll of the Tribe, and all privileges and benefits pertaining thereto shall immediately be suspended indefinitely.

Prior to federal recognition, the Pamunkey Tribe did not have a formal enrollment criteria, but would banish members if they violated the Black Law. The existence and past enforcement of

Black Laws understandably drew criticism during the recognition process, especially considering the Tribe kept the law for nearly 50 years after the Supreme Court deemed anti-miscegenation laws unconstitutional, necessitating the adoption of enrollment criteria that was not facially racist. My concern is that the Tribe selected, and adopted, as its base roll, a census that not only serves as a de-facto proxy for race discrimination but that also continues to inflict those scurrilous practices on modern African-Native descendants.

I am further skeptical of this decision due to the Black Laws remaining in force through 2014, or a full three (3) years after the Tribe designated the 1900-1910 census as the bright line test for base enrollment in 2011. The reality is that the use of the 1900-1910 census as base rolls, with no enrollment mechanism for the Pamunkey Indians descendants whose ancestors were victims of past discrimination, creates the abhorrent situation that any Pamunkey subject to banishment under the Black Laws would remain excluded from the Tribe today. In your January 2019 reply, you state “[t]he Tribe’s enrollment application does not request individuals to list their race, as it is not a factor in the enrollment application,” which, without the proper context and the history of the Black Laws, is a glib sleight of hand because it ignores the obvious exclusion of the mixed-race African-Native lineage of individuals who can demonstrate Pamunkey heritage but whose family are not present on 1900-1910 rolls.

It is correct, as you state, that Ms. Jasmine Anderson has questioned the Tribe’s use of the selected Census as base rolls. I share the concerns of Ms. Anderson, especially considering the Tribe rejected her third application in March 2018 *explicitly* based on the Census rolls, despite the Tribe previously representing to Ms. Anderson through Mrs. Ashley Atkins-Spivey, and in an August 2017 email from Assistant Chief Brad Brown to Ms. Kathryn MacCormick that:

Our membership policy has not changed. Applicants must show that the[y] are descended from our core group of historical Pamunkey based on census records from 1900 to 1910. However, the council has agreed that if someone can present compelling evidence of being descended from a Pamunkey who lived on the reservation prior to 1900, we would consider them for membership. The Council is allowing for this exception on a case by case basis.

I have personally reviewed the extensive documentation and historical records that Ms. Anderson submitted in her application and had my staff authenticate the provenance of the documents. The documented evidence is substantial and compelling of Ms. Anderson’s ancestors’ prior residence on the reservation and connection to the Pamunkey people.

Among the records I reviewed are historic church records, census data, and academic research that demonstrate Ms. Anderson’s ancestors (Dungy-Dungee-Dungey) were Pamunkey going back more than 150 years. Academic scholarship focusing on the history of the nearly “contiguous (and extremely porous)” communities of Mattaponi and Pamunkey Indians had no trouble identifying Dungee ancestors active in or near the Pamunkey community. In one report, published jointly by the College of William & Mary and the Commonwealth of Virginia Department of Historic Resources on the Mattaponi Indian Reservation, Jesse Dungee, who, with support from the Freedman’s Bureau, personally donated land, lumber, and resources for a school for Colored People. His activities during this time are extensively documented as is his

associated with the Pamunkey Tribe. The reports hint that his activities in support of people of color, before and during Reconstruction, led to his exclusion from the Pamunkey Reservation. Despite his banishment, he and his family continued to occupy land just outside the Pamunkey Reservation boundary (at the time referred to as "Indian Town"), where some of his descendants remain to this day. Based on this exhaustive scholarship and the Black Laws, it is reasonable to conclude that the Tribe's penalty of banishment and exclusion from the membership roll would have been applied to Mr. Jesse Dungee, and his siblings. The application of that rule continues to exclude his descendants from enrollment today, despite their historic connection to the Tribe. That continuing exclusion also extends to his brother's descendant, Ms. Jasmine Anderson.

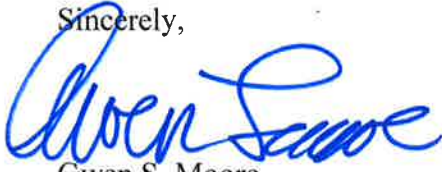
Given that Ms. Anderson's extensive historical documentation shows clearly her Pamunkey heritage, and her family's close historical relationship to the African-American community in King William County, her inability to trace her descent to a person on the 1900-1910 census is almost certainly a result of late 19th century banishment of her ancestors under the Black Laws and subsequent expungement from the rolls. I would hope that you agree that repugnant result places the Tribe in the awful position of resurrecting and enforcing the Black Laws. I view the record evidence as wholly contrary to written explicit representations made to federal agencies and Congress during the Pamunkey's federal recognition process directly related to the existence and enforcement of the Tribe's Black Laws.

In fact, the documents and evidence that Ms. Anderson provided my office coupled with the academic literature was so compelling that I filed a Freedom of Information Act request to obtain the Pamunkey's petition for federal acknowledgment. I am curious to cross-reference the records we reviewed and authenticated with documents supporting the Tribe's petition. One document from the Colosse Baptist Church specifies 32 individual Pamunkey Indians who had joined the Church in 1835. But prior records of the same Church name at least 7 Dungee-Dungee-Dungey members of the Church by 1834, all listed as free people of color, not listed as Black, and some explicitly shown as from "Indian town." Given the requirement in the recognition process that the Tribe show continuity, I would be shocked if many of these documents were not included as support of the Tribe's federal recognition. It would be an unconscionable result if a family whose lineage was so well documented, including a famous relative, Jesse Dungee (specifically identified by the Library of Virginia as Pamunkey) had not been used to support the Tribe's federal recognition because that family was retroactively removed because of affiliation and ties to the Black community and thus barred. This revision of the record, formalized and systemized through the use of the 1900-1910 census improperly bars an historic family even to the present day from enrollment in the Tribe.

I understand the sensitivity of tribal enrollment practices - as it goes to the heart and identity of the Tribe itself - so I am, therefore, trying to approach this issue with sensitivity. However, the Tribe made representations during the recognition process regarding the application of the Black Laws and I simply will not accept the continued enforcement of the Black Laws via proxy. Nor can I accept false statements serving as a subterfuge to disguise continued invidious discrimination or false statements that undermine the factfinding that is central to the Federal Acknowledgment process, and the resulting Government to Government relationship between the United States and the Pamunkey Tribe.

As the identity of the Tribe is a collection of its members, so, too, can the identity of individuals be integral to their shared history with the Tribe. It is for that reason that I am so passionate to get to the truth in this matter. I am confident that we share the goal of seeing the ugly history of the Pamunkey Black Laws truly put to rest so that the Pamunkey Tribe and *all* its people can move into a prosperous future.

Sincerely,

A handwritten signature in blue ink, appearing to read "Gwen S. Moore". The signature is fluid and cursive, with the first name "Gwen" being more prominent than the last name "Moore".

Gwen S. Moore

MEMBER OF CONGRESS