



STATE OF KANSAS

Office of the Attorney General

1st Floor, State Capitol Bldg. (913) 296-2215 Topeka, Kansas 66612

Curt T. Schneider
Attorney General

March 31, 1976

ATTORNEY GENERAL OPINION NO. 76-115

Mr. Douglas L. Baker
Deputy County Attorney
Office of the County Attorney
Cherokee County
Columbus, Kansas 66725

RE: Indians--Certain License Fees

Synopsis: In order to qualify for the exemption from license fees provided for in K.S.A. 32-1047, an individual must be able to show that he is enrolled as an American Indian on a tribal membership roll.

*

*

*

Dear Mr. Baker:

You inquire about the applicability of K.S.A. 32-1047 which provides for a statutory exemption for American Indians from the payment of hunting and fishing license fees thusly:

"Resident American Indian to hunt, fish or trap without license or fees; conditions.
Any person residing in the state who is enrolled as an American Indian on a tribal membership roll maintained by the Bureau of Indian Affairs of the United States Department of Interior may fish and, hunt or trap within this state under the same regulations as other persons without first obtaining any license to do so, and shall not be required to pay the fees provided in K.S.A. 32-104e and K.S.A. 1972 Supp. 32-179. Any person hunting, fishing or trapping without a license under the authority of this act shall carry

Mr. Douglas L. Baker
March 31, 1976
Page 2

upon his person and exhibit upon demand of any game warden or other law enforcement officer a certificate of degree of Indian blood issued by said Bureau of Indian Affairs.

[L. 1971, ch. 142,
§1; L. 1973, ch. 179, §1; July 1.]

Specifically, you ask whether an individual must be enrolled on a tribal membership roll to qualify for the exemption.

A review of some of the policies and procedures of the Bureau of Indian Affairs may help in clarifying your inquiry. Normally, every American Indian tribe in the United States maintains a current membership roll. On proper showing by an applicant, the Bureau of Indian Affairs will issue a certificate showing the individual's degree of Indian blood and his membership roll number. However, in 1907 the United States Congress closed the tribal rolls of the "Five Tribes" (Cherokee, Choctaw, Seminoles, Creek, and Chickasaw). Therefore, no new numbers have been added to the rolls of the "Five Tribes". The Bureau of Indian Affairs issues certificates to show the degree of Indian blood, but cannot issue a membership roll number for individuals descended from members of the Five Tribes.

Kansas in providing for the fee exemption in K.S.A. 32-1047 made no provisions for the anomaly of the "Five Tribes". The law clearly requires that in order to qualify for the exemption, one must be "enrolled as an American Indian on a tribal membership roll maintained by the Bureau of Indian Affairs". While this describes the vast majority of American Indians, it does not apply to members of the "Five Tribes". Since there is no alternative means of qualifying for the exemption, these Indians would be required to pay the normally required fees.

In addition, you inquire about the significance of the degree of Indian blood. As for the Kansas law in question, the amount of Indian blood is irrelevant and immaterial. While the degree of Indian blood might have some significance in the distribution of tribal monies, it is unrelated to the issues you raise.

Therefore, it is my opinion that in order to qualify for the exemptions provided in K.S.A. 32-1047, an individual must be able to show that he is enrolled on tribal membership rolls

Mr. Douglas L. Baker
March 31, 1976
Page 3

maintained by the Bureau of Indian Affairs. Proof of such enrollment shall be by exhibition of a certificate of degree of Indian blood with an assigned roll number affixed thereto.

Very truly yours,



CURT T. SCHNEIDER
Attorney General

CTS/PAH/cgm