
Oregon Department of Fish & Wildlife v. Klamath Indian Tribe

Date of Decision: July 2, 1985

Summary of case

Oregon Department of Fish and Wildlife v. Klamath Indian Tribe is a landmark case in Native American law. In 1864 the Klamath Tribe signed a treaty with the U.S. government in which it ceded most of its ancestral territory in exchange for federal protection, a designated reservation, and the exclusive right to hunt and fish on the reservation. The right to hunt and fish on the tribe's ancestral territory that lay outside the reservation was not clearly defined in the treaty, however.

After a dispute about the reservation boundaries arose, the tribe and the U.S. government negotiated the 1901 Cession Agreement, which was ratified by Congress. Under this agreement the tribe gave all claim to the ceded land to the government. There was no mention of hunting or fishing in the agreement, and the tribe continued to hunt and fish on land that had been ceded.

In 1982 the tribe brought this case against the Oregon Department of Fish and Wildlife to prevent government interference in tribal hunting and fishing. On July 2, 1985, in a six-to-two vote, the U.S. Supreme Court ruled that the Klamath Tribe did not have an exclusive right to hunt and fish on tribal lands that were ceded in the 1864 treaty. In addition, the court ruled that the Tribe was not free of state regulation on ceded lands that were outside the reservation.

Summary of majority opinion

In the majority opinion delivered by Justice John Paul Stevens, the Court held that the 1864 treaty restricted the tribe's hunting and fishing to the reservation. Furthermore, the fact that there was no mention of off-reservation hunting and fishing rights in the 1901 Cession Agreement did not mean these rights were granted. Therefore, the Klamath Tribe was not entitled to hunt and fish and be free of state regulation on ceded lands.

Summary of dissent

In the dissenting opinion, Justice Thurgood Marshall was joined by Justice William J. Brennan. He stated that the Klamath Tribe had hunted and fished on these lands for many years, without interference. He said the Court's decision assumed that the Klamath Tribe had given up its rights to hunt and fish on these lands by signing the 1901 Cession Agreement. According to Marshall, there was no proof that any party

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that signed the 1901 agreement envisioned that it would impact tribal hunting and fishing practices. Marshall said the language in the agreement “is not faithful to the well-established principles that Indian treaties are to be interpreted as they were likely understood by the tribe and that doubts concerning the meaning of a treaty should be resolved in favor of the tribe.”

Oregon Department of Fish and Wildlife v. Klamath Indian Tribe. (n.d.). Oyez. Retrieved February 6, 2020, from <https://www.oyez.org/cases/1984/83-2148> (For summary click on syllabus.)