FILE NO. ADM 09-8009

STATE OF MINNESOTA

IN THE SUPREME COURT

IN RE PETITION TO AMEND RULE 10 OF THE MINNESOTA GENERAL RULES OF PRACTICE FOR THE DISTRICT COURTS

SUBMISSION OF PUBLIC COMMENT ON THE PETITION OF THE MINNESOTA TRIBAL COURT/STATE COURT FORUM

Written Comments Only; No Oral Presentation Requested

Submitted to:

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Comments and General Objections to Rule 10

The present *Petition* of the Minnesota Tribal Court/State Court Forum to amend Rule 10 of the Minnesota General Rules of Practice for the District Courts, must be understood and recognized as part of the ongoing, civil rights deprivations and other legal fictions created by the Minnesota Judicial system with regard to Native Americans throughout Minnesota, especially federally recognized Indians living on federally recognized reservations. It is 2017 and the Minnesota Judicial Council recognizes the Forum and acknowledges it's a central role in enhancing the relationship between the Minnesota judiciary and each of the tribal judiciaries within Minnesota's borders. See *Petition* Item 2.

This Rule 10 judicial dance is the emperors newest, camouflaged clothes, which explains part of the past colonialism and paternalism of the Minnesota courts while disingenuously appearing to recognize tribal courts' competence and authority. To recognize tribal courts, means first recognizing tribal jurisdiction. Just the opposite is happening here, legal minded people supporting the *Petition* either understand the false pretense of developing recognition by the state courts, or they just like the warm fuzzy feeling of appearing to do the something that might be positive.

Legal practitioners of Indian law should understand that Appendix A for the *Petition* on Rule 10 is missing some critical applicable federal statutes, like treaties, Public Law 280 and an important Congressional Act called the Duro fix, which provides the fundamental framework of tribal jurisdiction, to be recognized by the state courts. This is where tribal jurisdiction is hijacked and the ongoing, intellectual dishonesty occurs with the oppression of impoverished tribal members for ongoing, state law-enforcement for profit.

Clearly the *Petition* initially cites to some accurate Indian law where the state understands *because of their status, Indian tribes possess a unique kind of sovereignty, which extends to their members and their territories* (State v Stone 1997) *it is a kind of sovereignty superior to that of states but inferior to that of the federal government.* Gavle v. Little Six, Inc., 555 N.W.2d 284, 288 (Minn. 1996). See Item 7. The *Petition* continues by recognizing that *the United States Supreme Court has drawn a general contour for tribal sovereignty: what is necessary to*

protect tribal self-government or to control internal relations. Montana v U.S. (1981). Id.

The crux of the jurisdictional problem is outlined (buried) in item 10, noting The *tribes retain the authority to prosecute members for crimes committed in Indian country, a power "justified by the voluntary character of tribal membership and concomitant right of participation in a tribal government, the authority of which rests on consent*. Citing Duro v. Reina, 495 U.S. 676, 694 (1990) with FN 1. *They also retain the authority to prosecute nonmember Indians under the same circumstances.* United States v. Lara, 541 U.S. 193, 200 (2004). Item 10.

Most everything discussed after item 10 has to do with non-Indians, *as opposed to nonmember Indians*. Important to note is that Public Law 280 grants limited civil state jurisdiction over *Indians in Indian country*, all Indians, not just the Indians the state decides if, how and when to recognize.

Over a quarter century ago, Congress enacted the Duro fix[1] to specifically reverse this *apartheid like* legal reasoning in Duro about Indians. Unfortunately the Minnesota judicial system continues to wrongly follow Duro v Reina while intentionally ignoring Indian defendants' jurisdictional arguments attempting to correct this ongoing civil rights deprivation, one Indian at a time. In fact Minnesota courts routinely, intentionally ignore U.S. Supreme Court law, congressional acts as well as federal preemption and infringement doctrines to develop self-serving, outcome based decisions favorable to Minnesota financially. Ultimately, this is

[1] See http://www.tribal-institute.org/lists/icra.htm "The ICRA was amended again in 1991 in order to overturn the U.S. Supreme Court decision in Duro v. Reina, 495 U.S. 676 (1990). The Duro decision held that tribal courts lack criminal jurisdiction over non-member Indians. The United States Congress overturned the Duro decision (the so-called Congressional "Duro-fix") by added language the language "and means the inherent power of Indian tribes, hereby recognized and affirmed, to exercise criminal jurisdiction over all Indians" to the definition of "powers of self-government". This Congressional Duro-fix restored tribal court criminal jurisdiction **over all Indians (members and non-members)**."(Emphasis added).

organized, criminal theft in its simplest form, that state law-enforcement relies upon for unlawful profit.[2]

When Congress passed the Duro fix in 1990, and permanently in 1991, the intent was to prevent federal and state courts from trying to parse out one Indian tribe member from another Indian tribe member, using terms like member and nonmember Indians, when the Indian conduct was on reservation. The Minnesota Supreme Court wrongly decided State v R.M.H.[3] and distinguished the Indian mother's enrollment rights from that of her minor child enrolled on another tribe's reservation, but living with her on White Earth. Minnesota Courts decided in Topash[4] to make an end run around the U.S. Supreme Court's decision in Bryan v. Itasca County, Minn[5], for another *results oriented* decision so Minnesota could wrongfully, re-start taxation of *some* Indians again, at least, who are not members

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[2] See *Bissonette Petition for Review* dated Nov. 10, 2016 attached as Exhibit A.

[3] State v. R.M.H.,617 N.W.2d at 65-67 (In a 4-3 split court Dissenting Justices Stringer, Page and R. Anderson correctly analyzed federal Indian law preemption for nonmember Indians and pointed to the flaws in that "the theory of the state is simply that because R.M.H. is not a member of the White Earth Tribe he should be subject to jurisdiction of the state highway regulations . . ." "Pub.L. 280 unambiguously fails to distinguish between member and non-member Indians, state jurisdiction over R.M.H. is plainly lacking. The holding of the majority regarding the applicability of Pub.L. 280 thus ends the discussion of preemption." (Appx Ex).

[4] See Topash v. Commissioner of Revenue, 291 N.W.2d 679 (Minn.1980). (*See* "The issue raised is one we did not address in *Commissioner of Taxation v. Brun*, 286 Minn. 43, 174 N.W.2d 120 (1970), where we held that the State of Minnesota may not levy income taxes on wages earned on the Red Lake Indian Reservation by an enrolled member of the Red Lake Band of Chippewa residing on the Red Lake Reservation. The taxpayer contends that federal Indian jurisdiction, which preempts state taxing power within the Red Lake Reservation, includes Indians of all tribes and is not confined to Indians of the local tribe. Amicus Curiae, the Government of the United States, strongly supports this position. The state, in seeking to tax Mr. Topash, relies on the "inherent right" of the sovereign state to tax and argues that, although the Red Lake Band has jurisdiction over Mr. Topash for purposes of regulating his conduct, and although he would be subject to federal criminal law pertaining to Indians while on the reservation, the state can tax his income because he is not a member of the Red Lake Band.

[5] See Bryan v Itasca County, Minnesota, 426 U.S. 373, 96 S.Ct. 2102 (1976).

of the same reservation where they were/are living and working on, 37 years ago to the present. Unlawful taxation is the very kind of systematic theft that keeps people impoverished, in addition to Indians' civil rights violations[6].

Another way the Minnesota legal system circumvents Public Law 280 protections and Bryan v Itasca County, Minn is by seizing personal property of on reservation Indians when they die, under Minnesota Department of Human Services civil regulatory laws. Public Law 280 specifically exempts state jurisdiction over "probate and other proceedings", yet, Itasca County, Minnesota is taking tribal member's property in violation of federal law, for state revenue, presently. See Exhibit B, *Cover letter* to Itasca County HHS 1-31-2017 for *Waiver of Claim*; Exhibit C, Waiver of Claim application; and Exhibit D, the *Determination of Waiver Request* Denied in Full by Itasca County choosing to rely upon Minnesota's Health Care Policy to trump Congress and the US Supreme Court to unjustly take and keep the Indian's personal property.

Finally, the whole concept of the Rule 10 *Petition* is elusive because the Minnesota judicial system uses "exceptional circumstances" whenever a state court thinks it might be necessary to assume jurisdiction over on reservation Indians. The *exceptional circumstances* concept has been taken from western tribe's treaty case law and wrongly applied against Chippewa tribal members and nonmembers on Minnesota reservations. See United States v. Brown, et al, 777 F.3d. 1025 (8th Cir. 2015).

So what is the point of rule 10? Is it just metro whitewash to make some people feel like they're doing something positive for the poor reservation Indians? Because they're not. Supporting this *Petition* is really supporting the ongoing conspiracy to deprive civil rights of Indians as citizens of the United States as well as tribes and the ongoing organized crime that has been legitimatized by the Minnesota judicial system so that Minnesota law enforcement can profit.

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[6] See 42 U.S. Code § 1983 - Civil action for deprivation of rights, See also See Exhibit E, September 6, 2016 letter to Department of Justice regarding Indian Civil Rights in Minnesota Violations of 42 USC 1983, Public Law 280, and Deprivation of Rights Under Color of Law Title 18, U.S.C. §242, by Minnesota Judges.

The apartheid like oppression was compounded with the State v Davis, 773 N.W.2d 66, 68 (2009)[7], decision where Minnesota Chippewa tribal members are no longer considered Indians for purposes of Minnesota traffic jurisdiction, if not stopped on the reservation *of their enrollment*. This is the most ridiculous and clear attempt to ignore the federally recognized rights, protections and immunities of Minnesota Chippewa tribal members on all of our reservations throughout Minnesota.

Public Law 28(c) provides that

> Any tribal ordinance or custom heretofore or hereafter adopted by an Indian tribe, band, or community in the exercise of any authority which it may possess shall, if not inconsistent with any applicable civil law of the State, be given full force and effect in the determination of civil causes of action pursuant to this section.[8]

What tribal jurisdiction is Rule 10 really going to be applied?

Minnesota "state courts looking for any excuse to expand state taxing [fining] power are willing to rely on dicta from a case that Congress has legislatively invalidated"[9] with the Duro fix in 1990. Twenty-five years after the Duro Fix, Minnesota's Indian Country needs a 2017 "Davis fix" from this Court to re-affirm the rights of tribal governments' civil regulatory authority over all on-reservation Indians[10], especially when in this case, Davis is an enrolled member of *the Tribe*, on one of the several MCT's reservations.

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[7] "The Minnesota Chippewa Tribe is a federally recognized Indian tribe with six member bands, including the Leech Lake Band and the Mille Lacs Band. Davis is an American Indian registered with the Leech Lake Band. (Appx Ex).

[8] See 28 U.S.C. § 1360. STATE CIVIL JURISDICTION IN ACTIONS TO WHICH INDIANS ARE PARTIES http://www.tribal-institute.org/lists/pl_280.htm

[9] See Scott A. Taylor, *The Unending Onslaught on Tribal Sovereignty: State Income Taxation of Non-Member Indians,* 91 Marquette L. Rev. 917, 971 (2008).

[10] See ICRA, 25 U.S.C. §1301(4) "Indian" means any person who would be subject to the jurisdiction of the United States as an Indian under section 1153, title 18, if that person were to commit an offense listed in that section in Indian country to which that section applies.

If tribal members of the MCT cannot rely on simple and basic principles of federal Indian law and protections, like the *right to decide who our tribal members are* and *to make our own laws and live by them*, being respected by the state of Minnesota, how does Rule 10 have any meaningful application? The Rule 10 *Petition* describes the State's ongoing, colonial, paternalism of the uncertainty or untrustworthiness of tribal courts decisions. This is truly an insult considering the contrived, court created case law being applied to Indians under the paternalistic pretense of having a higher, legal and ethical knowledge and understanding as the Minnesota judicial system.

In law school, in our first year of required classes, we are taught under civil procedure to determine whether jurisdiction exists, before going forward with any substantive actions or consequential prosecutions. Until the state of Minnesota and the Minnesota judicial system acknowledges the jurisdictional rights of tribes under their treaties, other federal statutes, Acts of Congress and decisions by the United States Supreme Court, this Rule 10 petition process is a hoax and a colossal waste of time.

Respectfully submitted,

Dated: March 17, 20017

/s/ Frank Bibeau

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STATE OF MINNESOTA
IN SUPREME COURT

Tressa Lee Bissonette, Petitioner,	PETITION FOR REVIEW
vs.	Cass County District Court File No. 11-CR-14-1686
State of Minnesota Respondent,	Appellate Court Case File No.A16-0199

To: Clerk of Appellate Courts, 305 Minnesota Judicial Center, 25 Rev Dr Martin Luther King, Jr. Blvd, St. Paul, MN 55155, and
Lori Swanson, Attorney General, State of Minnesota, 445 Minnesota Street, Suite 900, Saint Paul, Minnesota 55101-2127, and
Christopher J. Strandlie, Cass County Attorney, Jeanine R. Brand Assistant Cass County Attorney, Walker Courthouse, Box 3000, Walker, Minnesota 56484.

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Pursuant to Rule 117, the above named Petitioner, by and through her attorney, Frank Bibeau, does hereby respectfully file this Petition for Review of the Appellate Court of Appeals' decision filed October 11, 2016, for the above-captioned matter, Appellate Court Case Number A16-0199. Per Rule 103.01, subd. 3(a) where the Defendant/Appellant has been granted In Forma Pauperis for his appeal per Rule 109; and subd. 3(b) as Defendant/ a filing fee is not required.

Facts

Petitioner was charged with *Neglect of a child* under Min. Stat. 609.378, subd. 1(a)(1)(2014) and was convicted by the District Court. Appellant challenged state subject matter jurisdiction over an Indian on reservation and that the law itself is civil regulatory in nature with criminal styling and consequences. The "district court, seemingly accept[ed] the factual basis [Bissonette is an Indian] for the challenge [to state jurisdiction]. Order at 4. "Arguably, the conduct affected by the statute could be either all child neglect or parenting in general." Id. at 7. Ultimately the Appellate Court relied

on the Stone[1] decision

> describing "***exceptional circumstances***" in which a state may assert jurisdiction over the on-reservation activities of tribal members without an express federal grant of authority (quotation marks omitted).

Id. at 10. (Emphasis added).

Legal Issues

1. Whether the Minnesota Supreme Court will recognize and correct its clearly erroneous, self-developed state Indian case law, which deprives all Indians of federal Indian laws and protections established by Congress and decided by the United States Supreme Court, in violation of 42 U.S. Code § 1983 - Civil action for deprivation of rights?
2. Whether the Minnesota Supreme Court correctly applied applicable federal laws and will recognize its own lack of personal and subject matter jurisdiction over all Indians, whether enrolled members of the Minnesota Chippewa Tribe (MCT) or another tribe, when civil/regulatory conduct occurs within the reservation boundaries of any of the reservations in Minnesota, so as to prevent continuing unlawful use of judicial and police powers in violation of 18 U.S. Code § 242 - Deprivation of rights under color of law?
3. Whether the Minnesota Supreme Court can provide a legal citation to the actual federal law or United States Supreme Court ruling that supports the Minnesota Supreme Court assertion that "***exceptional circumstances***" is a legal doctrine whereby *a state may assert jurisdiction over the on-reservation activities of tribal members without an express federal grant of authority*.

Compelling reasons for review

The questions presented here are very important ones, upon which the Minnesota Supreme Court should rule to correct past, judicially created legal fictions because it involves on-going Indian civil rights deprivations by the Minnesota judicial and law enforcement systems. The Court of Appeals is required to ignore the federal constitutionality of a state statute and superseding federal laws so as to follow established

[1] See State v. Stone, 572 N.W.2d 725, 729 (Minn. 1997) (The Stone test is Minnesota Supreme Court's version of the Cabazon test).

Minnesota Supreme Court case law, which results in an Unpublished Opinion for Bissonette, because the same civil rights deprivations continue to occur. Nothing new. This Bissonette case calls for the application of a new principle or policy, *complying with the federal pre-emption doctrine and the many existing federal laws that recognize and support tribal members' rights, protections, immunities and sovereignty*, instead of continuously infringing on the rights of Indians and tribes throughout Minnesota, which is certain to recur unless resolved by this Minnesota Supreme Court or U.S. Department of Justice.

The 1984 Supreme Court decision in Chevron U.S.A., Inc v. NRDC, 467 U.S. 837, set forth rules for judicial review of [federal] agency interpretations of statutory terms [. . . and . . .] established a two-step test to be used by courts in such situations. *Under "step one" of the Chevron doctrine, the court should determine whether Congress has directly spoken to the precise question at issue. If it has, that is the "end of the matter."*[2] While the Minnesota Supreme Court has a jurisdictional role in *Indian Country* under Public Law 280 Jurisdiction[3], there are however, limitations and many other federal laws and U.S. Supreme Court decisions to be included, understood and followed. The favoring the tribal and federal interests over state laws are clearly spelled out in Cabazon, but clearly ignored by the Minnesota Courts, who instead use the self-serving state's rights or needs, "Stone Test" or "exceptional circumstances."

The Cabazon[4] Court spelled out that this

> [d]ecision in this case turns on whether state authority is pre-empted by the operation of federal law; and "[s]tate jurisdiction is pre-empted ... if it interferes or is incompatible with federal and tribal interests reflected in federal law, unless the state interests at stake are sufficient to justify the assertion of state authority." *Mescalero,* 462 U.S., at 333, 334, 103 S.Ct., at

[2] See http://www.regulationwriters.com/regulatory_glossary?id=8
[3] See Public Law 83-280 (18 U.S.C. § 1162, 28 U.S.C. § 1360) http://www.tribal-institute.org/lists/pl_280.htm
[4] See California, et al., v. Cabazon Band of Mission Indians et al, 480 U.S. 202, 107 S.Ct. 1083) 1987.

2385, 2386. The inquiry is to proceed in light of traditional notions of Indian sovereignty and the congressional goal of Indian self-government, including its "overriding goal" of encouraging tribal self-sufficiency and economic development. *Id.,* at 334-335, 103 S.Ct., at 2386-2387.[FN19] See also, *Iowa Mutual Insurance Co. v. LaPlante,* 480 U.S. 9, 107 S.Ct. 971, 94 L.Ed.2d 10 (1987); *White Mountain Apache Tribe v. Bracker,* 448 U.S. 136, 143, 100 S.Ct. 2578, 2583, 65 L.Ed.2d 665 (1980).

> FN19. In *New Mexico v. Mescalero Apache Tribe,* 462 U.S., at 335, n. 17, 103 S.Ct., at 2387, n. 17, we discussed a number of the statutes Congress enacted to promote tribal self-government. The congressional declarations of policy in the Indian Financing Act of 1974, as amended, 25 U.S.C. § 1451 *et seq.* (1982 ed. and Supp.III), and in the Indian Self-Determination and Education Assistance Act of 1975, as amended, 25 U.S.C. § 450 *et seq.* (1982 ed. and Supp.III), are particularly significant in this case: "It is hereby declared to be the policy of Congress ... to help develop and utilize Indian resources, both physical and human, to a point where the Indians will fully exercise responsibility for the utilization and management of their own resources and where they will enjoy a standard of living from their own productive efforts comparable to that enjoyed by non-Indians in neighboring communities." 25 U.S.C. § 1451. Similarly, "[t]he Congress declares its commitment to the maintenance of the Federal Government's unique and continuing relationship with and responsibility to the Indian people through the establishment of a meaningful Indian self-determination policy which will permit an orderly transition from Federal domination of programs for and services to Indians to effective and meaningful participation by the Indian people in the planning, conduct, and administration of those programs and services." 25 U.S.C. § 450a(b).

These are important federal interests. They were reaffirmed by the President's 1983 Statement on Indian Policy.[FN20] More specifically, the Department of the Interior, which has the primary responsibility for carrying out the Federal Government's trust obligations to Indian tribes, has sought to implement these policies by promoting tribal bingo enterprises.

Cabazon at 216-17. Ultimately the Supreme Court concluded

> that the State's interest in preventing the infiltration of the tribal bingo enterprises by organized crime does not justify state regulation of the tribal bingo enterprises in light of the compelling federal and tribal interests supporting them. State regulation would impermissibly infringe on tribal government . . .

Cabazon at 222. The same is true of on reservation Indians and their children.

Important to understand in the context of Chevron is the *Indian Child Welfare Act of 1978* (25 U.S.C. §§ 1901-63). What did Congress say?

> § 1901. *Congressional findings*
> *Recognizing the* ***special relationship between the United States and the Indian tribes*** *and their members and the Federal responsibility to Indian people, the Congress finds--*
>
> 1. that clause 3, section 8, article I of the United States *Constitution provides that ``The Congress shall have Power * * * To regulate Commerce * * * with Indian tribes and, through this and other constitutional authority, Congress has plenary power over Indian affairs*;
> 2. **that *Congress***, through statutes, treaties, and the general course of dealing with Indian tribes, ***has assumed the responsibility for the protection and preservation of Indian tribes and their resources***;
> 3. ***that there is no resource that is more vital to the continued existence and integrity of Indian tribes than their children and that the United States has a direct interest, as trustee, in protecting Indian children who are members of or are eligible for membership in an Indian tribe***;
> 4. that an alarmingly high percentage of Indian families are broken up by the removal, often unwarranted, of their children from them by nontribal public and private agencies and that an alarmingly high percentage of such children are placed in non-Indian foster and adoptive homes and institutions; and
> 5. that *the States*, exercising their recognized jurisdiction over Indian child custody proceedings through administrative and judicial bodies, *have often failed to recognize the essential tribal relations of Indian people and the cultural and social standards prevailing in Indian communities and families.* (Pub. L. 95-608, § 2, Nov. 8, 1978, 92 Stat. 3069.) Short Title Section 1 of Pub. L. 95-608 provided: ‘‘That this Act [enacting this chapter] may be cited as the ‘Indian Child Welfare Act of 1978’.’’[5]

(Emphasis added). In 2016 the Minnesota Supreme Court should understand the United States Constitution is superior, treaties are the law of the land and apply congressionally

[5] See http://www.tribal-institute.org/lists/chapter21_icwa.htm

created federal law, instead of continuously relying on Minnesota judicially created legislation to deprive Indian civil rights. The Indian Civil Rights Act (ICRA) was amended again in 1991 in order to overturn the U.S. Supreme Court decision in Duro v. Reina, 495 U.S. 676 (1990). [. . .] This Congressional Duro-fix ***restored tribal court criminal jurisdiction over all Indians (members and non-members***).[6] (Emphasis added). Minnesota has no authority to change or undercut congressional intent and action. Additionally, the federal courts devised rules of interpretation, including:

1. While the ICRA is generally patterned after the Bill of Rights, the same language does not necessarily have to be interpreted in the same way;
2. The ICRA does not require that Indians and non-Indians always have to be treated identically by tribal governments, that is, different treatment is permitted and justified in certain circumstances (for example, tribal membership requirements);
3. Tribal customs, traditions, and culture must be considered in interpreting and applying the ICRA; and
4. Tribal remedies must first be exhausted before a dispute can be heard in federal court.[7]

As a result of 20 years of judicial legislation by the Minnesota Supreme Court, under 42 U.S. Code § 1983 - Civil action for deprivation of rights[8], Indians are "[d]epriv[ed of

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[6] See http://www.tribal-institute.org/lists/icra.htm

[7] See Santa Clara Pueblo v. Martinez, 439 U.S. 49 (1978). See also Indian Civil Rights Act of 1968 (ICRA), 25 U.S.C.§§ 1301-1304. See also Public Law 280 (28 U.S.C. § 1360(c))(Any tribal ordinance or custom heretofore or hereafter adopted by an Indian tribe, band, or community in the exercise of any authority which it may possess shall, if not inconsistent with any applicable civil law of the State, be given full force and effect in the determination of civil causes of action pursuant to this section). See also *Indian Self-Determination and Education Assistance Act*, 25 U.S.C. § 450 *et seq*. ("ISDA"), 25 CFR 1000.351 Tribal Self-Governance Act of 1994, and The Indian Reorganization Act of June 18, 1934, or the Wheeler-Howard Act, was U.S. federal legislation that dealt with the status of Native Americans (known in law as American Indians or Indians). It was the centerpiece of what has been often called the "Indian New Deal**".** See https://en.wikipedia.org/wiki/Indian_Reorganization_Act As such the Minnesota Supreme Courts must recognize tribal jurisdiction is favored by Congress, the U.S. Supreme Court, tribes and Indians.

[8] See https://www.law.cornell.edu/uscode/text/42/1983

many] rights, privileges, or immunities secured by the Constitution and laws", which is a federal crime. As is 18 U.S. Code § 242 - Deprivation of rights under color of law[9] for

> the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States, or to different punishments, pains, or penalties, on account of such person being an alien, or by reason of his color, or race . . .

When the Minnesota Supreme Court picks and chooses which Indians, have certain unspecified rights, and on which reservations, it is like the State of Minnesota asking Black people if they were born in Minnesota, Mississippi, Jamaica or Africa and then treating them differently based on race or nation of origin. This is the Minnesota's Supreme Court's case law created apartied, racism and oppression, which looks much more like law enforcement for profit off the backs of the impoverished and historically disadvantaged Indians by ignoring important federal laws. More unconscionable is judicial fabrication of a superior Minnesota state legal doctrine self-granting

> "***exceptional circumstances***" in which a state may assert jurisdiction over the on-reservation activities of tribal members without an express federal grant of authority (quotation marks omitted).

Bissonette Unpublished Opinion at 10. This is legally wrong and intellectually dishonest.

Respectfully submitted

November 10, 2016

/s/ Frank Bibeau

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[9] See https://www.law.cornell.edu/uscode/text/18/242

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January 31, 2017

Elizabeth Peterson
Itasca County Health and Human Services
1209 SE 2nd Avenue
Grand Rapids, MN 55744-3983

Re: Applications for Waiver of Claims for
Hazel Ruby Holm (DOD 12-13-14)
Timothy Brant Holm (DOD 3-30-16)

Dear Ms. Peterson:

I am contacting you to recover a full refund of any and all funds, like capital credits from Paul Bunyan Communications, Lake Country Power, and the like, intercepted by Itasca county with regard to the above individuals.

Last year you assisted with a Waiver of Claim for the probate of Jack Dale Warner (CHSC# 519475). We discussed the *Notice of Claim for Medical Assistance in Decedent's Death* form not giving proper notice with regard to enrolled tribal members residing within the boundaries of the reservation *on privately held property* not being subject to collections. At that time I inquired informally about Hazel Holm and you asked if she owned property in Itasca County when she passed. You informed me that because she was not a property owner, she was not eligible for the waiver.

I reviewed Minn. Stat. 256B.15 *Claims Against Estates*, which makes no reference to the real estate or other property of a tribal member on reservation at time of death being exempt or grounds for waiver. While I am unsure what kind of informal process is being used, the bottom line is that the State of Minnesota lacks the jurisdictional authority to apply Minn. Stat.

256B.15 state law against Indians within the *Indian Country* of Minnesota and particularly, the Leech Lake Reservation under Public Law 280. (See *Bryan v Itasca County, Minn.*[1] and *Morgan v 2000 VW*[2])

Public Law 280 (28 U.S.C. 1360), section (b) provides that

> Nothing in this section shall authorize the alienation, encumbrance, or taxation of any real or personal property, including water rights, belonging to any Indian or any Indian tribe, band, or community that is held in trust by the United States or is subject to a restriction against alienation imposed by the United States; or shall authorize regulation of the use of such property in a manner inconsistent with any Federal treaty, agreement, or statute or with any regulation made pursuant thereto; or shall confer jurisdiction upon the State to adjudicate, in probate proceedings or otherwise, the ownership or right to possession of such property or any interest therein.

Here, Itasca County is assuming jurisdiction to intercept, alienate, encumber "real or personal property [. . .] in probate proceedings or otherwise" under a

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[1] See Bryan v. Itasca County., Minn., 426 U.S. 373, 384-386 (1976) (discussing 28 U.S.C. 1360 at Footnote 10 "A fair reading of these two clauses suggests that Congress never intended 'civil laws' to mean the entire array of state noncriminal laws, but rather that Congress intended 'civil laws' to mean those laws which have to do with private rights and status. Therefore, 'civil laws . . . of general application to private persons or private property' would include the laws of contract, tort, marriage, divorce, insanity, descent, etc., but would not include laws declaring or implementing the states' sovereign powers, such as the power to tax, grant franchises, etc. These are not within the fair meaning of 'private' laws.").

[2] See Morgan vs. 2000 Volkswagen, License No. 279, VIN #3VWRA29M2YM125643, Mn App. A07-1922 (2008). (Minnesota lacks jurisdiction to apply the civil vehicle-forfeiture law, Minn. Stat. § 169A.63 (2006), when the conduct giving rise to forfeiture occurred on an Indian reservation and the owner of the vehicle is an enrolled member of the tribe on that reservation.

state, civil law in violation of Public Law 280 and the United States Supreme Court decision in Bryan v. Itasca County, Minn. (1976).

Both Hazel and Tim were Chippewa members enrolled at Leech Lake where they resided and were domiciled. In addition to the completed *Applications for Waiver of Claim*, I am attaching a copy of Hazel's *Certificate of Indian Blood* which also provides her reservation address, the same as the *2016 Property Tax Statement* which also identifies Hazel as a taxpayer as she did have a Life Estate property interest (not real estate), in the property that her sons Benjamin and Timothy owned. Additionally, I am including a copies of Paul Bunyan Communications *Request for Estate Payout of Capital Credits* and *Affidavit for Collection of Personal Property* from Carol Shore dated 01/20/15 for Hazel and a letter dated October 25, 2016, to Carol Shore RE: Capital Credits for Timothy Holm.

I look forward to receiving the Waiver of Claim and reimbursement checks for both estates as referenced above. The reimbursement checks should be made payable to Carol Shore. If you have any questions or need of assistance or information with these matters, please call on me at 218-760-1258 or frankbibeau@gmail.com.

Sincerely,

Frank Bibeau

Attachments

cc: Carol (Holm) Shaw

Minnesota Department of **Human Services**

DHS-4933-ENG 8-09

Application for a Waiver of Claim

Instructions:

1. Complete and return this form to the person whose name and address appear below. This must be returned within 30 days of the date of your Notice of Claim. The information you need to complete the blanks for the name of the estate, probate file number, and county human services case number appear in the Notice of Claim for Medical Assistance.
2. Personally sign the application and include a daytime telephone number even if this application is prepared by a third party.
3. Send any written or other materials to be considered with the completed Application for a Waiver of Claim.

COUNTY HUMAN SERVICE AGENCY CONTACT	TELEPHONE NUMBER	FAX NUMBER
Elizabeth Peterson	(218) 327-6191	(218) 327-5567

ADDRESS	CITY	STATE	ZIP CODE
1209 SE 2nd Ave	Grand Rapids	MN	55744

RE:

DECEDENT/RECIPIENT
Hazel Ruby Holm (DOD 12-13-14)
APPLICATION FOR A WAIVER OF CLAIM

DISTRICT COURT COUNTY	COUNTY PROBATE #	COUNTY HUMAN SERVICE CASE #

Application for a Hardship Waiver: I am applying for a waiver of the county's claim for medical assistance services against my interest in the above-referenced estate (estate). I will personally benefit from a waiver of the county's claim against my interest in the estate if the county grants one to me.

Statement of Facts: Paying this claim out of my interest in the estate would create an undue hardship on me personally because (provide a complete detailed written statement of the circumstances which you believe constitute an undue hardship as defined in the Notice of Claim for Medical Assistance in Decedent's Death):

Hazel Holm was an enrolled Chippewa tribal member at Leech Lake Reservation who resided at 30949 Fawn Drive, Deer River, MN 56636 (aka Ball Club within Leech Lake Reservation). Consequently, under Public Law 280, Minnesota may not apply its civil regulatory law, Minn. Stat. 256B.15 Claims Against Estates. Therefore, Minnesota has no legal right to take any personal or real property from the estate of Hazel Holm. Please see attached attorney correspondence, certificate of death, Certificate of Indian Blood, Paul Bunyan Request for Estate Payout of Capital Credits and Affidavit for Collection of Personal Property by Carol Shore (daughter) dated January 20, 2015.

Written and Other Materials: I am also enclosing any and all written or other materials I want the county to consider in deciding whether I qualify for a waiver of claim. I understand that if I do not include these materials with this application, I will not be able to submit them at a later date. They will not be considered by the county when deciding the Application for a Waiver of Claim.

Correspondence: The county should send all correspondence concerning my application to me at the address listed below until or unless I notify the county at the address listed above of a change of address. If I also list my attorney's name and address below, the county should send all correspondence concerning my application, including the county's Determination, to my attorney instead of me.

Statements: By signing and submitting this application I am making the following statements to the county. These statements are true, accurate, and complete as of the date of this application. They will continue to be so from that time until or unless I notify the county otherwise in writing at the address and contact listed above. I understand that the county will rely on these statements in making its decision on this application.

Please check the true statements. I am asking for a waiver because:

☐ I use the assets in my trade, profession, or occupation. I state that I worked continuously and exclusively in the trade, occupation, or profession identified in the Statement of Facts above for at least 180 days prior to the date the decedent died and that I continued and will continue to do so from and after that date through the date any waiver is finally granted to me.

☐ The real estate is my dwelling. I state that I actually and continuously occupied the real estate listed in the Statement of Facts above for at least 180 days prior to the date the decedent died. I continued and will continue to do so from and after that date through the date any waiver is finally granted to me.

☐ The real estate is my dwelling. In addition to the above item, I have an ownership interest in the real property owned by the decedent at the time of his/her death. I will include verification of that fact with the written and other materials attached to this application.

I have read the entire Notice of Claim for Medical Assistance in Decedent's Death and this application (including my Statement of Facts) before I signed this application. I understand the contents of this application. All of the statements contained in this application and all written or other materials submitted with it, are true, correct, and complete as of the date of this application. They will continue to be so until I receive a decision by the county. If at any time the statements in this application (including the Statement of Facts) cease to be true, correct, and complete, I will notify the county in writing at the address and contact listed above.

APPLICANT				
PRINTED NAME OF APPLICANT OBO Carol E. Shore	SIGNATURE OF APPLICANT			DATE 01/31/2017
ADDRESS	CITY	STATE	ZIP CODE	DAYTIME TELEPHONE NUMBER ( )

ATTORNEY FOR APPLICANT				
NAME OF ATTORNEY Frank Bibeau	FIRM NAME Bibeau Law Office			
ADDRESS 51124 County Road 118	CITY Deer River	STATE MN	ZIP CODE 56636	TELEPHONE NUMBER (218) 760-1258

Attention. If you want free help translating this information, call the number below for your language.

ملاحظة: إذا أردت مساعدة مجانية في ترجمة هذه المعلومات، فاتصل على الرقم 1-800-358-0377.

កំណត់សំគាល់ បើអ្នកចង់បានជំនួយបកប្រែពត៌មាននេះដោយមិនគិតថ្លៃ សូមទូរស័ព្ទទៅលេខ 1-888-468-3787 ។

Pažnja. Ako vam je potrebna besplatna pomoć za prevod ove informacije, nazovite 1-888-234-3785.

Ceeb toom. Yog koj xav tau kev pab txhais cov xov no rau koj dawb, hu 1-888-486-8377.

ໂປດຊາບ. ຖ້າຫາກທ່ານຕ້ອງການການຊ່ວຍເຫຼືອໃນການແປຂໍ້ຄວາມດັ່ງກ່າວນີ້ຟຣີ, ຈົ່ງໂທຣ໌ຫາຕາມເລກໂທຣ໌ 1-888-487-8251.

Hubaddhu. Yoo akka odeeffannoon kun sii hiikamu gargaarsa tolaa feeta ta'e, lakkoofsa kana bilbili 1-888-234-3798.

Внимание: если вам нужна бесплатная помощь в переводе этой информации, позвоните по следующему телефону 1-888-562-5877.

Ogow. Haddii aad dooneyso in lagaa kaalmeeyo tarjamadda macluumaadkani oo lacag la'aan ah, wac lambarkan 1-888-547-8829.

Atención. Si desea recibir asistencia gratuita para traducir esta información, llame al 1-888-428-3438.

Chú Ý. Nếu quý vị cần dịch thông-tin nầy miễn phí, xin gọi số 1-888-554-8759.

LB3-0001 (1-08)

This information is available in alternative formats to individuals with disabilities by calling your county worker. TTY users can call through Minnesota Relay at (800) 627-3529. For Speech-to-Speech, call (877) 627-3848. For additional assistance with legal rights and protections for equal access to human services programs, contact your agency's ADA coordinator.

Minnesota Department of **Human Services**

DHS-4935B-ENG 1-13

Minnesota Health Care Programs (MHCP)

Determination of Waiver Request

ATTORNEY		DATE
Frank Bibeau		3/1/2017
ADDRESS		
51124 County Road 118		
CITY	STATE	ZIP CODE
Deer River	MN	56636

RE: Application for Waiver of Claim

NAME ON ESTATE		
Hazel Ruby Holm		
DISTRICT COURT COUNTY	COUNTY PROBATE NUMBER	COUNTY HUMAN SERVICE CASE NUMBER
Itasca		1386255

The Itasca County Human Services Agency received your client's application for a waiver of its claim against his interest in this estate on February 3, 20 17. Your client has asked for a waiver because (detail the factual basis for applicant's request).

Hazel Holm was an enrolled member of the Leech Lake Reservation. Consequently, under Public Law 280 Minnesota may not apply its civil regulatory law, Minn. Stat. 256B.15 Claims Against Estates. Minnesota has no legal right to take any personal or real property from the estate of Hazel Holm.

The Agency has completed its review of the application and the written and other materials, if any, submitted together with it. Based on this review, the Agency has determined that the individual's application should be:

- ○ Granted in full
- ◉ Denied in full
- ○ Granted in part and denied in part as set out below.

The Agency is taking this action on this application for the reasons stated below.

Itasca County's decision was based on MN Health Care Policy Manual 2.1.1.2.1.1 which states that: Please see attached. It is Itasca County's decision that Hazel Holm's savings account and capital credits do not qualify under these exemptions and are recoverable under state statute 256B.15.

If your client disagrees with this Determination, he/she may appeal. To start an appeal, he/she must send a short letter stating the reasons they disagree with this Determination, together with a copy of this Determination, to the Appeals Office of the Minnesota Department of Human Services. They must submit this letter within 30 days of receiving the Determination. The agency can accept the appeal for up to 90 days after the date of this Determination if he/she shows good cause for not appealing within the 30 day limit. If he/she does not appeal within 30 days (or 90 days if he/she has good cause), he/she may not appeal anything concerning this Determination later on.

If your client decides to appeal, he/she should send a letter and a copy of this Determination to:

Appeals Office
Minnesota Department of Human Services
PO Box 64941
St. Paul, MN 55164-0941

An appeal hearing will be held in his/her county or by telephone. Your client will receive a notice with the date, time, and place of the hearing.

STAFF REPRESENTATIVE	TITLE	
Megan Ritter	Collections Officer	
COUNTY		PHONE NUMBER
Itasca		218-327-2508

American Indian and Alaska Native exemptions

The following American Indian and Alaska Native income, resources, and property are exempt from MA estate recovery:

- Certain American Indian and Alaska Native income and resources (such as interests in and income derived from Tribal land and other resources currently held in trust status, and judgment funds from the Indian Claims Commission and the U.S. Claims Court) that are exempt from Medicaid estate recovery by other laws and regulations;
- Ownership interest in trust or non-trust property, including real property and improvements for any of the following:
    - Property located on a reservation (any federally recognized Indian Tribe's reservation, Pueblo, or Colony, including former reservations in Oklahoma, Alaska Native regions established by Alaska Native Claims Settlement Act and Indian allotments) or near a reservation as designated by the Bureau of Indian Affairs. See the MinnesotaCare Health Care Reform Waiver Annual 2003 Report, Attachment D3 (Reservation Map/Contract Health Service Delivery Areas).
    - Property located within the most recent boundaries of a prior Federal reservation for any federally recognized Tribe not described in the paragraph above.
    - Protection of non-trust property described as on or near a reservation is limited to circumstances when it passes from an Indian to one or more relatives (by blood, adoption, or marriage), including Indians not enrolled as members of a Tribe and non-Indians, such as spouses and step-children, that their culture would protect as family members; to a Tribe or Tribal organization and/or to one or more Indians.
- Income left as a remainder in an estate derived from property protected in trust or non-trust located on a Federal reservation or within most recent boundaries, that was either collected by an Indian, or by a Tribe or Tribal organization and distributed to Indians, as long as the person can clearly trace it as coming from the protected property;
- Ownership interests left as a remainder in an estate in rents, leases, royalties, or usage rights related to natural resources (including extraction of natural resources or harvesting of timber, other plants and plant products, animals, fish, and shellfish) resulting from the exercise of federally protected rights, and income either collected by an Indian, or by a Tribe or Tribal organization and distributed to Indians derived from these sources as long as the person can clearly trace it as coming from protected sources; and
- Ownership interests in or usage rights to items not covered above that have unique religious, spiritual, traditional, or cultural significance or rights that support subsistence or a traditional life style according to applicable Tribal law or custom.

Frank Bibeau
ATTORNEY AT LAW
51124 County Road 118
Deer River, Minnesota 56636
218-760-1258 or frankbibeau@gmail.com

September 6, 2016

Andrew M. Luger
andrew.luger@usdoj.gov
US Attorney, Mn District
U.S. Courthouse
316 N. Robert Street, Suite 404
St. Paul, MN 55101

Tracy Toulou, Director
tracy.toulou2@usdoj.gov
Office of Tribal Justice
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

U.S. Department of Justice
Civil Rights Division
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530

FBI Headquarters
Civil Rights Violations Division
935 Pennsylvania Avenue, NW
Washington, D.C. 20535-0001

FBI Minneapolis
Civil Rights Violations Division
1501 Freeway Boulevard
Brooklyn Center, MN 55430

Re: *Indians' Individual Civil Rights in Minnesota*
Violations of 42 USC §1983 and Public Law 280, and
Deprivation of Rights Under Color of Law
Title 18, U.S.C. §242, by Minnesota Judges.

Dear Civil Rights Officers.

I am writing to bring attention to the ongoing civil rights deprivations by Minnesota judges, law enforcement and prosecution against Indians on and off reservation in violation of the above referenced federal civil rights laws. The violations to Indians' civil rights and human rights are forced on Indians by the state of Minnesota judicial system's unethical, unlawful and unchecked prosecutions under guise and veil of public law 280.

Minnesota's Court's Indian cases are really *judicial legislative actions* that have ultimately evolved to a point to where Indians only have limited rights to avoid *some* state *civil* jurisdiction, only if the law enforcement and judicial system is satisfied the Indians in question are on the reservation to which the state believes their enrollment is tied. This began in 1999 with the Minnesota Supreme Court's decision in State v. R.M.H.[1] and continued into the next decade with State v Davis[2] where members of the Minnesota Chippewa Tribe (MCT) do not have the same jurisdictional protections on each of the MCT's reservations.

Under Public Law 280, Congress expressly denied and excluded any jurisdiction over Indians with treaty rights and other federal regulations with regard to hunting, fishing and gathering as well as other rights. Because treaties are recorded as federal statutes and Public Law 280 is a federal statute, all of these rights are protected by 42 USC § 1983 and 18 USC § 242. Minnesota judges and law enforcement have been actively engaged in a systematic approach to deny Indians the benefits of their separate and sovereign rights unjustly and without Congressional authorization.

Minnesota Appellate judges have also used RMH in Topash[3] to make an end run around the U.S. Supreme Court's decision in Bryan v. Itasca County, Minn[4], for another *results oriented* decision so Minnesota could wrongfully, re-start taxation of *some* Indians again, at least, who are not members of the same reservation where they were/are living and working on, 20 years ago to the present. Unlawful taxation is the very kind of systematic theft that keeps people impoverished, in addition to Indians' civil rights violations. Only DOJ can charge and prosecute judges under 18 USC § 242, so DOJ action is essential to the protection of Indians' civil rights here in Minnesota.

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[1] See State v R.M.H., 617 N.W.2d 55 (2000).
[2] See Petition for Certiorari Davis v Minnesota at http://sct.narf.org/documents/davisvminnesota/petition_for_cert.pdf
[3] See Topash v. Commissioner of Revenue, 291 N.W.2d 679 (Minn.1980).
[4] See Bryan v Itasca County, Minnesota, 426 U.S. 373, 96 S.Ct. 2102 (1976).

A clear deprivation of civil rights is Buddie Greene v. Commissioner of the MN Dept. of Human Services[5] where an Indian, born in Duluth, Minnesota and who was living off reservation in Minnesota, was denied access to the public job search services in Aitkin County, Minnesota because the State of Minnesota had contract for services with the Minnesota Chippewa Tribe. *This is the classic Rosa Parks' story except Buddie Greene is not allowed on the bus at all.* The clear and concise dissent was by Justice Page writing

> I respectfully dissent. While I join Justice G. Barry Anderson's dissent, **I write separately to note my disagreement with the court's analysis of the constitutional issues raised by Greene.** There is, however, no need for an extensive discussion of that disagreement because this case can be resolved on statutory grounds. **It is enough to say that the notion that a citizen of this state, of this nation, can be disenfranchised on the basis of his or her political classification *is stunning*.**

Emphasis added. (Greene was disenfranchised for being an Indian).

In State v Joel Roy[6], Minnesota Appellate Court judges intentionally ignored specific defense cites to relevant, Minnesota Chippewa treaties which showed the U.S. traded firearms and ammunition as part of the valuable consideration to the Chippewa nation at the time in 1854 and 1855 to convict a tribal member living and working on reservation of felon in possession of a firearm conviction. The Minnesota Court of Appeals decided to use and substitute Wisconsin Court of Appeals analysis with a Stockbridge Muncie treaty and Stockbridge Muncie tribal member to substitute for the actual Minnesota Chippewa treaty defense and civil regulatory arguments made for a Minnesota Indian, with treaty rights. The Minnesota Supreme Court

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[5] See Buddie Greene v. Commissioner of the MN Dept. of Human Serv. , 755 N.W.2d 713 (2008), Supreme Court of Minnesota.
[6] See Petition for Certiorari Roy v Minnesota at http://sct.narf.org/documents/royvminnesota/petition_for_cert.pdf

denied petition for review for completely erroneous legal analysis and Joel Roy served a 60-month presumptive commitment under state regulatory law.

Presently I am involved in an appeal process in the State of Minnesota court Appellate system under the caption State v Bissonette. Bissonette lives and works on Leech Lake Reservation. She was charged with negligent parenting or parental neglect[7] which is really civil regulatory nature because *Minnesota's law has exceptions for other civil rights like religious freedoms or good faith beliefs*.

The simplicity of Bissonette is that it requires following the Congressional directive under the Duro Fix[8] in 1990, but Minnesota has never recognized the *Duro Fix* and instead follows Duro v Reina[9], which is the Supreme Court decision Congress intentionally fixed in 1990, if not overturned. For all of my clients who have been criminally charged and/or convicted "Ignorance of the law is no excuse." Minnesota Judges are intentionally ignoring and continuously violating all Indians' civil rights every day in 2016.

The 1855 Treaty Authority is very close to moving forward with our 1855 ceded territory usufructuary rights litigation in federal court. A copy of the draft complaint was already sent to DOJ addressees above. We will also be

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[7] See Minn. Stat. 609.378 NEGLECT OR ENDANGERMENT OF CHILD. Which includes the religious civil rights exception "If a parent, guardian, or caretaker responsible for the child's care in good faith selects and depends upon spiritual means or prayer for treatment or care of disease or remedial care of the child, this treatment or care is "health care," for purposes of this clause." Minn. Stat. § 609.378 is a civil/regulatory law, with a rebuttable presumption of negligence, and with criminal consequences. Cabazon established that a statute to which a criminal penalty is attached can be regulatory and therefore outside the Public Law 280's grant of criminal jurisdiction, (see California v. Cabazon Band of Mission Indians, 480 U.S. 202 (1987).

[8] See *Duro Fix*, Act of Nov. 5, 1990, Pub. L. No. 101-511, § 8077(b), 104 Stat. 1892 (25 U.S.C. 1301(2)). Made permanent Act of Oct. 28, 1991, Pub. L. No. 102-137, § 1, 105 Stat. 646.

[9] See Duro v. Reina, 495 U.S. 676, 110 S.Ct. 2053, 109 L.Ed.2d 693 (1990).

alleging violations of §1983 (and §242 which we cannot enforce) because Minnesota judges, courts and law enforcement are actively engaged in the daily, systematic approach to deny our various and several federally protected civil rights. DOJ federally protected rights.

While nonmember Indians like Bissonette may be living on a different reservation, they are protected under public law 280 from Minnesota's over reach of jurisdiction to continuously gain from ill-gotten revenues from traffic citations, fines, penalties and wrongful incarceration costs.

The best example of the outrageous, results-oriented and intellectually dishonest judicial legislative activity is with regard to sex offender civil commitment in regard to Indians living on the reservation.

Minnesota courts continue to rely on a legally created fiction term "exceptional circumstances" which are derived from a western treaty rights fishing case decided by the United States Supreme Court Puyallup Tribe v. Washington Game Department, (1977)(No. 76-423). Our Chippewa treaty rights were distinguished from West Coast treaty rights in US v Brown[10], (upheld by the 8th circuit in 2015) which recognizes our Chippewa rights are not held in common with the citizens of the United States, like some tribes within the state of Washington, but instead are separate from the state of Minnesota and federal control on reservation with regard to regulation of hunting, fishing and gathering (*living*). Here the State of Minnesota is using *exceptional circumstances* from a completely different and unrelated tribe **again,** to wrongfully exercise jurisdiction against tribal members on Red Lake and Nett Lake reservations, both of which Minnesota is completely without jurisdictional grant from Congress.

Ultimately the Minnesota judges and justices say Congress needs to speak up against their jurisdictional actions instead of waiting for or seeking a grant jurisdiction for Minnesota. On page 10 of Respondent's Bissonette brief, the State clearly asserts that

[10] See United States v. Brown, 777 F.3d 1025, 1029 (8th Cir 2015).

> Minnesota appellate courts have consistently found the type of heightened criminal policy conduct included in this case to be criminal/prohibitory in nature in public law 280 jurisdictions, as noted below. ***To the contrary, most of the appellant's brief sites the exceptional circumstances standard that would apply in jurisdictions such as Red Lake and Bois Forte, where Congress has not expressly granted authority under public Law 280.***

Emphasis added to show the prosecution clearly understands Minnesota's judicially created Indian case law, civil or criminal, can be applied to Red Lake and Bois Forte on-reservation Indians, even though the prosecution ***clearly states the opposite at the top of the same page 10 of her brief*** that

> Pursuant to this grant of [PL 280] authority, Minnesota has broad criminal and limited civil jurisdiction over all Indian country within the state, except Red Lake reservation, which Public Law 280 excepted from the grant of authority, and Bois Fort reservation at Nett Lake.

While the prosecution's cut and paste works in drafting the brief, the legal reasoning is *non sequitur* under federal laws, federal treaties and federally protected Indians' civil rights.

I am hoping the Department of Justice and FBI will take affirmative steps quickly to investigate the Minnesota Judges' decisions and state laws being presented now, to get in front of what may very well be tribal members' next litigation against the state of Minnesota after interfering with exercising treaty protected, usufructuary property rights in the 1855 cede territory.

Minnesota has been ripping off the historically poorest people, who have the more superior, constitutionally protected federal rights. This is more than a tribal sovereignty issue for on the reservation Indians. This is the core of the on-going cultural theft and genocide due to federally protected civil rights of

individuals who are being systematically denied, oppressed and violated for the benefit, financial gain and revenue for the state of Minnesota based on their Indian nation of origin (§1983). This issue is usually described as $15 million problem because Minnesota compensates the Chippewa in 1854 ceded territory, while not even allowing us to hunt or fish in the 1855 without fear of oppression and prosecution and confiscation of our food and confiscating our traditional and cultural harvesting tools.

I understand this is a lot to look at, and I have tried to provide intelligent arguments based on actual federal Indian law, very unsuccessfully before judges in Minnesota courts. I truly believe many judges and justices intentionally create and follow results oriented, intellectual dishonest decisions, clearly designed to be a systematic ongoing violation of our Indian civil rights for Minnesota's profit.

I believe this obvious and ongoing need for enforcement is the job of the Department of Justice and FBI under the Constitution of United States, to enforce the due process and equal protection rights that were extended to all U.S. citizens. We need your help to enforce the federal laws that protect our Indian rights as citizens with additional retrained treaty rights.

Presently, State v. Bissonette is scheduled for oral argument on 09/14/2016 at 10:40 AM at the Crow Wing County Judicial Center, Courtroom 1, 326 Laurel St., Brainerd, MN (see August 10, 2016 notice attached). **This is the next, overt act in furtherance of the on-going conspiracy to deprive Indians of their several and various civil rights by prosecution under §1983 and judges under § 242.** It is the on-going, systematic judicial and law enforcement abuse of Indians' civil rights in Indian Country by the state of Minnesota that demonstrates the actual criminal activity by state government and why citizens feel the need to come together in the IDLE NO MORE and BLACK LIVES MATTER movements. It is readily apparent that Indians' federally protected civil rights need protection at Standing Rock under §1983.

As shown above, the Minnesota legal and judicial system has demonstrated a complete disregard for the civil rights of Indians for over 160 years, completely in favor of the state's control, regulation and taxation of Indians in open violation of congressionally created federal laws and U.S. Supreme Court decisions. This is an important piece of the racism puzzle to share with the press as well to see the present day oppression of Indians' civil rights in 2016 protected by judicially created fictions of law by Judges.

If you have any questions of need of assistance please call on me at 218-760-1258 or frankbibeau@gmail.com. Mii gwitch (Thank you).

Sincerely,

/s/ Frank Bibeau
Frank Bibeau

Attachments: Cass County's Bissonette Response Brief
Bissonette Notice of Oral Arguments Sept 14 Brainerd

cc: Justin Lock, DOJ Civil Rights Division