Case No. 20-1487

IN THE SUPREME COURT OF THE UNITED STATES

Donna M. Gilbert, Julie Mohney, Charmaine White Face

Petitioners

v.

READM Michael D. Weahke, Director of the Indian Health Service (IHS)
Mail Stop: 08E37A, 5600 Fishers Lane, Rockville, MD 20857
Phone: 301-443-1083

James Driving Hawk, Great Plains Regional IHS Director
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Phone: 605-226-7581

William P. Barr, Attorney General
U.S. Department of Justice, 950 Pennsylvania Avenue, NW
Washington, DC 20530-0001
Phone: 202-514-2000

Respondents

On Petition for Writ of Certiorari
to the United States Supreme Court
for the Proceedings in the
Eighth Circuit Court of Appeals

PETITION FOR WRIT OF CERTIORARI

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ORIGINAL

Question (Rule 14.1. (a))

The question is whether a federal agency is allowed to enter into a contract with a state non-profit corporation when the state non-profit corporation was established by the federal agency and does not meet the lawful eligibility requirements in violation of federal law and the due process rights of the Petitioners.

List of All Parties (Rule 14. 1. (b)(i))

Petitioners are Donna M. Gilbert, Julie Mohney and Charmaine White Face.

Respondents are READM Michael D. Weahkee, Director of Indian Health Service (IHS); James Driving Hawk, Great Plains IHS Area Director; William P. Barr, United States Attorney General.

Corporate Disclosure Statement (Rule 14. 1. (b)(ii))

The Petitioners are not a corporation.

List of All Proceedings (Rule 14. 1. (b)(iii))

Oglala Sioux Tribal Court, Oglala Sioux Tribe, Pine Ridge Indian Reservation, SD;

Charmaine White Face, Representative of Rapid City Concerned Indian Community, Plaintiff v. *Great Plains Tribal Chairmen's Health Board, Defendant.* Case No. CIV-18-0409 (December 4, 2018)

U.S. District Court, District of South Dakota (Western Division);

Charmaine White Face, Plaintiff v. Jerrilyn Church, CEO, Great Plains Tribal Chairmen's Health Board; James Driving Hawk, Area Director, Great Plains Area, U.S. Indian Health Service, Defendants.

Case: CIV.18-5087- JLV (December 14, 2018)

State of South Dakota Seventh Circuit Court, Rapid City, South Dakota;

Charmaine White Face, Representative, Council of Representatives, Native American Indian Community of Rapid City, SD, and the Black Hills Area v.

Jerrilyn Church, CEO, Great Plains Tribal Chairmen's Health Board

Case No.: Civ 19-715 (June 14, 2019)

U.S. District Court, District of South Dakota (Western Division);

Donna M. Gilbert, Julie Mohney, Charmaine White Face and others similarly situated, Plaintiffs v. *RADM Michael D. Weahkee, Principal Deputy Director Indian Health Service (IHS), James Driving Hawk, Great Plains IHS Area Director, William Barr, United States Attorney General, Defendants;*

Civil Docket No. 5:19-cv-05045-JLV (February 18, 2020)

United States Court of Appeals for the Eighth Circuit;

Donna M. Gilbert, Julie Mohney, and Charmaine White Face, Pro Se, Plaintiffs-Appellants v. RADM Michael D. Weahkee, Principal Deputy Director of Indian Health Service (IHS); James Driving Hawk, Great Plains IHS Area Director; William P. Barr, United States Attorney General, Defendants-Appellees;

Case No. 20-1484 (December 4, 2020)

United States Court of Appeals for the Eighth Circuit; *Donna M. Gilbert, Julie Mohney, Charmaine White Face, Pro Se Plaintiffs-Appellants v. RADM Michael D.Weahkee, Principal Deputy Director of Indian Health Service (IHS); James Driving Hawk, Great Plains IHS Area Director; William P. Barr, United States Attorney General, Defendants-Appellees*;

Petition for Rehearing En Banc; Case No. 20-1484 (Jan. 26, 2021)

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Appendix D. Aberdeen Area Tribal Chairmen's Health Board Articles of Incorporation

Appendix E. Self-Determination Contract between the Great Plains Tribal Chairmen's Health Board on behalf of the Cheyenne River Sioux Tribe and the Oglala Sioux Tribe, and the Secretary of the Department of Health and Human Services Rapid City Service Unit Contract Number: HHS-241-2019-01111

Appendix F. Cheyenne River Sioux Tribe Resolutions: 104-2018-CR; 1-2019-CR

Appendix G. Oglala Sioux Tribal Resolution No. 19-02; 18-42

Appendix H. Rosebud Sioux Tribal Resolution No. 2018-116; 2018-117

Appendix I. Final Order: *Gilbert v. Weahkee,* 441 F. Supp. 3d 799 (D.S.D. 2020)

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Oglala Sioux Tribal Court, Pine Ridge Indian Reservation, SD; Case No. CIV-18-0409 (December 4, 2018); Dismissal based on Section 20 of Chapter 2 of the Oglala Sioux Tribe's Law and Order Code.

U.S. District Court, District of South Dakota (Western Division); CIV. 18-5087- JLV (December 14, 2018); Dismissed without prejudice and without an opinion.

State of South Dakota Seventh Circuit Court; Case No.: 19-715 (June 14, 2019) Dismissed without an opinion.

U.S. District Court, District of South Dakota (Western Division); Civil Docket No. 5:19-cv-05045-JLV (February 18, 2020); Dismissed with a lengthy opinion in Appendix I.

U.S. Court of Appeals for the Eighth Circuit; Case No. 20-1484 (December 4, 2020) Dismissal based on *Jet Midwest Int'l Co. v. Jet Midwest Grp., LLC*, 953 F. 3d 1041 (8th Cir. 2020); *Montin v. Moore*, 846 F. 3d 289, 292 (8th Cir. 2017); (de novo review of Fed. R. Civ. P. 12(b) dismissal); *Zimmerman v. HBO Affiliate Grp.*, 834 F.2d 1163, 1169-70 (3d Cir. 1987); 8th Cir. R. 47B

U.S. Court of Appeals for the Eighth Circuit; Case No. 20-1484 (January 26, 2021) Petition for En Banc Rehearing dismissed without an opinion.

Basis for Jurisdiction (Rule 14. 1. (e))

(i) The date the Eighth Circuit Court of Appeals issued a judgment was December 4, 2020. (See Appendix A) The case can be found on the Eighth Circuit Court of Appeals website at 201484U.pdf.

(ii) The Eighth Circuit Court of Appeals denied the Petitioners petition for rehearing en banc and rehearing by the panel on January 26, 2021. (See Appendix B)

(iii) The statutory provision that confers jurisdiction to this Court to review on a writ of certiorari the judgment in question is 28 USC § 1254(1).

Statutes and Regulations involved in Case (Rule 14. 1. (f)) **Page:**

STATEMENT of the CASE (Rule 14.1. (g))

A federal agency, the U. S. Indian Health Service (IHS), under the direct guidance and authority of READM Michael D. Weahke, Director of the Indian Health Service (IHS) and James Driving Hawk, Great Plains Regional IHS Director, entered into a Public Law 93-638 Indian Self Determination and Education Assistance Act (ISDEAA) Title I contract with a state non-profit corporation, the Great Plains Tribal Chairmen's Health Board, (GPTCHB). The contract is to manage and administrate an IHS health facility, the Sioux San Hospital (Sioux San), which is not located on any Indian Reservation nor under any Tribal jurisdiction but is located in Rapid City, South Dakota (SD). (Appendix E. Self-Determination Contract between the Great Plains Tribal Chairmen's Health Board on behalf of the Cheyenne River Sioux Tribe and the Oglala Sioux Tribe, and the Secretary of the Department of Health and Human Services Rapid City Service Unit Contract No. HHS-241-2019-01111)

The state non-profit corporation was created in 1992 by the IHS to act as a liaison or messenger between the seventeen (17) tribes of the Great Plains Region and the IHS Regional office located in Aberdeen, SD. (Appendix D. Articles of Incorporation of the

GPTCHB) Under the ISDEAA, Title I contracts can only be entered into with Tribes or Tribal Organizations. (25 U.S.C. §5304(l))

> *"Tribal organization"* or *"tribal organization"* means the recognized governing body of any Indian tribe; any legally established organization of Indians which is controlled, sanctioned, or chartered by such governing body or which is democratically elected by the adult members of the Indian community to be served by such organization and which includes the maximum participation of Indians in all phases of its activities: provided, that, in any case where a contract is let or a grant made to an organization to perform services benefiting more than one Indian tribe, the approval of each such Indian tribe shall be a prerequisite to the letting or making of such contract or grant.

Brief History pertaining to the Case: In 1898, without the consent of the Tribes, the Rapid City Indian School was established by the federal government as a residential school for the children of the Northern Great Plains Region's tribes. In 1933, when the school was no longer needed as a school, it became the Sioux Sanitarium (Sioux San), a national tuberculosis (TB) hospital for American Indian patients from the entire United States. When it was no longer needed as a TB hospital, the Rapid City American Indian Community, without the help or support of any Tribe or the IHS, lobbied Congress and was successful in having Sioux San, as it is still called by the community, become a general hospital with health care provided by the Indian Health Service (IHS). (Federal Register/Vol. 84, No. 81/Friday, April 26, 2019, Notices 17843).

Prior to 1966, the Rapid City American Indian Community had no health care as the Reservation IHS hospitals would not accept patients living in Rapid City (off reservation) although those patients were tribal members. At that time, the nearest IHS

hospital was one-hundred twenty-five (125) miles away from Rapid City at the village of Pine Ridge on the Pine Ridge Indian Reservation.

The location of the Sioux San Hospital in Rapid City is on specially designated federal land under the auspices of the Department of the Interior. Many of the Rapid City American Indian people moved to Rapid City to be near their children, or the TB patients, or, after World War II to today, for jobs or educational opportunities. Their descendants continue to live in Rapid City which is located on an ancient American Indian camp site and within the boundaries of the 1868 Fort Laramie Treaty. (OST Oral History), (25 U.S.C. 1776i - Fort Laramie Treaty of 1868)

Current Situation: The Rapid City American Indian community established a constitution for the management of issues that affect all Native American Indian people living in Rapid City and the surrounding area which is called the Native American Indian Community of Rapid City and the Black Hills Area (Community). There is a duly elected Council of Representatives who conduct the business of the organization. The Community is recognized by the SD Senators and Representative as a federal Tribal Organization.

On April 23, 2018, the headlines in the local Rapid City Journal were: "*Tribes want control of Sioux San Hospital in Rapid City*". The three nearest Tribes: Cheyenne River Sioux Tribe (CRST), Rosebud Sioux Tribe (RST), and Oglala Sioux Tribe (OST), were going to take over the Sioux San Hospital through a contract with the U. S. Indian Health Service (IHS) the article claimed.

In reality, under the direction of IHS Deputy Director READM Michael D. Weahkee and IHS Regional Director James Driving Hawk, the IHS was entering into a Public Law 93-638 Indian Self Determination and Education Assistance Act (P.L. 93-638, 88 Stat. 2203 (25 U.S.C. 5301 et seq.)) Title I contract for the management of the Sioux San IHS Health Facility with a state non-profit corporation which the IHS had established in 1992. (Appendix E. Articles of Incorporation of GPTCHB)

The IHS obtained Resolutions from the three Tribes previously mentioned to justify the state non-profit corporation being a party to the ISDEAA Title I contract. (Appendix F. Cheyenne River Sioux Tribe Resolutions 104-2018-CR and 1-2019-CR; Appendix G. Oglala Sioux Tribal Resolution No. 19-02; Appendix H. Rosebud Sioux Tribal Resolution No.2018-116)

According to P.L. 93-638, an ISDEAA Title I contract is an agreement to administrate a project that is currently being delivered by a federal agency, in this case the IHS, with a Tribe or Tribal Organization who will continue the project. An ISDEAA Title V self-governance compact is different and is between the federal agency and only with a Tribe.

Donna M. Gilbert, Julie Mohney, and Charmaine White Face filed in U.S. District Court, District of South Dakota (Western Division) requesting an injunction on the ISDEAA Title I contract as the IHS' state non-profit corporation was not a Tribal Organization and there was no community involvement as required by the ISDEAA.

On Feb. 18, 2020, the U.S. District Court, District of South Dakota (Western Division) (Appendix I. Final Order *Gilbert v. Weahkee*, 441 F. Supp. 3d 799 (D.S.D. 2020)) concluded:

> "...The court wishes to emphasize that this order holds only that individuals, such as plaintiffs, cannot challenge a self-governance contract under the ISDEAA or the Fort Laramie Treaty..."

The District Court erred as the contract was an ISDEAA Title I contract for a project, not a Title V self-governance compact which can only be made with a Tribe. There is a major difference between a project contract and a self-governance compact under the ISDEAA.

The U.S. District Court, District of South Dakota (Western Division) further ordered:

> For the reasons given above, it is ORDERED that defendants' motion to dismiss (Docket 16) is granted as described in this order. Plaintiffs' claims under the ISDEAA and the 1868 Treaty of Fort Laramie are dismissed with prejudice. IT IS FURTHER ORDERED that plaintiff's motion for class certification (Docket 12) and motion for summary judgment (Docket 37) are denied as moot... Id.

The Case was then presented to the United States Court of Appeals for the Eighth Circuit bringing seven issues where the District Court erred as follows:

> Whether the District Court erred when it ruled that "the Health Board is an indispensable party that cannot be joined due to sovereign immunity." ....when it dismissed this Case regarding an ISDEAA Contract by the IHS without addressing the portion of the law mandating community participation and involvement;
> ...when it dismissed the Appellants' Motion for Class Certification;
> ...when it ruled "the plaintiffs do not have zone-of-interest standing to sue for relief under the ISDEAA";

> ...when it ruled that "the Fort Laramie Treaty does not provide a private right of action under these circumstances";
> ...when it denied the Appellants' motion for Summary Judgment as moot; and
> ...when it denied "injunctive relief" as requested by the Appellants. (Id.)

A similar situation regarding injunctive relief is currently before this court. (*Confederated Tribes of the Chehalis Reservation, ET AL; Ute Tribe of the Uintah and Ouray Indian Reservation v. Steven T. Mnuchin, Sec. Of Treas.*; U.S. Court of Appeals District of Columbia Circuit, Case No. 20-5204 (Sept. 25, 2020) in a similar case where the Alaska Native Corporations are being challenged as having no status as 'Tribal Organizations."

However, none of these issues were addressed by the U. S. Court of Appeals for the Eighth Circuit whose judgment was issued on December 4, 2020, which merely stated:

> Donna Gilbert, Julie Mohney, and Charmaine White Face appeal the district court's dismissal of their action challenging a tribal organization's contract with the Indian Health Service. Having carefully reviewed the record and the parties arguments on appeal, we find no basis for reversal. See *Jet Midwest Int'l Co. v. Jet Midwest Grp., LLC*, 953 F. 3d 1041, 1044 (8th Cir. 2020) (abuse of discretion review of denial of preliminary injunction; injunction cannot issue if there is no chance of success on merits); *Montin v. Moore,* 846 F. 3d 289, 292 (8th Cir. 2017) (de novo review of Fed. R. C. P. 12(b) dismissal); *Zimmerman v. HBO Affiliate Grp.,* 834 F.2d 1163, 1169-70 (3d Cir. 1987) (no abuse of discretion in finding class certification motion was mooted by dismissal of complaint). The judgment is affirmed. See 8th Cir. R. 47B. (Appendix A, Eighth Circuit Appellate Court decision.)

Furthermore, the case would not be only three (3) individuals were it not for the denial of the motion for class certification for one-hundred fifty (150) other litigants by

the District Court and that decision affirmed by the Appellate Court. (Appendix A. Eighth Circuit Appellate Court Decision)

In addition, both lower courts, U.S. Attorney General Barr, the Assistant U.S. Attorneys, and the Clerks of the Courts knew that this case involved American Indian Tribal members from a State – South Dakota, which contains nine (9) American Indian reservations – no U. S. Attorney was made available to represent the Petitioners as mandated in 25 U.S.C. § 175. The American Indian Tribal members were required to represent themselves at both the Appellate and now Supreme Court levels as they do not have the means for hiring a private attorney. An 84 year old retired law professor offered his pro bono services at the District level.

ARGUMENT (Rule 14. 1. (h))

The Petitioners respectfully petition for a Writ of Certiorari for the Supreme Court to review the decision made by the Eighth Circuit Court of Appeals. A federal agency establishing a non-profit corporation in a state, and then contracting millions of dollars of federal funds with that same corporation while knowing it is not eligible for the contract is a violation of federal law, in this specific case the ISDEAA, P. L. 93-638. These particular federal funds under the ISDEAA can only be allocated to a Tribe or a Tribal Organization, not a state non-profit corporation established by the funding agency, in this case the IHS.

The IHS deemed the state not-for-profit corporation to be eligible for the Title I ISDEAA contract initially because of three (3) Tribal Resolutions that it had obtained

from the three (3) nearest Tribes: CRST, RST, and OST. (Appendices F., G., and H.,) However, the RST withdrew their Resolution after learning that an injunction had been requested in the neighboring Oglala Sioux Tribal Court (Appendix C: *White Face v. Great Plains Tribal Chairmen's Health Board,* Oglala Sioux Tribal Court Case No. CIV-18-0409 (Dec. 4, 2018)), and because the Rapid City American Indian Community had not been allowed to give any input into the decisions affecting them as required by law. (25 U.S.C. §5302(a))

Nevertheless, the IHS continued with only two (2) Tribal Resolutions when there are approximately three-hundred thirty-two (332) other Tribes who have members who are patients of the Sioux San Health Facility as reported by the Medical Records Department. According to the ISDEAA, those other three-hundred thirty-two (332) Tribes also needed to give their support to the contract. (25 U.S.C. §5304(l)) The two (2) Tribal Resolutions from the Oglala Sioux Tribe and the Cheyenne River Sioux Tribe are what IHS is using to say the Title I contract is legal with IHS' own non-profit corporation.

However, with the exception of specific resolutions under the Indian Child Welfare Act of 1978 (25 U.S.C. § 1915 (c)), Tribal Resolutions are only legal within the boundaries of a Tribe's reservation as stated in their Tribal Constitutions. If Tribal Resolutions had any legality outside the Reservation boundaries, there would be jurisdictional chaos with the states on many issues.

The IHS failed to consider that Tribal Resolutions have no authority or legality outside of the reservation boundaries. Rapid City, SD, is not located on any American

Indian Reservation. If IHS had complied with the law, the ISDEAA Title I contract proposal submitted by GPTCHB would have been denied immediately. This leads to the conclusion that the IHS intentionally conspired to commit fraud under the ISDEAA. A federal agency violating a federal law was the major complaint brought before the lower courts, and both lower courts failed to defend the law.

In addition, the IHS also violated the Doctrine of Ultra Vires as determined by the U.S. Supreme Court in the case of *California National Bank v. Kennedy*, 167 U.S. 362, 17 S. Ct. 831, 42 L. Ed., 98 (1897) where the Supreme Court states:

> A contract of a corporation, which is ultra vires, in the proper sense (that is to say, outside the object of its creation as defined in the law of its organization, and therefore beyond the powers conferred upon it by the legislature) is not voidable only, but wholly void, and of no legal effect. The objection to the contract is, not merely that the corporation ought not to have made it, but that it could not make it. The contract cannot be ratified by either party, because it could not have been authorized by either. No performance on either side can give the unlawful contract any validity, or be the foundation of any right of action upon it.

The IHS established their non-profit corporation to act as a liaison, a messenger between the tribes and IHS. The State of South Dakota gave their approval only for this purpose as a liaison or messenger when the organization was incorporated under South Dakota law. (Appendix D) The purpose of the IHS' non-profit corporation was not as a health care management organization.

In addition, Tribes may create their own non-profit tribal organizations according to their Tribes' Constitution, Tribal laws and regulations, but those tribal non-profit organizations are under the jurisdiction and the tax exempt status of the Tribe, not the

state. (26 USC §501(c)(3)) Non-profit corporations may be established by tribes for tribal purposes in the State of South Dakota but are designated as "foreign corporations" under South Dakota Codified Law, 47-27-18, 59-11-24, 47-1A-122. The reason is because those types of non-profit corporations are under the sovereign jurisdiction of a Tribe.

Additionally the Appellate Court erred when approving the District Court Order which stated that the Petitioners, all members of the Oglala Sioux Tribe, could not challenge a contract under ISDEAA or the 1868 Fort Laramie Treaty. (Appendix A. Eighth Circuit Appellate Court Decision)

The Eighth Circuit Appellate Court erred in approving the District Court's decision that individuals, all American Indian tribal members, could not challenge an ISDEAA Title I contract on their behalf as the District Court's decision conflicts with P.L. 94 - 437, the Indian Health Care Improvement Act which states:

> A major national goal of the United States is to provide the quantity and quality of health services which will permit the health status of Indians to be raised to the highest possible level and to encourage the maximum participation of Indians in the planning and management of those services.
> (25 U.S.C. Ch 18 §1601 (3))

Also stated in the Petitioners' Appeal to the Eighth Circuit Court of Appeals, American Indian individuals have been challenging many actions on the basis of treaties made between the United States and various Indigenous Nations in a number of cases: *Elk v. United States*, 70 Fed. Cl. 405 (2006); *State v. Tinno,* 497 P.2d 1386 (Idaho 1972);

and *Herrera v. Wyoming*, 139 S. Ct. 1686 (2019). The Petitioners are doing no less in fighting for their 1868 Fort Laramie Treaty right to health care.

Petitioners are asserting their Treaty right to good health care which their ancestors provided for them in the 1868 Fort Laramie Treaty in Article 13. (25 U.S.C. 1776i - Fort Laramie Treaty of 1868) With all of the devastation to the land and medicines, and the federal government's prohibition on traditional American Indian medicinal practices since the occupation by the United States in the 1870s, the Sioux people have found it necessary and vital to rely on Western Caucasian health practices.

The Eighth Circuit Court of Appeals erred when it dismissed the case thereby prohibiting the Petitioners from protecting their right to health care as provided in a Treaty with the United States. The Treaty was created for the benefit and survival of the people of the Sioux Nation in 1868. After the bands of the Sioux Nation were incarcerated in prisoner of war camps, now called American Indian Reservations, the "Tribes" were established in 1889 with the formation of the state of South Dakota.

When the Petitioners presented the Oglala Sioux Tribal Court's decision that GPTCHB was a state non-profit corporation under the jurisdiction of South Dakota to the District Court in SD, making this a simple case, the District Court erred by ignoring the Tribal Court decision that the state non-profit corporation was not a Tribal Organization. (Appendix C. Final Order: *White Face v. Great Plains Tribal Chairmen's Health Board*, Oglala Sioux Tribal Court; Unpublished, Case No.: CIV-18-0409 (Dec. 4, 2018)) This was a violation of the Abstention Doctrine.

The definition of the Abstention Doctrine as given by Cornell Law School is when a federal court decides not to exercise jurisdiction over a case. The usual goal of abstention is the avoidance of needless conflict with a state court, or in this case, a Tribal court. The Oglala Sioux Tribal Court had already ruled that the GPTCHB was not a Tribal Organization. The District Court needed to respect and uphold that ruling, grant the injunction, and order the ISDEAA Title I contract to be null and void.

This same information was also given to the Eighth Circuit Court of Appeals. The Eighth Circuit Court of Appeals also failed to acknowledge the OST Court Ruling and violated the Abstention Doctrine. The District Court's ruling excluding the Oglala Sioux Tribal Court decision was affirmed by the Eighth Circuit Appellate Court. The Eighth Circuit Appellate Court dismissal ruling merely states:

> Donna Gilbert, Julie Mohney, and Charmaine White Face appeal the district court's dismissal of their action challenging a tribal organization's contract with the Indian Health Service. Having carefully reviewed the record and the parties' arguments on appeal, we find no basis for reversal. (Appendix A. Eighth Circuit Appellate Court Decision)

The Eighth Circuit Appellate Court erred when it ignored the Abstention Doctrine by disregarding the Oglala Sioux Tribal Court's decision and continuing the labeling of the state non-profit corporation as a "Tribal Organization." Words have weight and just because the words, 'tribal chairmen's' are in the name of a non-profit corporation does not mean it is a Tribal Organization eligible for federal funding. The Eighth Circuit ruling allowed the IHS to violate the Lanham Act as well by allowing IHS to falsely

mislead the communities, Tribes, and courts into believing the state non-profit corporation which IHS established was a legitimate 'Tribal Organization'. (15 USC Ch. 22)

Finally, with regard to 25 U.S. Code § 175 which states:

> **United States attorneys to represent Indians.**
> In all States and Territories where there are reservations or allotted Indians the United States attorney shall represent them in all suits at law and in equity. (Mar. 3, 1893, ch. 209, § 1, 27 Stat. 631; June 25, 1948, ch. 646, § 1, 62 Stat. 909.)

It should have been incumbant upon one of the learned and educated U.S. judges, U.S. Attorneys, the Assistant U.S. Attorneys, or the Clerks working in the Eighth Circuit Region to have known this law. It was brought to their attention in the Eighth Circuit case on Page 13 of the Reply Brief.

Surely the example of the military's Judge Advocate General's system could be followed by the Department of Justice when confronted with a case such as this so that individual American Indian Tribal members would not have to represent themselves Pro Se. Instead, the three American Indian Tribal members were forced to represent themselves and their fellow American Indian Tribal members against eight to nine (8-9) U.S. Attorneys at various levels of the Justice system, all of whom represented a federal agency. This violation of the law, 25 USC § 175, is unlawful, does not represent justice, and violates the Petitioners' Constitutional Right to Due Process.

CONCLUSION

This petition is timely filed within the allotted time following the dismissal of their petition for an En Banc rehearing in the eighth Circuit Court of Appeals. (Appendix B. Eighth Circuit Court of Appeals, Case No. 20-1484, Petition for Rehearing En Banc (January 26, 2021)

The Petitioners understand the grave consequences of a state non-profit corporation created by a federal agency being allowed to contract under a federal law as stated in this Petition for a Writ of Certiorari. Should this Court decide not to approve this Petition and the lower courts' decisions be allowed to stand, the intent of Congress in this specific case of self-determination for American Indian Tribes and Tribal Organizations will be greatly damaged, as well as an International Treaty between the United States and the Sioux Nation will be profaned again. In addition, a federal law, the Indian Self Determination and Education Assistance Act, will be prime for violation by federal agencies as any state non-profit corporation would then become eligible to contract with a federal agency, whether it is in health, housing, education, law enforcement, or other government services.

We respectfully urge this Supreme Court to grant this Petition for a Writ of Certiorari to ensure that federal agencies are not allowed to establish their own non-profit corporations with the intent of illegally diverting millions of dollars of federal funds to their own corporations.

Thank you.

Certificate of Service and Word Count

We do hereby certify that all parties required to be served have been served with copies of the **PETITION FOR WRIT OF CERTIORARI** via email or first-class mail, postage paid, this 14th day of April, 2021.

Eighth Circuit Court of Appeals, Michael Gans, Clerk of Court, 111 South 10th Street, Room 24.329, St. Louis, MO 63102

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Word Count

As required by Supreme Court Rule 33.1(h), we certify that the document contains 3,746 words, excluding the parts that are exempted by Supreme Court Rule 33.1(d).

We declare under penalty of perjury that the foregoing is true and correct to the best of our abilities.

Date: April 14, 2021

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