

ORIGINAL

01-10576

No. _____

Supreme Court, U.S.
FILED
APR 26 2002
OFFICE OF THE CLERK

IN THE
SUPREME COURT OF THE UNITED STATES

Eddie Tang PETITIONER

vs.

The Northern Cheyenne Indian Tribe;

Child Support Enforcement Division
(CSED) of Department of Public Health
and Human Service of State of Montana ;

Jackie Limpy ;

Michael Eakin REPENDENTS

ON PETITION FOR A WRIT OF CERTIORARI TO
UNITED STATES COURT OF APPEAL FOR THE NINTH CIRCUIT

PETITION FOR WRIT OF CERTIORARI

Eddie Tang

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QUESTION(S) PRESENTED

1. If the Indian Tribal Court has the civil authority and jurisdiction on a U.S. citizen who is non-Indian or non-member ; non-resident ; non-matrimony and harmless to them.
2. If the American Judicial System included the Indian court system then why they are double standard (sub-standard).
3. Why is the public (especially the immigrants) not be informed and educated of the American Indian and their double political status and their court system.
4. In this case, If there is any political consideration out weighing the judicial fitness.
5. What is the value of a marriage and its legal status in this country.
6. When and how the Federal Government Scrutiny will take place.
7. Current Montana States Child Support policy's consitutionality, if all American children are under the United States Constitution.

LIST OF PARTIES

- All parties appear in the caption of the case on the cover page.
- All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

Clavin L. Willson, former Northern Cheyenne Tribe court Judge

Lonnie J. Olson, CSED Administrator for The state of Montana

Mary Ann Wellbank, former CSED Administrator

Amy K. Pfeifer, Attorney for CSED and former Administrator

Mary K. McCue, ALD for the State of Montana

Jerold D. Howland, Investigator / supervisor for the CSED

Gary E. Wilcox, Billings of Montana, former counsel for the petitioner

Marianne Y. Mahoney Ph.D., Denver of CO, former Psychologist for the Petitioner

Senator Ben Nighthores Campbell of United States

Beth Brenneman, Attorney of ACLU of Montana

Jo B. Shannon, Program Manager for the federal office in Denver, CO.

Lousie Z.D. Reyes, BIA office in Billings of Montana

Robert B. Strater, Assit Directot of U.S. Depart. of Justice, Washington DC

Sharon B. Parrish, Judicial Standards Commission of State of Montana

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- APPENDIX F ___ The opinion of the CSED of Montana (Summary termination) 1999
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TABLE OF AUTHORITIES CITED

CASES PAGE NUMBER

1. **Montana v. United States** 450 U.S.544, 101 S.Ct.1245, 67 L. ed 493(1981)
2. **Montana v. Gilham** No. 96-35766 DC No.CV-95-5
3. **Strate, et al., v. A-1 Contractor, et al.**, 520 U.S.438,117 S.Ct.1404,137 L.Ed.2d 661 (1997) See id at 459 n.14, 117S.Ct.1404
4. **Oliphant v. Suquamish Tribe** 435 U.S. 191 (1978)
5. **Red Fox v. Red Fox** 23 Ore., App. 393, 542 P. 2d 918 (1975)
6. **United States v. Kagama** 118 U.S.375 (1886)
7. **Cherokee Nation v. Georgia** 30 U.S. (5Pet.)(1831)
8. **Johnson v. McIntosh** 21 U.S. (8 Wheat) 543 (1823)
9. **Allstate Indem. Co. v. Stump** 191 f.3d 1071 (9th Cir. 1999)

STATUTES AND RULES

1. Indian jurisdiction over case involving non-Indian generally turn on whether the tribe controls the land on which the dispute arose.
2. That absent a waiver, the tribal Court lacked jurisdiction, the jurisdiction of tribal courts derives from their inherent sovereign over their internal affairs and the power to subject to other sovereigns to suit in tribal courts was simply not a part of the tribes inherent sovereignty.
3. The civil authority of Indian tribes and tribal courts does not extend to the action of non-tribal member on the non-Indian free land. ...Has done away with the exhaustion requirement, the Supreme Court there affirmed that the exhaustion requirement applies unless "it is plain" that tribal court lacks jurisdiction over the dispute.
4. Indian tribe can not exercise jurisdiction over a non-Indian in the absence of permissive treaty or statutory provisions.
5. Full Faith and Credit Clause of Constitution did not apply to Indian nation.
6. Indian tribes were wards of the nation, they were the communities dependent on government for food, protection...
7. An Indian tribe was neither a state nor a foreign nation within the meaning of the Constitution.
8. Indian they look to our government for protection, rely on its kindness and its power, address the President as the greater Father.
9. Tribes lack jurisdiction except when (1) the non-members have entered into consensual relationships, (2) their conduct threatens the tribes political integrity, economic security, or the health or the welfare of a tribe.

OTHER

- a) **United States v. Clapox** 35 Fed, 575 (D.C. Ore.1888)
- b) **Lone Wolf v. Hitchcock** S.Ct. 1903
- c) **William v. Lee** 358 U.S.217 (1958)
- d) **Santa Clara Pueblo v. Martinez** 98 S.Ct. 1670 (1978)

IN THE
SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix A to the petition and is

- reported at 9th Cir. COURT OF APPEALS; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

The opinion of the United States district court appears at Appendix B.C. to the petition and is

- reported at U.S. DISTRICT COURT OF MONTANA, or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

For cases from **state courts**:

The opinion of the JUDICIAL ADMINISTRATIVE HEARING ~~highest~~ state court to review the merits appears at Appendix D to the petition and is

- reported at STATE COURT OF MONTANA; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

The opinion of the NORTHERN CHEYENNE TRIBAL court appears at Appendix E to the petition and is

- reported at TRIBAL COURT, CSED OF MT; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

JURISDICTION

[] For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was 22th APRIL 2002

No petition for rehearing was timely filed in my case.

[] A timely petition for rehearing was denied by the United States Court of Appeals on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

[] An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. A .

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

[] For cases from **state courts**:

The date on which the ^{HEARING ALS} highest state court decided my case was 28 JUNE 1999.
A copy of that decision appears at Appendix D .

A timely petition for rehearing was thereafter denied on the following date: NA _____, and a copy of the order denying rehearing appears at Appendix _____.

An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in NA Application No. A .

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

STATEMENT OF THE CASE

The Petitioner Eddie Tang was born in China and immigrated to the U.S. in late 1976, during the past two decades I was working and living in the Western states as a mechanic, I also work for the for the General Service Administration (GSA) as an security officer forthe past six years.

The Respondent Jackie Limpy was a American Indian, and an member of the Northern Cheyenne Indian tribe, she was living in the reservation and work for her tribe as the director of the social service department for the past six to eight years.

In the late of 1976 or the early 1977 I met the Respondent in Billings, Montana then I went back to California and Idaho shortly.

The Respondent filed a Separation in her tribal court in Lame Deer, Montana in some time 1981 without my knowledge, a judgment was awarded to her by the tribal court.

The Respondent filed a Divorce in the same court in some time of 1990 without my knowledge, a judgment was awarded to her by the same court.

In some time of 1998, my wage was subjected to garnish by the CSED of state of MT, more than a half of my income was lost,(one pay check I took home was \$ 19.00) I started to contact the CSED of MT and protested and contested their actions.

Finally an Administrative Hearing was granted to me during the times of September of 1998 to next Spring, at the meantime my family were on Welfare and the garnishment continued. I lost my job, my career, my friends, our social life, our home, my father, our health, financing, reputation, our adoption of an orphan, virtually everything.

On the date of 28 of June, 1999 the ALJ of Montana found there was no valid child-support order to be registered by the CSED, further more, there was never a marriage.

The wage garnishment was stopped, but no refund. We tried to re-build our life.

At sometime May of 2000, the Respondent (Limpy) with her attorney Michael Eakin went back to the tribal court for the third time filed a petition for resolution of a marriage, again, a judgment was awarded to her, apparently she must took the tribal court oder back to the CSED, because at the16th of August 2000, I received a letter for CSED of MT for demanding \$47,000. or subject to immediatly wage garnishment, and It did happen, this time the CSED is garnishing me for \$ 3,500. per month.

After all attempts to find help by outside agencies were referred back to the tribale court, as all previous attampts were futile, I filed a complaint in U.S. District Court of Montana at the 16th of March, at the 1st of August 2000, the District court dismissed my case based on that I did not exhaust remedies from the tribal court of appeal.

I believed I was wronged and it is plain that the tribal court did not have the jurisdiction, besides I did not have any other recourse so I filed an appeal to the U.S. Court of Apeal for the 9th Circuit, on the 22th of April, 2002 the 9th Cir. Court of Appeal rejected my appeal for same grounds and same reasons.

Now I am taking my case to the Supreme Court of the United States.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The United States Constitution

The United States constitutional provisions 5th, 6th, 8th, 14th Amendments

U.S.C. Title 28, Sections 455, 1332, 1343(a), 1346(b)(1), 1357, 1738B(c),

U.S.C. Title 42, Section 1985

Public Law 280 (67 stat.588)

1968 Indian Civil Right Act, Public Law 90-284, 82 Stat 77 25 U.S.C.A.1302-1303

REASONS FOR GRANTING THE PETITION

1. It is plain that the Indian tribal court lacks of jurisdiction over the dispute.
2. All low courts did not, have not address the principle issue of if the Indian tribal court has the jurisdiction.

Courts are admonished not to decide Constitutional question unless it's " absolutely necessary " **Strait v. Burdin**, 924 S.W. 2d 82 (Tenn. 1996)

3. The low courts' judgment dismissings were made upon assumption of Indian tribal court legitimate jurisdiction of subject-matter, and were upon the ground of pursuant to the case of **Allstate, Indum, Co. v. Stump**, 197f, 3d 1031 (9th Cir. 1999). but it as same as the other case which have been quoted by both low courts they are irrelevant to my case, because all those parties were engaged into commercial or other consensual relationship with the Indian but I had not, nor did I have post any threat, did any harm to the Indian. those cases are:

El Paso Natural Gas Comp. v. Neztosie, 136f, 3d 610, 613. (9th Cir. 1998)
Ntnl Farm. Union Ins.Co. v. Crow Tribe, 471 U.S.845, 105 S.Ct.2447 (1985)
Burlington Railroad Comp. v. Red Wolf, 106f,3rd 868,870, (9th Cir. 1997)
Iowa Mutual Ins. Co. v. Lapante, 480 U.S.9,17,107 S.Ct. 971, 977 (1987)

(**Barren v. Harrington**, 152 f.3d 1193, 1194 (9th Cir. 1998)) which the 9th Cir. review de novo 28 U.S.C. section 1915(e) dismissals is also found irrelevant to my case, because I am not an inmate confined in an institution, at least not yet.

4. Its so far departed from the accepted and usual course of judicial proceedings
5. On the behalf of my family and myself, we are the subjects of United States of America, the law abiding citizens.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Eddie Tang

Date: 30th May 2002