No. 20-7622

In the Supreme Court of the United States

MERLE DENEZPI,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT

BRIEF *AMICI CURIAE* OF THE UTE MOUNTAIN UTE TRIBE, EASTERN SHAWNEE TRIBE OF OKLAHOMA, AND OTOE–MISSOURIA TRIBE OF INDIANS IN SUPPORT OF THE UNITED STATES

PETER ORTEGO
General Counsel
Ute Mountain Ute Tribe
P.O. Box 128
Towaoc, CO 81334
(970)-564-5640
portego@utemountain.org

Counsel for Amicus Curiae the Ute Mountain Ute Tribe

JENNIFER H. WEDDLE
Counsel of Record
TROY A. EID
HARRIET M. RETFORD
KYLE R. MONTOUR
Greenberg Traurig, LLP
1144 15th Street, Ste. 3300
Denver, CO 80202
(303) 572-6500
weddlej@gtlaw.com

Counsel for Amici Curiae

QUESTION PRESENTED

Whether the Court of Indian Offenses of the Ute Mountain Ute Agency derives its prosecutorial power from the sovereign authority of the Ute Mountain Ute Tribe such that the Double Jeopardy Clause of the Fifth Amendment does not bar a subsequent conviction in federal court.

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Page(s)

Cases

Statutes

Other Authorities

INTERESTS OF THE *AMICI CURIAE*[1]

Amici, the Ute Mountain Ute Tribe ("Ute Mountain"), the Eastern Shawnee Tribe of Oklahoma, and the Otoe-Missouria Tribe of Indians (collectively the "Amici Tribes") are federally recognized Indian Tribes that each rely on a Court of Indian Offenses ("CFR court") to enforce their criminal and civil laws. It is the position of these Amici Tribes that these courts – *their courts* – derive their prosecutorial power from the sovereignty of the Tribes, not the federal government, and thus are dual sovereigns not subject to the Double Jeopardy Clause of the Fifth Amendment to the United States Constitution.

The Ute Mountain Ute Tribe ("Ute Mountain" or the "Tribe") is a federally recognized Indian Tribe that relies on the Court of Indian Offenses of the Ute Mountain Agency, also known as the Ute Mountain Ute Tribe's Code of Federal Regulations Court (the "Ute Mountain CFR Court") as its sole Tribal court. The underlying Tribal conviction at issue in this case arose in the Ute Mountain CFR Court, which, as described below, enforces the Tribe's laws on the Ute Mountain Ute Reservation, which extends into three states and is nearly as large as Rhode Island. This

---

[1]Pursuant to this Court's Rule 37.6, counsel for *amici curiae* certify that no person or entity other than *amici curiae* and their counsel authored this brief in whole or in part. No person other than *amici curiae* or their counsel made a monetary contribution to its preparation or submission of the brief. The parties were notified of the intention of *amici curiae* to file as required by Rule 37.2, and all parties have consented to the filing of this brief.

court currently handles approximately 900 criminal cases every year.[2]

The Ute Mountain CFR Court is absolutely essential to the safety of the community. The Tribe's largest city, Towaoc, is located more than 400 miles away from the nearest federal courthouse in Denver, and the federal government – including the United States Attorney's Office for the District of Colorado, and the federal courts headquartered in Denver – play an important, but limited role in the daily administration of justice. The Ute Mountain CFR Court serves by practical necessity as the Tribe's own prosecuting authority.

The Tribe treats the Ute Mountain CFR Court as its own and runs its day-to-day operations pursuant to a P.L. 93-638 contract, hiring and supervising its personnel, setting priorities, and integrating it into its Tribal programs. The court applies Ute Mountain law and the Ute Mountain Criminal Code, employing federal and state law only as a gap filler. And the Tribe asks this Court to acknowledge the fundamentally Tribal nature of this court for the purposes of the Fifth Amendment.

Amicus the Eastern Shawnee Tribe of Oklahoma ("Eastern Shawnee") is also served by a Court of Indian Offenses, the Miami Agency Court of Indian Offenses ("Miami CFR Court"). Eastern Shawnee is one of three federally recognized Indian Tribes for the Shawnee people, a nomadic people historically located

---

[2]Except as otherwise indicated, Amici Tribes present information about the operation of their CFR courts on the basis of their own knowledge and conversations with Tribal employees.

east of the Mississippi River, and it currently occupies a reservation in Oklahoma.

Amicus the Otoe–Missouria Tribe of Indians ("Otoe–Missouria") is also served by a Court of Indian Offenses, the Court of Indian Offenses for the Southern Plains Region ("Southern Plains CFR Court").

SUMMARY OF THE ARGUMENT

The Amici Tribes respectfully submit this Amicus Brief to explain why these CFR Courts should be treated, to the fullest extent consistent with law and precedent, as courts of the tribes they serve and protect.

The question before this Court is difficult because, although the application of double jeopardy is a clean yes-or-no question, there is nothing clean or straightforward about the CFR Courts. For example, although the case in Ute Mountain CFR Court was captioned "*United States v. Denezpi*," bringing a case on behalf of the "United States" appears to be entirely a matter of local custom that, as Petitioner concedes, is not determinative to the double jeopardy inquiry. Pet. C.A. Br. 18. For example, cases in the Miami CFR Court and Court of Indian Offenses for the Western Region are routinely captioned "*[Tribe] v. [Defendant]*."[3]

---

[3]The court calendar and docket for the Western Region is available on its official website, including the names of pending criminal matters, https://www.bia.gov/regional-offices/western/court-indian-offenses. A sample of the court docket for the Miami CFR Court, obtained from the clerk of that court, is attached to this Amicus Brief as Appendix 1a. This docket shows criminal cases brought by the Modoc Tribe of Oklahoma and the Seneca-Cayuga Nation, but not by the United States. There does not appear to

Basic questions about the nature and authority of these courts – which routinely impose sentences of incarceration on American citizens – remain profoundly, and disturbingly, unsettled. However, these courts are at their best and most defensible when they exercise tribal sovereign power to maintain law and order in their local tribal communities and surrounding regions, and it is this part of their history and practice that the *Amici* Tribes ask this Court to honor by finding that these courts are tribal courts for the purposes of double jeopardy.

This approach honors the sovereign dignity of the tribes and better captures the actual functioning of modern CFR Courts, which apply tribal law and often work under the direction of tribal officials, not distant federal supervisors. And it will have the practical effect of assisting with the maintenance of public order on these reservations – where tribal prosecutors are forced to balance the slow and uncertain prospect of a possible federal felony charge against their own prosecutions, which are swifter and more certain but are limited under federal law to a maximum imprisonment of one year. 25 U.S.C. § 1302(a)(7)(B).

The history of the Ute Mountain CFR Court illustrates these tensions, and the profound need that tribes have for a local court that is not dependent on the competing priorities of distant federal prosecutors and which has the independence to act to enforce tribal law without worrying about whether this will foreclose the possibility of more stringent penalties under federal law.

---

be any legal or political obstacle to amending the local rules regarding the formatting and captioning of court papers.

The Ute Mountain CFR Court adjudicates the vast majority of crimes committed on that Tribe's Reservation, which is home to roughly 2,400 people, nearly all of whom are Tribal members. In contrast, the United States Attorney's Office for the District of Colorado prosecutes a relative handful of felonies arising on the Tribe's Reservation each year. Moreover, about one-third of all Indian Country felonies investigated by the Federal Bureau of Investigation are never prosecuted, according to U.S. Department of Justice statistics. U.S. DEP'T OF JUSTICE, INDIAN COUNTRY INVESTIGATIONS AND PROSECUTIONS (2019) at 2-3, https://www.justice.gov/otj/page/file/1405001/download.[4]

The Tribe's governing body, the Ute Mountain Tribal Council ("Council"), has long understood that it cannot reliably depend on the federal government – the U.S. Attorney's Office and, for that matter, the federal courts up to an eleven hours' drive away in Denver – to keep many dangerous offenders off the Reservation's streets, which experience some of the highest violent crime rates in Colorado. Troy A. Eid, *Criminal Justice in Native America*, INDIAN COUNTRY TODAY, June 7, 2007, updated September 12, 2018, https://indiancountrytoday.com/archive/eid-criminal-justice-in-native-america-2 (noting that the murder rate on the Reservation for 2005-06 was three per 1,000, and that "by comparison, Denver would have

[4]As discussed at greater length below, there is universal agreement that federal prosecutors decline a large and disproportionate number of Indian country crimes, although the exact numbers vary from study to study and circumstance to circumstance.

had nearly 1,900 homicides during the same period instead of the 144 that actually occurred").

Instead, the Tribe defines its own criminal offenses and penalties, treating the Ute Mountain CFR Court as its own for all practical purposes. The relative handful of officials working for that court, including those under contract to or employees of the Bureau of Indian Affairs' Office of Justice Services, spend the bulk of their time and resources enforcing Tribal law.

The BIA certainly does not handle its responsibilities toward the Ute Mountain CFR court with the seriousness and dignity that is expected of a federal court and cannot even be bothered to consistently staff it with either federal employees or contractors. As a result, the federal government sometimes fails to provide the most basic services – including prosecutors, public defenders, and a full-time judge – to what amounts to the Tribe's own court, in effect forcing the Tribal Council, to fend for itself by directly funding and staffing these same core services.

In these unique circumstances, extending the Double Jeopardy Clause to a court that, for all practical purposes, functions as the Tribe's own prosecuting mechanism, would make it dramatically more difficult to protect the lives and property of people living and working on the Reservation. It would in effect compel the Tribe to forgo using the Ute Mountain CFR Court to enforce Tribal law and, at the expense of the Tribe's own sovereignty, rely instead on what amounts to a hope and a prayer: That the U.S. Attorney's Office and the federal courts will assume primary responsibility, on a daily basis, for the local community's public safety needs. The Constitution does not require this extreme result.

A. Background

Merle Denezpi was sentenced by the Ute Mountain CFR Court for a brutal sexual assault committed on the Ute Mountain Reservation, in violation of the Ute Mountain Ute Code. *United States v. Denezpi*, 979 F.3d 777, 780 (10th Cir. 2020). After assaulting a Navajo woman in a house in Towaoc, the Reservation's principal town, Mr. Denezpi fled from law enforcement and hid in a neighbor's yard for thirteen hours, posing a significant risk to public safety. *Id.*

After a three-day manhunt, he was arrested by the local BIA police and immediately arraigned and charged pursuant to Tribal law at the Ute Mountain CFR Court in Towaoc. *Id.* He remained in custody – and off the streets – from July through December, when he pled guilty to a Tribal offense and was released. *Id.* Sentences in both Native American tribal courts and tribal CFR courts are typically capped at a maximum of one year under the Indian Civil Rights Act, 25 U.S.C. § 1302(a)(7)(B). Taking into account the apparent need to offer a sentencing reduction to achieve a plea bargain, this was likely the lengthiest sentence of incarceration that the Tribe could obtain. Yet the Tribe had nonetheless achieved a key public safety objective by apprehending Mr. Denezpi and, through the Ute Mountain CFR Court, getting him into custody before he had the opportunity to commit further violence on its rural and isolated Reservation.

While the case was eventually referred to the United States Attorney's Office ("USAO") for prosecution, a federal grand jury did not indict Mr. Denezpi until six months after he was released from custody. *Denezpi*, 979 F.3d at 780.

Mr. Denezpi argues that he cannot be subsequently tried and convicted in federal court because the Ute Mountain CFR Court is not a court of the Ute Mountain Ute Tribe but is instead an agency of the United States government. The Amici Tribes respectfully disagree, and ask this Court to resolve the uncertainty as to whether the Double Jeopardy Clause attaches to CFR court convictions, which has cast uncertainty on their prosecuting authority for decades.

Ironically, Petitioner's argument rests on near-complete misunderstanding of the modern role of CFR Courts, which today serve not as engines of forced federal assimilation, but locally controlled institutions that help tribes "make their own laws and be ruled by them." *Williams v. Lee*, 358 U.S. 217, 220 (1959).

B. The application of double jeopardy to CFR Court prosecutions would impede law enforcement on the Reservations.

Generally, when courts speak about the purposes of the dual sovereignty doctrines, they talk about vindicating separate government interests: The dual sovereignty doctrine prevents "disparity" that "will very often arise when . . . the defendants' acts impinge more seriously on a federal interest than on a state interest." *Abbate v. United States*, 359 U.S. 187, 195 (1959).

In Indian country, such a "disparity" is more likely to arise from differences in jurisdiction and authority than differences in "interest." *See, e.g.,* Br. of *Amici Curiae* State of Colorado for Resp't at 14, fn. 1 (providing table describing the complex patchwork of overlapping jurisdiction in Indian country).

This patchwork of jurisdictional limitations and difficulties are further compounded by delay and uncertainty. The USAOs generally decline about half of the Indian country cases that are referred to them, and more than half of the violent crimes. GOV'T ACCOUNTABILITY OFFICE, DECLINATIONS OF INDIAN COUNTRY MATTERS, GAO-11-167R (December 13, 2010) at 3, https://www.gao.gov/products/gao-11-167r. But it is not always obvious to tribal prosecutors which cases the USAO will decline and which the USAO will prosecute. In response to this predicament, tribal prosecutors often have to make their own decisions before knowing whether a federal case will proceed. This predicament too often causes serious felonies to fall through the cracks where they are not prosecuted at all.

C. Amici Tribes use these CFR Courts to enforce their own laws and policies.

The "machinery" provided under 25 C.F.R. § 11.102 is necessary because, although Ute Mountain exercises ancient, unextinguished sovereign authority, it has a very limited tax base to provide basic government services. According to the Census Bureau, the median income for Towaoc, CO, the principal town on the Ute Mountain Reservation, was only $25,282, with a poverty rate of 33.2%, numbers that the Tribe believes vastly underrepresent the enduring poverty that burdens the Tribe and its citizens.[5] The Tribe has few natural resources, and its revenues derive primarily from agriculture and natural resources revenues and a small casino that draws its clientele from the surrounding high poverty rural community.

---

[5]Available at https://data.census.gov. Search term "Towaoc, CO".

In spite of these obstacles, Ute Mountain is committed to operating a criminal justice system that both protects the public safety of its members and visitors to its community and respects the civil rights of the accused. After experimenting with various court system models, the Tribe currently operates a CFR Court which it controls and manages through a contract authorized under the Indian Self-Determination and Education Assistance Act, P.L. 93-638, 25 U.S.C. § 5321 (whereby an Indian tribe may enter into a "self-determination contract…to plan, conduct, and administer programs").

Under this "638 contract," the Tribe manages almost every aspect of the court's operations, except for the tribal prosecutor and chief magistrate judge; provided, that, the appointment of the chief magistrate judge is subject to confirmation by a majority vote of the Ute Mountain Tribal Council. 25 C.F.R. § 11.201. The Tribe hires and fires court staff, sets priorities for both the court and law enforcement, takes regular reports, and provides and operates ancillary services such as diversion programs. The Tribe hires, employs, and oversees the following court staff: associate magistrate judge; public defenders; court clerks; clerk of court; probation officers; court administrators; bailiffs; and records clerks. And, most importantly, the court applies the laws of the Ute Mountain Ute Tribe, with federal and state law acting as a backstop, not the primary rule of decision.

Amici Tribes have unextinguished sovereign authority to make their laws and enforce them, and, whether they operate a "tribal court" (with, in most cases significant, albeit inadequate federal grant funding) or a "CFR Court," they exercise this

sovereign authority through their court systems and in the everyday conduct of their affairs.

The prosecution of Mr. Denezpi was an exercise of this sovereign authority, and his subsequent federal prosecution does not violate double jeopardy.

D. The CFR Courts derive their authority from the sovereignty of the tribes, not the federal government.

The Courts of Indian Offenses exist to provide adequate machinery for the administration of justice for Indian tribes in those areas of Indian country where tribes retain jurisdiction over Indians that is exclusive of State jurisdiction but where tribal courts have not been established to exercise that jurisdiction. 25 C.F.R. § 11.102. They provide "machinery" to the tribes, for their use.

As the Tenth Circuit observed in the Decision below, "[a]ll parties agree that the Ute Mountain Ute Tribe has the inherent power to prosecute criminal offenses committed by an Indian on its sovereign lands and that the source of this power is the Ute Mountain Ute Tribe's pre-existing sovereignty." *Denezpi*, 979 F.3d at 781. "It is undisputed that Indian tribes have power to enforce their criminal laws." *United States v. Wheeler*, 435 U.S. 313, 322 (1978). This is "an aspect of [their] retained sovereignty" not a "federal grant of such power." *Id.* at 326-27.

Amici Tribes ask this Court to recognize that the CFR Courts serve as "machinery" to assist them in exercising their own sovereign authority to enforce their criminal laws on their own lands, not a federal imposition. The United States, the other potential "claimant" for these CFR Courts, agrees.

ARGUMENT

I. TREATING COURTS OF INDIAN OFFENSES AS FEDERAL COURTS FOR THE PURPOSES OF DOUBLE JEOPARDY WOULD HAVE THE EFFECT OF IMPAIRING TRIBAL LAW ENFORCEMENT EFFORTS AND IMPEDE RESERVATION PUBLIC SAFETY.

As a practical matter, the application of double jeopardy to convictions such as Mr. Denezpi's would aggravate the significant problems for law enforcement and public safety within the patchwork of criminal jurisdiction in Indian Country.

The dual sovereign doctrine is a formal and historical doctrine, but it is important for this Court to understand that the practical effects of such doctrine when applied to tribes are very different than the effects of the same doctrine applied to state prosecutions, because of the limited nature of tribal criminal jurisdiction and the complex web of state, federal and tribal jurisdiction.

CFR Courts, like all tribal courts, have only very limited authority to deal with serious felonies. Under the Indian Civil Rights Act ("ICRA"), no tribal court may "impose for conviction of any 1 offense any penalty or punishment greater than imprisonment for a term of 1 year or a fine of $5,000, or both." 25 U.S.C. § 1302(a)(7)(B). This applies to all Indian courts. 25 U.S.C. § 1301(3)("'Indian court' means any Indian tribal court or court of Indian offense"). Congress has recently expanded this sentencing authority to three years and $15,000, provided that certain conditions have been met. *See* 25 U.S.C. § 1302(b).

The prosecution of serious felonies committed on Indian Reservations by Indians is theoretically the

responsibility of the federal government under the Major Crimes Act, 18 U.S.C. § 1153 (for offenses committed by Indians on Indian land) and the Indian Country Crimes Act, 18 U.S.C. § 1152 (for crimes between an Indian and a non-Indian). *See generally*, COHEN'S HANDBOOK OF FEDERAL INDIAN LAW (2005 ed.) at § 9.02.[6]

But federal prosecutors have the discretion to decide whether to proceed in bringing a criminal action. *See* United States Department of Justice Manual § 9-27.220 ("The attorney for the government should commence or recommend federal prosecution if he/she believes that the person's conduct constitutes a federal offense, and that the admissible evidence will probably be sufficient to obtain and sustain a conviction, unless (1) the prosecution would serve no substantial federal interest; (2) the person is subject to effective prosecution in another jurisdiction; or (3) there exists an adequate non-criminal alternative to prosecution").

Indian country criminal prosecutions are far more likely to be declined than other matters. A study by the Government Accountability Office found that between 2005 and 2009 the USAOs declined half of the Indian country referrals that they received, and 52% of the violent crimes. DECLINATIONS OF INDIAN COUNTRY MATTERS, *supra* at 3. Assault and sexual assault together accounted for 55% of Indian country referrals. *See id*. at 9. "USAOs declined 63 percent of Indian country criminal matters referred by the BIA and 46 percent of Indian country criminal matters

[6]There are serious concerns regarding sentencing disparities for these crimes relative to comparable offenses in state court. *Id*. at § 9.02(2)(h).

referred by the FBI." *Id*. at 8. For incidents of the sexual assault, the declination rate was 67%. *Id*. at 9.

Thus, when tribal prosecutors are making the decision on whether to proceed with a prosecution in Indian courts for a violent crime, they know that 52% of violent crime referrals and 63% of BIA referrals will be declined, and that these numbers are worse when the crime involves sexual assault.

And this is a low estimate. Other studies with different methodologies have found higher rates of Indian county declinations. *See* Regina Branton, Kimi King K., Justin Walsh, *Criminal justice in Indian country: Examining declination rates of tribal cases*, SOC. SCI. Q. (2021) at 2, https://doi.org/10.1111/ssqu.13100 (summarizing studies).

There does not appear to be any dispute that declination rates are higher for Indians than any other racial or demographic group. *Id*. at 5. Nationwide, the declination rate by USAOs was recently found to be 16.96%. *Id*. at 6. Even when controlling for a wide range of variables, including whether the offense was a violent crime, Indian country offenses are 15% less likely to be prosecuted. *Id*. at 11.

"We can dispute whether or not it is a 58 percent declination rate or whether it is a 63 percent, but I am assuming you would agree that we need to do better." *Examining Federal Declinations to Prosecute Crimes in Indian Country*, *Hearing Before the S. Comm. on Indian Affairs* (2008)(statement of Sen. Lisa Murkowski), https://www.govinfo.gov/content/pkg/CHRG-110shrg46198/html/CHRG-110shrg46198.htm. "We all know that the [Indian country] declination rates are exceedingly high." *Id*. (statement of M. Brent

Leonard, Deputy Attorney General of the Confederated Tribes of the Umatilla Indian Reservation in Oregon). "[T]he rate at which federal prosecutions are declined in Indian Country is appallingly high." *Id.*

A tribal or BIA prosecutor faced with a felony sexual assault on an Indian reservation must make his decisions on the assumption that it is more likely than not that there will never be a federal prosecution.

Critical to the double jeopardy issue, however, is the failure of the USAOs to communicate its decision to tribal and BIA prosecutors in a timely manner. Tribal criminal codes, like state and federal codes, generally include a statute of limitations, and all too often the federal decision to prosecute or not prosecute a case comes in dangerously close to the wire. *Id.* Serious crimes go unprosecuted because the tribe's statute of limitations runs out while the federal prosecutor is trying to decide what to do and how to proceed.

Applying the dual sovereign doctrine to CFR Courts would enable prosecutions to move forward in a timely manner while the USAO considers its options and the federal grand jury deliberates.

Because of the uncertainty surrounding double jeopardy, Ute Mountain usually tries to delay the resolution of the most serious felony charges until it receives notice from the USAO, but will proceed with more routine matters without conducting a detailed assessment of potential federal charges. Whatever the outcome of this litigation, it will likely result in changes in the way Ute Mountain handles charging decisions in cases with potential overlapping federal charges. This will result in either encouraging the Tribe to move more quickly to resolve matters under its own law or to delay proceeding to avoid foreclosing

a sentence more appropriate to a very serious felony in a federal forum. Otherwise, "[p]rosecution by one sovereign for a relatively minor offense might bar prosecution by the other for a much graver one, thus effectively depriving the latter of the right to enforce its own laws." *Wheeler*, 435 U.S. at 318. Indeed, this Court has observed that "the nature of the crime or its effects on 'public safety' might well 'demand' separate prosecutions." *Gamble v. United States*, 139 S. Ct. 1960, 1966 (2019)(internal citation omitted).

II. TRIBES EXERCISE DIRECT SUPERVISION AND CONTROL OVER THE DAILY OPERATIONS OF THE CFR COURTS.

Both the Tenth Circuit and the parties appear to assume that the BIA operates the CFR courts. But that is not, in fact, the case, at least at Ute Mountain. The actual degree of control exercised by the BIA varies from tribe to tribe and court to court. Still, it is clear from the regulations that tribes have the right, at their discretion, to either supplant the CFR Courts in their entirety or to "enter into a contract or compact for the tribe to provide judicial services." 25 C.F.R. § 11.104.

A. Historically, the federal government both abused and neglected the CFR Courts.

Although, as Amici Tribes assert here, the modern CFR Courts derive the "ultimate source" of their power from the Tribes' "primeval or, at any rate, pre-existing sovereignty," *Puerto Rico v. Sánchez Valle*, 136 S. Ct. 1863, 1872 (2016)(internal quotation and citations omitted), they do not deny that during the early history of these courts they were primarily instruments of federal control. This history does not

control their modern status; when an entity has pre-existing sovereign power, and that power is temporarily limited and then returned, it retains its original sovereign character. *See United States v. Lara*, 541 U.S. 193, 207 (2004); *see generally* Br. of *Amici Curiae* Federal Indian Law Scholars and Historians for Resp't, Sec. IV.

Along with these courts, the federal government provided a corresponding Code of Indian Offenses for the purpose of using regulations promulgated by the BIA to abolish "the savage and barbarous practices" of Native Americans, including traditional spiritual ceremonies and dances. *See* FIFTY-NINTH REPORT OF THE COMMISSIONER OF INDIAN AFFAIRS TO THE SECRETARY OF THE INTERIOR, in R. of the Secr. of the Interior, 51st Cong., 2d Sess. (1890), at 166.

Over time, the Courts of Indian Offenses became more reflective of the tribal nations they served. For instance, a visiting delegation of federal officials to the Navajo Nation Court of Indian Offenses in 1942 determined that while Navajo judges were paid by the federal government, they adjudicated disputes primarily according to Navajo law and procedure. JOHN S. BOYDEN AND WILLIAM E. MILLER, REPORT OF SURVEY OF LAW AND ORDER CONDITIONS ON THE NAVAJO INDIAN RESERVATION, U.S. Bureau of Indian Affairs R. (1942)."The Navajo people took an institution that was established to destroy their culture and spirituality and eventually used it to a establish a highly regarded and efficient and modern Navajo Nation Court System." RAYMOND D. AUSTIN, NAVAJO COURTS AND NAVAJO COMMON LAW: A TRADITION OF TRIBAL SELF-GOVERNANCE (Univ. of Minn. Press, 2009) 25.

The modern, post ICRA, CFR Courts have suffered more from neglect and underfunding than from any deliberate abuses.[7] This is certainly true at Ute Mountain, where a persistent failure to staff its only criminal court led to one of the highest rates of violent crime in the country. During a three-year period from about 2004-2007, Ute Mountain went without a prosecutor for more than a year, struggled to fill its public defender position, and employed only one part-time contract judge – resulting in long periods when there were no prosecutions whatsoever for misdemeanors and other local offenses. Avutu Napach, *Tribal Elections Stir Pride in Sovereignty*, INTERTRIBAL NEWS, Vol. 25, n. 9 (October 19, 2007) at 2, https://www.coloradohistoricnewspapers.org/?a=d&d=ITN20071019-01.2.3&e=-------en-20--1--img-txIN%7ctxCO%7ctxTA-------0------.[8]

B. Ute Mountain operates its own CFR Court pursuant to a 638 contract with the BIA.

The court system on the Ute Mountain Reservation has undergone many changes and revolutions over the years, but the modern court and criminal

---

[7]Combing original sources, Hagan found both examples of horrifying abuses of power by federal officials and examples of respected tribal chiefs and elders administering traditional justice. Hagan, *supra*, at 110-25.

[8]There was also a dire shortage of police officers. State and county police were willing to cross-deputize with other tribes in the region to help provide police coverage, but they would not cross-deputize with the BIA because of its cost-prohibitive mandatory federal training. John R. Crane, *Ute tribes seek help policing reservation*, CORTEZ J. (March 16, 2007), https://www.heraldextra.com/news/2007/mar/16/ute-tribes-seek-help-policing-reservation/.

justice system is operated by the Tribe itself pursuant to its 638 contract.[9]Under the Tribe's 638 contract, Ute Mountain has taken over nearly every court function that was formerly handled by the BIA. The regulations, which Mr. Denezpi discusses in his Opening Brief at 8, apply only "until…BIA and the tribe enter into a contract or compact for the tribe to provide judicial services," 25 C.F.R. § 11.104(a)(1), and are thus mostly inapplicable to the Ute Mountain CFR Court.

The staff of the Ute Mountain CFR Court, including the public defender's office, and the ancillary services such as probation, are all hired through the Tribe's human resources department and receive Tribal salaries and benefits. If problems arise, it is Ute Mountain that has the authority and responsibility to discipline or remove staff. Only the prosecutor and chief magistrate are still appointed by the BIA, with the Tribe's participation and consent. 25 C.F.R. § 11.201.

Procedures in the Ute Mountain CFR Court are governed by the Ute Mountain Ute Law and Order Code, and it is the Tribe's Speedy Trial Act that applies. When reaching a decision, the court looks first to Tribal law, and then to federal and state law as a gap filler. 25 C.F.R. § 11.449 (tribal criminal offenses); 25 C.F.R. § 11.500 (civil actions). The court has also integrated its programs with other Tribal services, including a Tribal diversion program, in-patient

[9]This information is provided by Ute Mountain based on its direct knowledge of its own operations and on conversations with the court staff and is offered for the purpose of background. Neither the Tribe nor the CFR Court were parties in the proceedings below.

and out-patient substance abuse treatment, and domestic violence programs.

The clerk of the court, with the help of the court staff, reports on a monthly basis to the Tribal Council. These reports cover budgeting and administrative issues, and also draw the attention of the Council to areas where there is a gap in the law, such as the absence of an applicable speedy trial act. There is no comparable communication with outside BIA staff – who were extremely uninvolved even when they were ostensibly responsible for running the court.

Although Ute Mountain plans and aspires to build a Tribal court without federal monies, the present arrangement enables it to enforce its sovereign authority to enforce its own laws and provides local control over law enforcement priorities. Vacancies are filled more promptly, and the Tribe can integrate its social services and diversion programs into its criminal justice system. And, unlike many tribal court systems, the Ute Mountain CFR Court has a public defender office.[10]

C. Other Amici tribes

The Eastern Shawnee Constitution provides that "[u]ntil such time as the Business Committee determines that the Tribe is financially and otherwise prepared to maintain a separate Tribal Court, the judicial authority of the Tribe shall be exercised by the Court

---

[10]*See U.S. v. Bird*, 287 F.3d 709, 713 (8th Cir. 2002)("The right to an attorney in tribal court is guaranteed by the Indian Civil Rights Act (ICRA), 25 U.S.C. § 1302(6) (2001), but only at the expense of the defendant.").

of Indian Offenses." E. Shawnee Const. Art. X § 1. "The jurisdiction of the Court of Indian Offenses shall include, but not be limited to, criminal and civil jurisdiction, including settlement of tribal disputes and interpretation of this Constitution and tribal enactments." *Id*. Thus, unlike its dubious federal origins, the CFR Court is clearly and expressly authorized by the Eastern Shawnee in their constitution, which also includes a detailed process by which it can be superseded and replaced by a tribal court as soon as this becomes financially feasible.

Prior to this Court's decision in *McGirt v. Oklahoma*, 140 S. Ct. 2452 (2020) the state of Oklahoma had taken the position that the Eastern Shawnee lands were not Indian Country for the purposes of criminal jurisdiction, and crimes were primarily prosecuted in state court. The Miami CFR Court served Eastern Shawnee mostly in a civil capacity, with a docket dominated by domestic cases, child welfare, and protective orders. Unlike Ute Mountain, Eastern Shawnee relies on the BIA to operate the court, and most coordination with the CFR court was conducted by the Tribe's child welfare agencies.

Like Eastern Shawnee, the Otoe–Missouria Constitution specifically ordains the utilization of a CFR Court, in nearly identical language. *See* Otoe–Missouria Constitution, Art. XII, § 1. That is, by and through their Constitution, the Otoe–Missouria have made the deliberate decision to opt into the CFR Court system. Otoe–Missouria's CFR Court hears a mix of civil and criminal matters, including a variety of cases under the Indian Child Welfare Act, family law matters, constitutional challenges per tribal council approval, tribal probate issues, adoptions,

guardianships, tort claims, quasi civil-criminal cases, and, most importantly, tribal protective orders. The decision to utilize a CFR Court is itself an exercise of tribal sovereignty, making the Otoe–Missouria Tribe—and *not* the federal government—as the "ultimate source" of the CFR Court's authority.

Moreover, along with other Oklahoma tribes, Eastern Shawnee and Otoe–Missouria are scrambling to work out the implications of *McGirt* while also dealing with the ongoing covid crisis, and the CFR Court will likely play a critical role in this process.

III. TREATING THESE COURTS AS TRIBAL COURTS FOR THE PURPOSES OF DOUBLE JEOPARDY WOULD DEMONSTRATE RESPECT FOR THE SOVEREIGNTY OF THE AMICI TRIBES AND THEIR RIGHT TO SELF GOVERNMENT.

The application of double jeopardy "hinges on a single criterion: the ultimate source of the power undergirding the respective prosecutions." *Puerto Rico v. Sánchez Valle*, 136 S. Ct. at 1871 (citing *Wheeler*, 435 U.S., at 320, quotation omitted).

Thus, the question before the Court is whether the Tenth Circuit was correct when it held that "the Bureau of Indian Affairs serves only to administer the CFR courts as the 'machinery' that exercises the tribal power," and not as its ultimate source of authority. *United States v. Denezpi*, 979 F.3d 777, 783 (10th Cir. 2020). And, as explained above, the BIA does not, actually, even "administer" the Ute Mountain CFR Court anymore; that function has been almost entirely reclaimed by the Tribe.

A. Tribes exercise inherent sovereign authority to define and punish criminal conduct.

The Ute Mountain Ute Tribe derives from the Weeminuche band of the Ute Nation of Indians who inhabited the land along the western flank of the Rocky Mountains in the area of the present states of Utah, Colorado, Arizona, and New Mexico. Ute Mountain Official Website, https://www.utemountainutetribe.com/. The Tribe now has a reservation with approximately 575,000 contiguous acres in three states, Colorado, New Mexico and Utah, and around 2,134 enrolled members.

It is a "distinct, independent political communit[y], retaining [its] original natural rights, as the undisputed possessor[] of the soil, from time immemorial." *Worcester v. the State of Georgia*, 31 U.S. 515, 519 (1832). These original rights include the "the tribes' inherent prosecutorial authority," which has been limited by Congress but never eliminated. *United States v. Lara*, 541 U.S. 193, 205 (2004). "Perhaps the most basic principle of all Indian law…is that those powers which are lawfully vested in an Indian tribe are not, in general, *delegated* powers granted by express acts of Congress, but rather *'inherent* powers of a limited sovereignty which has never been extinguished.'" *United States v. Enas*, 255 F.3d 662, 667-68 (9th Cir. 2001)(citing FELIX S. COHEN, HANDBOOK OF FEDERAL INDIAN LAW 231 (1982 ed.), quoting *Wheeler*, 425 U.S., at 322-23)(emphasis in original).

"The ultimate source of a tribe's power to punish tribal offenders thus lies in its primeval or, at any rate, pre-existing sovereignty: A tribal prosecution, like a State's, is attributable in no way to any

delegation of federal authority." *Sánchez Valle*, 136 S. Ct. at 1872 (quotation omitted).

The federal government has asserted and exercised significant authority over Indian affairs, but this has never erased the tribes' fundamental, preexisting sovereignty or changed its fundamental character. "[B]eginning with Chief Justice Marshall and continuing for nearly two centuries, this Court has held firm and fast to the view that Congress's power over Indian affairs does nothing to gainsay the profound importance of the tribes' pre-existing sovereignty." *Id.* at 1873 n.5.

The CFR Courts exist, on their plain terms, "to provide adequate machinery for the administration of justice for Indian tribes," 25 C.F.R. § 11.102, not to vindicate federal rights or interests. They operate on the sufferance of the tribe, which can displace them with its own tribal court at any time. 25 C.F.R. § 11.104(b). And the CFR Courts, like the tribal courts that were once restricted and then reborn, derive their authority from the fundamental sovereign authority of the tribes that they serve, even if, like many state and tribal programs, they receive federal funds with some federal strings attached.

As the BIA explained when it updated its regulations, "[a]lthough the rules of these courts are established and the judges appointed by the BIA, the regulations provide for substantial participation by tribal governments in their operation." Final Rule, Law and Order on Indian Reservations, 58 FED. REG. 54406 (Oct. 21, 1993). "For instance the appointment and removal of judges is subject to tribal council action, and judges and tribal councils may supplement or supersede provisions in the regulations by adopting

their own ordinances subject to the approval by the BIA." *Id*. The agency also observed that "[t]he present regulations contain a very incomplete criminal code" and "very sketchy provisions on criminal and civil procedure," and instead provide for "the local tribal government to enact ordinances." *Id*.

But, ultimately, "none of these laws created the Indians' power to govern themselves and their right to punish crimes committed by tribal offenders." United *States v. Wheeler*, 435 U.S. 313, 328 (1978)(discussing the Navajo Nation courts). "That Congress has in certain ways regulated the manner and extent of the tribal power of self-government does not mean that Congress is the source of that power." *Id*. "In sum, the power to punish offenses against tribal law committed by Tribe members, which was part of [tribal] primeval sovereignty, has never been taken away from them, either explicitly or implicitly, and is attributable in no way to any delegation to them of federal authority." *Id*. This Court found that "[i]t follows that when [a tribe] exercises this power, it does so as part of its retained sovereignty and not as an arm of the Federal Government." *Id*.

When this Court held otherwise, in *Duro v. Reina*, 495 U.S. 676 (1990), Congress acted quickly to reverse, observing in the Senate report that "throughout the history of this country, the Congress has never questioned the power of tribal courts to exercise misdemeanor jurisdiction over nonmember Indians in the same manner that such courts exercise misdemeanor jurisdiction over tribal members." S. REP. NO. 102-153, at 2 (1991). Legislative history materials repeatedly emphasized that this authority was intrinsic to the tribes and not a creation of Congress. 137 CONG.

REC. H2988-02 (report on H.R. 972) ("The Committee is clarifying an inherent right which tribal governments have always held and was never questioned"); 137 CONG. REC. E2165-04 (statement of Rep. Geo. Miller) (stating that "we make these corrections to make clear the committee's acknowledgment of the fact that tribes--first, have always been able to exercise misdemeanor criminal jurisdiction over all Indians on tribal lands; second, that Congress never took the jurisdiction away; and third, that tribes clearly retain this jurisdiction as self-governing entities and as keepers of the peace on their homelands").

Likewise, here, the federal government's creation of the CFR courts and implementation of corresponding regulations in no way alters Ute Mountain's sovereign ability to make their own laws and punish Indian offenders who violate those tribal laws, or those of other *Amici* Tribes.

B. Mr. Denezpi's prosecution was an exercise of tribal sovereign authority under the requirements of the dual sovereignty doctrine.

"The dual sovereignty doctrine is founded on the common law conception of crime as an offense against the sovereignty of the government." *Heath v. Alabama*, 474 U.S. 82, 88 (1985). "In applying the dual sovereignty doctrine, then, the crucial determination is whether the two entities that seek successively to prosecute a defendant for the same course of conduct can be termed separate sovereigns" and, in turn, "whether the two entities draw their authority to punish the offender from distinct sources of power." *Id.*

So, the question before the Court is whether Mr. Denezpi was prosecuted and convicted for an offense against the federal government or against Ute Mountain. This question implicates the sovereign power exercised by all three branches of government: the legislative power to make laws, the executive power to conduct investigations and bring prosecutions, and the judicial power to impose a sentence and punishment.

Mr. Denezpi was convicted of an offense against the Ute Mountain Code, enacted by the Ute Mountain Counsel, exercising "make [its] own substantive law in internal matters, and to enforce that law in their own forums." *Santa Clara Pueblo v. Martinez*, 436 U.S. 49, 56 (1978)(internal citation omitted). Thus, the legislative power, "[f]oremost among the prerogatives of sovereignty," "is the power to create and enforce a criminal code," *Heath*, 474 U.S. at 93, derived from Ute Mountain. "To deny a [sovereign] its power to enforce its criminal laws because another [sovereign] has won the race to the courthouse would be a shocking and untoward deprivation of the historic right and obligation of the [federal and tribal governments] to maintain peace and order within their confines." *Id*. (internal quotation and citation omitted).

The BIA provided the "machinery," 25 C.F.R. § 11.102, for the enforcement of this Ute Mountain law through a prosecutor and court, working under the direct supervision and control of the Tribe, under the PL 638 contract. However, this is not necessarily the case for all prosecutions brought in CFR Courts. Tribal prosecutors directly employed by a tribe can and do bring prosecutions in the name of the tribe in CFR

Court, and this practice was upheld by the Tenth Circuit in *Dry v. U.S.*, 235 F.3d 1249 (10th Cir. 2000).

The Tenth Circuit held that although the charges were brought in the Choctaw Court of Indian Offenses, "the tribal defendants were not acting as federal officers or otherwise under color of federal law." *Id.* at 1257. "In light of our holding that the Choctaw Nation has inherent criminal jurisdiction over its members and that such jurisdiction has been neither waived by the Tribe nor abrogated by Congress, we need not reach Plaintiffs' argument that the Choctaw Court of Indian Offenses, established pursuant to a Choctaw/BIA contract under the Indian Law Enforcement Act ('ILEA'), is a federal instrumentality exercising federal jurisdiction." *Id.* at 1254-55.

Thus, the exact mix of tribal and BIA activity involved in a prosecution conducted in CFR Court will vary from case to case, year to year, and court to court. There is no practical or legal reason why a tribe, taking control of its own affairs as financial circumstances permit, could not establish a tribal police department while maintaining a CFR Court, or the reverse. *See id.* Defendants may also be convicted of a mix of tribal and CFR offenses, such as those Mr. Denezpi was originally charged with.

A holding that the BIA is simply assisting the tribes in exercising their own inherent authority would avoid the need for subsequent hair splitting as cases arise with different mixes of tribal and BIA activity.[11] And it would be in accord with the

[11]Because the tribes, the BIA, and the USAOs want these cases to be treated as tribal cases, rather than federal cases, there will

fundamental sovereign dignity of tribes to "make their own laws and be ruled by them." *Williams v. Lee*, 358 U.S. 217, 220 (1959). Such sovereign right is Ute Mountain's ultimate source and wellspring of prosecutorial authority. *See Sánchez Valle*, 136 S.Ct. 1874-75.

C. Both the federal government and the *Amici* tribes agree that this should be treated as a tribal prosecution.

There are two potential sovereign authorities that could claim responsibility for the original prosecution of Mr. Denezpi – the federal government and Ute Mountain. They are in complete accord. Mr. Denezpi was prosecuted under the sovereign authority of Ute Mountain. Other *Amici* Tribes also very much prefer that their own CFR Courts would be treated as tribal courts, until such time as they are in a position to establish and fund a purely tribal judiciary.

This accords with the policy of *Amici* Tribes to protect and assert their own sovereign rights and to maintain law and order within their borders and to protect their citizens and guests.

It is also consistent with Congress's stated policy that "the United States has an obligation to guard and preserve the sovereignty of Indian Tribes in order to foster strong Tribal governments, Indian self-determination, and economic self-sufficiency among Indian Tribes," 25 U.S.C. § 4301(a)(6) and with its decision to

---

likely be efforts to engineer subsequent prosecutions around any lines drawn by this Court to avoid double jeopardy. The reverse is not the case.

treat CFR courts as "Indian courts" in the ICRA, 25 U.S.C. § 1301(3). The "'powers of self-government' means and includes all governmental powers possessed by an Indian tribe, executive, legislative, and judicial, and all offices, bodies, and tribunals by and through which they are executed, *including [C]ourts of Indian [O]ffenses*; and means the inherent power of tribes, hereby recognized and affirmed, to exercise criminal jurisdiction over all Indians." 25 U.S.C. § 1301(4)(emphasis added).

Neither the Amici Tribes nor the United States think that the CFR Courts should be classified as federal courts – instead the Amici Tribes claim and utilize these courts as their own in an exercise of their inherent sovereign authority and corresponding prosecutorial power. Ute Mountain's authority to enact and enforce criminal law ultimately comes from such inherent, primeval sovereignty.

CONCLUSION

The Court should accordingly affirm the Decision Below.

JENNIFER H. WEDDLE
Counsel of Record
TROY A. EID
HARRIET M. RETFORD
KYLE R. MONTOUR
Greenberg Traurig, LLP
1144 15th Street, Ste. 3300
Denver, CO 80202
(303) 572-6500
weddlej@gtlaw.com

PETER ORTEGO
General Counsel
Ute Mountain Ute Tribe
P.O. Box 128
Towaoc, CO 81334
(970)-564-5640
portego@utemountain.org

Counsel for Amici Curiae

APPENDIX

APPENDIX

[SEAL] In the Court of Indian Offenses of the Western Region

CIVIL COURT DOCKET

MONDAY, MARCH 23, 2020 AT 9:00 A.M.

Case Number:	DM-TM-11-16 MOVED TO APRIL 21, 2020 AT 9:00AM
Case Name:	IN THE MATTER OF: D.R.M.
Tribe:	TE-MOAK TRIBE OF WESTERN SHOSHONE INDIANS
Hearing:	REVIEW HEARING
Case Number:	JFJ-18-WR02 MOVED TO APRIL 21, 2020 AT 9:00AM
Case Name:	IN THE MATTER OF: S.S.
Tribe:	TE-MOAK TRIBE OF WESTERN SHOSHONE INDIANS
Hearing:	REVIEW HEARING
Case Number:	CIV-20-WR01 MOVED TO APRIL 21, 2020 AT 9:00AM
Case Name:	IN THE MATTER OF THE NAME CHANGE OF: S.L.A.
Tribe:	TE-MOAK TRIBE OF WESTERN SHOSHONE INDIANS
Hearing:	INITIAL HEARING
Case Number:	PG-18-WR01 MOVED TO APRIL 21, 2020 AT 2:00PM
Case Name:	IN THE MATTER OF: F.M.B.
Tribe:	TE-MOAK TRIBE OF WESTERN SHOSHONE INDIANS
Hearing:	INITIAL HEARING

[SEAL] In the Court of Indian Offenses of the Western Region

CIVIL COURT DOCKET

MONDAY, MARCH 23, 2020 AT 10:00 A.M.

Case Number:	PO-19-WR17 MOVED TO APRIL 21, 2020 AT 10:00AM
Case Name:	MYRNA BRUCE AND ELIOT LALO V. FRANKLIN HONEYESTEWA
Tribe:	TE-MOAK TRIBE OF WESTERN SHOSHONE INDIANS
Hearing:	INITIAL HEARING
Case Number:	CIV-20-WR02 MOVED TO APRIL 21, 2020 AT 10:00AM-RENEWED
Case Name:	MARCI A. VILLEGAS V. MARK THOMAS
Tribe:	TE-MOAK TRIBE OF WESTERN SHOSHONE INDIANS
Hearing:	INITIAL HEARING

[SEAL] In the Court of Indian Offenses of the Western Region

CIVIL COURT DOCKET

MONDAY, MARCH 23, 2020 AT 1:30 A.M.

Case Number:	P-19-WR01 MOVED TO APRIL 21, 2020 AT 1:30PM
Case Name:	IN THE MATTER OF THE ESTATE OF: ROY SAM
Tribe:	TE-MOAK TRIBE OF WESTERN SHOSHONE INDIANS
Hearing:	HEARING

[SEAL] In the Court of Indian Offenses of the Western Region

CRIMINAL COURT DOCKET

MONDAY, MARCH 23, 2020 AT 2:00 P.M.

Case Number:	CRM-20-WR09 MOVED TO APRIL 22, 2020 AT 9:00AM
Case Name:	TE-MOAK TRIBE V. LINDSEY DAVID TOM
Tribe:	TE-MOAK TRIBE OF WESTERN SHOSHONE INDIANS
Hearing:	ARRAIGNMENT
Case Number:	CRM-20-WR08 MOVED TO APRIL 22, 2020 AT 9:00AM
Case Name:	TE-MOAK TRIBE V. APRIL NEGRETTE
Tribe:	TE-MOAK TRIBE OF WESTERN SHOSHONE INDIANS
Hearing:	ARRAIGNMENT
Case Number:	CRM-19-WR68 MOVED TO APRIL 22, 2020 AT 9:00AM
Case Name:	TE-MOAK TRIBE V. SHARON ANNE KNIGHT
Tribe:	TE-MOAK TRIBE OF WESTERN SHOSHONE INDIANS
Hearing:	PRE-TRIAL
Case Number:	CRM-18-WR10 / CRM-18-WR11 / CRM-18-WR12 / CRM-20-WR07 MOVED TO APRIL 22, 2020 AT 9:00AM
Case Name:	TE-MOAK TRIBE V. DARWYN YOWELL

Tribe:	TE-MOAK TRIBE OF WESTERN SHOSHONE INDIANS
Hearing:	PRE-TRIAL
Case Number:	CRM-18-WR47 MOVED TO APRIL 22, 2020 AT 9:00AM
Case Name:	TE-MOAK TRIBE V. ANDREW ALLISON
Tribe:	TE-MOAK TRIBE OF WESTERN SHOSHONE INDIANS
Hearing:	PRE-TRIAL
Case Number:	CRM-19-WR06 MOVED TO APRIL 22, 2020 AT 9:00AM
Case Name:	TE-MOAK TRIBE V. JARED KELLY
Tribe:	TE-MOAK TRIBE OF WESTERN SHOSHONE INDIANS
Hearing:	PRE-TRIAL
Case Number:	CRM-19-WR43 MOVED TO APRIL 22, 2020 AT 9:00AM
Case Name:	TE-MOAK TRIBE V. HERIBERTO RAUL GONZALEZ-MARTINEZ
Tribe:	TE-MOAK TRIBE OF WESTERN SHOSHONE INDIANS
Hearing:	PRE-TRIAL
Case Number:	CRM-19-WR69 MOVED TO APRIL 22, 2020 AT 9:00AM
Case Name:	TE-MOAK TRIBE V. MICHAEL JACKSON
Tribe:	TE-MOAK TRIBE OF WESTERN SHOSHONE INDIANS
Hearing:	PRE-TRIAL

Case Number:	CRM-19-WR66 MOVED TO APRIL 22, 2020 AT 9:00AM
Case Name:	TE-MOAK TRIBE V. STILLMAN KNIGHT, JR.
Tribe:	TE-MOAK TRIBE OF WESTERN SHOSHONE INDIANS
Hearing:	PRE-TRIAL

[SEAL] In the Court of Indian Offenses of the Western Region

CIVIL COURT DOCKET

TUESDAY, APRIL 21, 2020 AT 9:00 A.M.

Case Number:	DM-TM-11-16 CONTINUED UNTIL MAY 28TH AT 9:00A.M.
Case Name:	IN THE MATTER OF: D.R.M.
Tribe:	TE-MOAK TRIBE OF WESTERN SHOSHONE INDIANS
Hearing:	REVIEW HEARING
Case Number:	JFJ-18-WR02 CONTINUED UNTIL MAY 28TH AT 9:00A.M.
Case Name:	IN THE MATTER OF: S.S.
Tribe:	TE-MOAK TRIBE OF WESTERN SHOSHONE INDIANS
Hearing:	REVIEW HEARING
Case Number:	CIV-20-WR01 CONTINUED UNTIL MAY 28TH AT 9:00A.M.
Case Name:	IN THE MATTER OF THE NAME CHANGE OF: S.L.A.
Tribe:	TE-MOAK TRIBE OF WESTERN SHOSHONE INDIANS
Hearing:	INITIAL HEARING

[SEAL] In the Court of Indian Offenses of the Western Region

CIVIL COURT DOCKET

TUESDAY, APRIL 21, 2020 AT 10:00 A.M.

Case Number:	PO-19-WR17 CONTINUED UNTIL MAY 28TH AT 9:00A.M.
Case Name:	MYRNA BRUCE AND ELIOT LALO V. FRANKLIN HONEYESTEWA
Tribe:	TE-MOAK TRIBE OF WESTERN SHOSHONE INDIANS
Hearing:	INITIAL HEARING
Case Number:	CIV-20-WR02 CONTINUED UNTIL MAY 28TH AT 9:00A.M.
Case Name:	MARCI A. VILLEGAS V. MARK THOMAS
Tribe:	TE-MOAK TRIBE OF WESTERN SHOSHONE INDIANS
Hearing:	INITIAL HEARING

[SEAL] In the Court of Indian Offenses of the Western Region

CIVIL COURT DOCKET

TUESDAY, APRIL 21, 2020 AT 1:30 P.M.

Case Number:	P-19-WR01 CONTINUED UNTIL MAY 28TH AT 9:00A.M.
Case Name:	IN THE MATTER OF THE ESTATE OF: ROY SAM
Tribe:	TE-MOAK TRIBE OF WESTERN SHOSHONE INDIANS
Hearing:	HEARING
Case Number:	PG-18-WR01 CONTINUED UNTIL MAY 28TH AT 9:00A.M.
Case Name:	IN THE MATTER OF: F.M.B.
Tribe:	TE-MOAK TRIBE OF WESTERN SHOSHONE INDIANS
Hearing:	INITIAL HEARING
Case Number:	PG-18-WR03 CONTINUED UNTIL MAY 28TH AT 9:00A.M.
Case Name:	IN THE MATTER OF: J.A.C.
Tribe:	TE-MOAK TRIBE OF WESTERN SHOSHONE INDIANS
Hearing:	REVIEW HEARING

[SEAL] In the Court of Indian Offenses of the Western Region

CRIMINAL COURT DOCKET

WEDNESDAY, APRIL 22, 2020 AT 9:00 A.M.

Case Number:	CRM-20-WR09 CONTINUED UNTIL MAY 29TH AT 9:00A.M.
Case Name:	TE-MOAK TRIBE V. LINDSEY DAVID TOM
Tribe:	TE-MOAK TRIBE OF WESTERN SHOSHONE INDIANS
Hearing:	ARRAIGNMENT
Case Number:	CRM-20-WR08 CONTINUED UNTIL MAY 29TH AT 9:00A.M.
Case Name:	TE-MOAK TRIBE V. APRIL NEGRETTE
Tribe:	TE-MOAK TRIBE OF WESTERN SHOSHONE INDIANS
Hearing:	ARRAIGNMENT
Case Number:	CRM-20-WR13 CONTINUED UNTIL MAY 29TH AT 9:00A.M.
Case Name:	TE-MOAK TRIBE V. NICHOLAS HOLLEY
Tribe:	TE-MOAK TRIBE OF WESTERN SHOSHONE INDIANS
Hearing:	ARRAIGNMENT
Case Number:	CRM-19-WR68 CONTINUED UNTIL MAY 29TH AT 9:00A.M.
Case Name:	TE-MOAK TRIBE V. SHARON ANNE KNIGHT
Tribe:	TE-MOAK TRIBE OF WESTERN SHOSHONE INDIANS

Hearing:	PRE-TRIAL
Case Number:	CRM-18-WR10 / CRM-18-WR11 / CRM-18-WR12 / CRM-20-WR07
Case Name:	TE-MOAK TRIBE V. DARWYN YOWELL
Tribe:	TE-MOAK TRIBE OF WESTERN SHOSHONE INDIANS
Hearing:	PRE-TRIAL CONTINUED UNTIL MAY 29TH AT 9:00A.M.
Case Number:	CRM-18-WR47
Case Name:	TE-MOAK TRIBE V. ANDREW ALLISON
Tribe:	TE-MOAK TRIBE OF WESTERN SHOSHONE INDIANS
Hearing:	PRE-TRIAL CONTINUED UNTIL MAY 29TH AT 9:00A.M.
Case Number:	CRM-19-WR06 CONTINUED UNTIL MAY 29TH AT 9:00A.M.
Case Name:	TE-MOAK TRIBE V. JARED KELLY
Tribe:	TE-MOAK TRIBE OF WESTERN SHOSHONE INDIANS
Hearing:	PRE-TRIAL
Case Number:	CRM-19-WR43 CONTINUED UNTIL MAY 29TH AT 9:00A.M.
Case Name:	TE-MOAK TRIBE V. HERIBERTO RAUL GONZALEZ-MARTINEZ
Tribe:	TE-MOAK TRIBE OF WESTERN SHOSHONE INDIANS
Hearing:	PRE-TRIAL
Case Number:	CRM-19-WR69 CONTINUED UNTIL MAY 29TH AT 9:00A.M.

Case Name:	TE-MOAK TRIBE V. MICHAEL JACKSON
Tribe:	TE-MOAK TRIBE OF WESTERN SHOSHONE INDIANS
Hearing:	PRE-TRIAL
Case Number:	CRM-19-WR66 CONTINUED UNTIL MAY 29TH AT 9:00A.M.
Case Name:	TE-MOAK TRIBE V. STILLMAN KNIGHT, JR.
Tribe:	TE-MOAK TRIBE OF WESTERN SHOSHONE INDIANS
Hearing:	PRE-TRIAL
Case Number:	CRM-18-WR56 / CRM-18-WR59
Case Name:	TE-MOAK TRIBE V. TREVOR CORTEZ
Tribe:	TE-MOAK TRIBE OF WESTERN SHOSHONE INDIANS
Hearing:	REVIEW CONTINUED UNTIL MAY 29TH AT 9:00A.M.
Case Number:	CRM-19-WR63 CONTINUED UNTIL MAY 29TH AT 9:00A.M.
Case Name:	TE-MOAK TRIBE V. PATRICIA MALOTTE
Tribe:	TE-MOAK TRIBE OF WESTERN SHOSHONE INDIANS
Hearing:	REVIEW

[SEAL] In the Court of Indian Offenses of the Western Region

CIVIL COURT DOCKET

THURSDAY, MAY 28, 2020 AT 9:00 A.M.

Case Number:	CIV-20-WR01 VIDEO CONFERENCE AT 9:00A.M.
Case Name:	IN THE MATTER OF THE NAME CHANGE OF: S.L.A.
Tribe:	TE-MOAK TRIBE OF WESTERN SHOSHONE INDIANS
Hearing:	INITIAL HEARING
Case Number:	PO-19-WR17 VIDEO CONFERENCE AT 9:15A.M.
Case Name:	MYRNA BRUCE AND ELIOT LALO V. FRANKLIN HONEYESTEWA
Tribe:	TE-MOAK TRIBE OF WESTERN SHOSHONE INDIANS
Hearing:	INITIAL HEARING
Case Number:	CIV-20-WR02 VIDEO CONFERENCE AT 9:30A.M.
Case Name:	MARCI A. VILLEGAS V. MARK THOMAS
Tribe:	TE-MOAK TRIBE OF WESTERN SHOSHONE INDIANS
Hearing:	INITIAL HEARING
Case Number:	PG-18-WR01 VIDEO CONFERENCE AT 9:45A.M.
Case Name:	IN THE MATTER OF: F.M.B.
Tribe:	TE-MOAK TRIBE OF WESTERN SHOSHONE INDIANS

Hearing:	INITIAL HEARING
Case Number:	PG-18-WR03 VIDEO CONFERENCE AT 10:00A.M.
Case Name:	IN THE MATTER OF: J.A.C.
Tribe:	TE-MOAK TRIBE OF WESTERN SHOSHONE INDIANS
Hearing:	REVIEW HEARING
Case Number:	PO-20-WR04 VIDEO CONFERENCE AT 10:30A.M.
Case Name:	RANDI WHITEROCK V. JEREMY VALENCIA
Tribe:	TE-MOAK TRIBE OF WESTERN SHOSHONE INDIANS
Hearing:	INITIAL HEARING
Case Number:	PO-20-WR03 VIDEO CONFERENCE AT 10:45A.M.
Case Name:	WAYLON R. KIBBY AND SHOSHONA L. KIBBY V. LARROLD H. KIBBY (AKA LARRY KIBBY)
Tribe:	TE-MOAK TRIBE OF WESTERN SHOSHONE INDIANS
Hearing:	INITIAL HEARING
Case Number:	JFJ-19-WR01 VIDEO CONFERENCE AT 11:00A.M.
Case Name:	IN THE MATTER OF: S.K.
Tribe:	TE-MOAK TRIBE OF WESTERN SHOSHONE INDIANS
Hearing:	REVIEW HEARING

[SEAL] In the Court of Indian Offenses of the Western Region

CIVIL COURT DOCKET

THURSDAY, MAY 28, 2020 AT 1:00 P.M.

Case Number:	CIV-20-WR03 VIDEO CONFERENCE AT 1:00P.M.
Case Name:	LETA JIM AND HELEN STEVENS V. THE ELKO BAND COUNCIL
Tribe:	TE-MOAK TRIBE OF WESTERN SHOSHONE INDIANS
Hearing:	HEARING
Case Number:	CIV-19-WR32 VIDEO CONFERENCE AT 2:00P.M.
Case Name:	LORRIE CARPENTER V. DAVID CARRERA, JULIE OPPENHEIN, CLIFTON OPPENHEIN, JENNY KOERBER, DAYNA JIM, JOSEPH HOLLEY, AND RHONDA HICKS
Tribe:	TE-MOAK TRIBE OF WESTERN SHOSHONE INDIANS
Hearing:	PRE-TRIAL HEARING

[SEAL] In the Court of Indian Offenses of the Western Region

CRIMINAL COURT DOCKET

FRIDAY, MAY 29, 2020 AT 9:00 A.M.

Case Number:	CRM-20-WR09 VIDEO CONFERENCE AT 9:00A.M.
Case Name:	TE-MOAK TRIBE V. LINDSEY DAVID TOM
Tribe:	TE-MOAK TRIBE OF WESTERN SHOSHONE INDIANS
Hearing:	ARRAIGNMENT
Case Number:	CRM-20-WR08 VIDEO CONFERENCE AT 9:10A.M.
Case Name:	TE-MOAK TRIBE V. APRIL NEGRETTE
Tribe:	TE-MOAK TRIBE OF WESTERN SHOSHONE INDIANS
Hearing:	ARRAIGNMENT
Case Number:	CRM-19-WR69 VIDEO CONFERENCE AT 9:15A.M.
Case Name:	TE-MOAK TRIBE V. MICHAEL JACKSON
Tribe:	TE-MOAK TRIBE OF WESTERN SHOSHONE INDIANS
Hearing:	PRE-TRIAL