

in the Supreme Court of United States

23-6299

ORIGINAL

Jol Von-Montell: Hollowell, American Indian, Sovereign

Plaintiff at law

- Against -

Jean-Paul Boulee et.al.

Respondent(s)

Jurisdiction: Article III court of record

Case no.

FILED

SEP 29 2023

OFFICE OF THE CLERK
SUPREME COURT, U.S.

Writ of review [certiorari]

the 11th CIRCUIT COURT OF APPEALS passed judgement on this matter September 15th 2023

Jol Von-Montell: Hollowell

Robert A. Dayton Detention facility

11866 Hasting Bridge Rd.

Lovejoy, Georgia 30250

to the Honorable United States Supreme Court

Jo'Von - Montell: Hollowell, American Indian, sovereign

Plaintiff [at law]

-against-

Norman L. Barnett et, al.

Respondent[s]

Jurisdiction: Article III court of record

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Case: _____

Writ of review [certiorari]

Questions "without prejudice" i need your help to comprehend:

1: once challenged; is the District Court not obligated to prove it is a court created by congress of the united states, proof of personal and subject matter jurisdiction as well as lawful proof of service prior to proceeding any further?

2: does the law not require the District Court to allow an American Indian Tribal lawful counsel?

3: did not the prosecution, and District Court Magistrate/Judge refuse to acknowledge my right to self-identification and status [membership] as a non-B.I.A. American Indian [Even when presented with my Tribe's governing documents, and Tribal Judicial Findings in open court], by prosecuting me as a "black citizen", and using this label to call me a "sovereign citizen" [which does not exist]?

4: was the non-Article III District Court authorized to proceed without the consent of the accused?

5: does the law not require the states and the courts to honor and protect the rights, treaties, and status of the indigenous peoples, and their tribe?

6: does not the law require the District Court, courts to honor tribal judicial hearing judgements/decrees, in a matter involving a tribal national [member]?

7: does not the law require the District court to honor the jurisdiction of Indian tribes?

8: does not the law and treaties require an American Indian be tried by his tribe; and if he consents to the legal society's codes or statutes then by a jury of his peers?

9: can a court convert a unalienable right into a crime, and convict a man even after admitting that the alleged crime is a right?

10: did the court not force this American Indian to be obligated to the legal society, negating the treaties, natural law and, congressional demands?

to date, i the American Indian have not seen any of the following, even after multiple requests and objections:

- a warrant to search my home and seize my property. A warrant issued for my arrest. documented nature and cause of the arrest. Proof of an injured party or his written or sworn affidavit. the injured party's verified claim of harm, injury, or loss. testimony from a third-party independent witness. written proof that the District Court is a court not defined by 28 USC 3002 (10), and of personal and subject matter jurisdiction;

- further: because this American Indian National from Tsalagi Nation was tried in a non-article III court of record who was required to answer to statutes and not natural law, United States Constitution, Treaties or the Great Law of Peace. i never entered a plea nor received the District Courts point of law granting authority to enter a plea on my behalf. Prior to trial, during trial, now while imprisoned i'm presently being denied Tribal Lawful counsel; and refused to honor or answer to my presentments entered into the Court;

i now respectfully require this honorable court to review this matter to determine whether the lower courts acted lawfully having jurisdiction over the American Indian's body, and subject matter jurisdiction having lawful authority to have reached a determination in the matter without proving the vital elements of jurisprudence.

i say now all herein be true and will verify in open court;

Chaff

Respectfully submitted, 11/01/2023

Jalvon-Montell Hollowell, Sovereign, beneficiary

Tsalagi Cherokee National

"without prejudice"

list of parties involved

1: Jean-Paul Boulee	DISTRICT COURT magistrate/judge - trustee
2: Norman L. Barnett	prosecutor/solicitor
3: Stephanie E. Grabay Smith	prosecutor/solicitor
4: Newsome, Grant, Tjoflat	CIRCUIT magistrate/judge[s]

related cases [in petition]

1: Duro v. Reina, no. 88-6546, Supreme Court of United States, decided May 29th 1990

"tribes retain jurisdiction over their members, subject to the question of exclusive jurisdiction under Indian Major Crimes Act"

2: Marbury v. Madison, no. 5 U.S. 137 (2 cranch), Supreme Court of United States, decided February 24th 1803

"all laws, rules and practices which are repugnant to the Constitution are null and void"

3: in re Mayfield, no. 15 original, Supreme Court of United States, decided May 25th 1891

"inmate was a member of the Cherokee Nation and was the sole party to the proceedings, under the treaties and acts of Congress, he was only amenable to the courts of the Nation"

4: United States v. Cavanaugh, no. 10-1154, 8th CIRCUIT COURT OF APPEALS, decided July 6th 2011

"tribal convictions introduced in a federal court to prove an essential element of a federal crime must be in compliance with the United States Constitution"

5: United States v. Bruce, no. 03-30171, 9th CIRCUIT COURT OF APPEALS, decided January 13th 2005

"once a defendant properly raises the issue of his Indian status, the ultimate burden of proof remains upon the government"

6: Cruden v. Neale, 2 N.C. 388, Supreme Court of United States, decided May term 1796

"Every man is independent of all laws except those prescribed by nature. He is not bound by any institution formed by his fellowman without his consent"

7: New York State rifle ass'n v. Bruen, no. 20-843, Supreme Court of United States, decided June 23rd 2022

"the government must determine whether the Second Amendment plain text covers an individual's conduct, and justify that the regulation is consistent with the nation's historical traditions of firearm regulation; to carry out this burden, the government must point to historical precedent from before, during, and after the founding that evinces a comparable tradition of regulation"

Constitutional provisions, treaties, acts of congress

1: 16 Am. Jur. 2d, Sec. 155; if the Constitution prescribes one rule and the statute another in a different rule, it is the duty of the courts to declare that the Constitution and not the statute governs in cases before them for judgement

2: 16 Am. Jur. 2d, Sec. 256; no one is bound to obey an unconstitutional law, no courts are bound to enforce it whether federal or state

3: 16 Am. Jur. 2d, Sec. 56; an Indian treaty become part of the law of the land, supercedes all customs thereto, and can not be annulled in effect or operation by the Courts or State legislatures - 1/2

• the federal government is bound to carry out the obligations of such treaties in the same manner as an individual would be bound - 2/2

4: Article II, Bill of Rights

5: Article IV, Bill of Rights

6: Article IV, Bill of Rights

7: Article VI, section 2, Supremacy Clause

8: American Declaration on the Rights of Indigenous Peoples

9: h. con. res. 331, government to government policy

10: Treaty of 1791, Cherokee Treaty of Peace and Friendship

11: Treaty of 1846, Cherokee Treaty

12: Treaty of 1866, Cherokee Treaty

index of appendices

Appendix A	judgement/mandate	11 th CIRCUIT COURT OF APPEALS	decided	October 12 th 2023
Appendix B	Opinion	11 th CIRCUIT COURT OF APPEALS	decided	September 13 th 2023
Appendix C	judgement	DISTRICT COURT OF NORTHERN GEORGIA	decided	April 6 th 2023
Appendix D	notice of appeal		filed	August 29 th 2022

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- Appendix 1 response to Norman L. Barnett's response to jurisdictional question of court of appeals
- Appendix 2 response to Norman L. Barnett
- Appendix 3 notices [not all] submitted into the court [9 total]
- Appendix 4 proof of transcripts filed under seal [2 total]
- Appendix 5 proof of pre-sentence report filed under seal
- Appendix 6 Tsalagi Cherokee Nation Tribal Judicial findings
- Appendix 7 Tsalagi Cherokee Nation response to investigate matter
- Appendix 8 memorandum of law
- Appendix 9 notice F.O.I.A. request [2 total]
- Appendix 10 Declaration of status
- Appendix 11 Affidavit Challenging Personal jurisdiction
- Appendix 12 Terms and Conditions

Related cases [within appendix documents]

1: Elk v. Wilkins, 112 U.S. 94, Supreme Court of United States, decided November 3rd, 1884

"Indians are not citizens of the United States within meaning of [14th] amendment..."

2: Duro v. Reina, no. 88-6546, Supreme Court of United States, decided May 29th 1990

"Tribes retain jurisdiction over their members, subject to the question of exclusive jurisdiction under Indian Major Crimes Act..."

3: United States v. Cavanaugh, no. 10-1154, 8th Circuit Court of Appeals, decided July 6, 2011

"Tribal convictions introduced in a federal court to prove an essential element of a federal crime must be in compliance with the United States Constitution..."

4: Marbury v. Madison, no. 5 U.S. (2 Cranch), Supreme Court of United States, decided February 24th, 1803

"All laws, rules and practices which are repugnant to the Constitution are null and void..."

5: United States v. Williams, no. 90-1972, 10th Circuit Court of Appeals, decided May 4th, 1992

"Because sovereignty remains with the people and resides with the people, no action can be taken against a sovereign in the non-constitutional courts of either the United States or the State courts and any such action is considered the crime of barratry..."

6: United States v. Bruce, no. 03-30171, 9th Circuit Court of Appeals, decided January 13th, 2005

"Once a defendant properly raises the issue of his Indian status, the ultimate burden of proof remains upon the government..."

"Although the requirement may vary depending upon the purpose for which Indian status is claimed, courts can not be ignorant of the collateral consequences their rulings might have to future proceedings..."

7: In re Mayfield, no. 15 original, Supreme Court of United States, decided May 25th, 1891

"Inmate was a member of the Cherokee Nation and was the sole party to these proceedings, under the treaties and acts of Congress, he was only amenable to the courts of the nation..."

8: Cruden v. Neale, 2 n.c. 388, Supreme Court of United States, decided May term 1796

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Constitutional provisions, acts of congress, treaties

1: H. Con. Res. 331, October 4th 1988

"to acknowledge the contribution of the Iroquois Confederacy of Nations to the development of the United States Constitution and to reaffirm the continuing government-to-government relationship between Indian tribes and the United States established in the Constitution"...

2: Act no. 45 (S A 39), March 8th 1957

"the 14th and 15th amendments to the Constitution of the United States were never validly adopted and that they are null and void and of no effect"...

3: Act of Congress, February 18th 1875

"the judicial tribunals of Indian tribes retain exclusive jurisdiction of tribal members in all civil and criminal cases in which tribal members are the only party to the proceedings"

4: Act of Congress, May 1, 1890

"Indians are only amenable in the courts of the Indian nation"

5: Treaty with the Cherokees, 1791, Treaty of Peace and Friendship - Article 5

"if any Cherokee Indian or Indians, or person residing among them, or who shall take refuge in their Nation, shall steal a horse from, or commit a robbery or murder, or other capital crime, on any citizens or inhabitants of the United States, the Cherokee Nation shall be bound to deliver him or them up, to be punished according to the laws of the United States"

6: Treaty with the Cherokees, 1846 - Article 2, Clause 2

"no one shall be punished for any crime or misdemeanor except on conviction by a jury of his country, and the sentence of a court duly authorized by law to take cognizance of the offense. And it is further agreed, all fugitives from justice, except those included in the general amnesty herein stipulated, seeking refuge in the territory of the United States shall be delivered up by the authorities of the United States to the Cherokee Nation for trial and punishment"

7: Treaty with the Cherokees, 1866 - Article 13

"the Cherokees also agree that a court or courts may be established by the United States in said territory, with such jurisdiction and organized in such manner as may be prescribed by law: Provided, that the judicial tribunals of the nation shall be allowed to retain exclusive jurisdiction in all civil and criminal cases arising within their country in which members of the nation, by nativity or adoption, shall be the only parties, or where the cause of action shall arise in the Cherokee Nation, except as otherwise provided in this treaty"

8: Public Law 102-137 [105 Stat. 646, H. R. 972], October 28th 1991

"to make permanent the legislative reinstatement, following the decision of Duro against Reina (58 U.S.L.W. 4643 May 29th 1990), of the power of Indian tribes to exercise criminal jurisdiction over Indians"

9: Article 1, Section 2, Clause 3 of the Constitution.

"Indians not taxed"

10: Fourteenth Amendment, Section 2

"Indians not taxed"

11: Article 3, Section 2 of the Constitution

"the judicial power shall extend to all cases, in Law and equity, arising under this Constitution, the laws of the United States, and treaties made, or which shall be made, under their authority"

12: Article 6, Section 2 of the Constitution

"this Constitution, and the laws of the United States which shall be made in Pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States shall be the supreme Law of the Land, and the judges in every state shall be bound thereby, any thing in the Constitution or Laws of any State to the contrary notwithstanding"

13: Unalienable right to due process, protected under article[s] 4 and 5 of the Bill of Rights

14: Article 2, Bill of Rights

"a well regulated Militia, being necessary to the security of a free state, the right of the people to keep and bear Arms, shall not be infringed"

15: American Declaration on the rights of Indigenous peoples;

- Attached memorandum of law, Appendix 8 , page 9 of 12 [for 15 above mentioned]

plaintiff at law has attached a memorandum of law, Appendix 8

Jurisdiction

this matter is from a federal court,

the date on which the 11th CIRCUIT COURT OF APPEALS decided this matter was on October 12th, 2023, and no petition for rehearing was filed, a writ of review has been directed to this Supreme Court of United States;

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

Statement of case

- On April 20th, 2020; after purchasing 6 handguns from Arrowhead Pawn Shop, i drove to my private residence where i was surrounded by unmarked agents who identified themselves as Alcohol, Tobacco, and firearm (A.T.F.) agents; whom without warrants, or revealing the nature and cause of the detainment, forced their way into my home, searched my home without consent, and took and carried away my property under threats to "take me to jail", and "we are the A.T.F" when asked why;
- On August 12th, 2021; i was surrounded and held by gunpoint to be "shot if i do not comply"; i asked for the warrant, and was told "we are the A.T.F., with an indictment"; i was then held captive and dragged to the DISTRICT COURT OF NORTHERN GEORGIA, where i had to sleep overnight;
- On August 12th, 2021; during "arraignment" hearing, i demanded Tribal counsel, declined the counsel of the court, demanded an Article III court of record, and did not enter in any plea; for no crime had been committed; magistrate Catherine M. Salinas stated that she will enter in a plea of not guilty for me, with no point of law justifying her authority to do so; no consent was given of any nature, and no documents were signed by i, man;
- on August 27th, 2021; after turning a 12 page presentment into the court on August 26th, 2021 from my Tribal Judicial counsel and notices alerting the court of my status as a national of Tsalagi Tribal (Cherokee) Nation; my notices were ignored by magistrate John K. Larkins III, and i was forced to have "stand-by counsel for the courts benefit", after being threatened, and acknowledging my right to stand with no court-appointed counsel;
- on December 24th, 2021; Jean-Paul Boulee, magistrate, forcefully waived my rights, denied my demand to contact my tribal counsel, denied my right to an Article III court of record, and barrelled forward as if no notices, tribal documents were on file with no rebuttals. i challenged jurisdiction again in open court, and was ignored. my right to remain silent and receive everything in writing to prevent misunderstanding was taken as guilt, and my right to a speedy trial was waived (again) with no justification; no arrest or search and seizure warrants were presented, and my tribal government was not contacted; no man came forth with a verifiable claim of wrongdoing, harm, or witness to any crime committed;

- on March 14th, 2022; i was arrested by the Marshal's, and on March 18th, 2022 taken to the United States District Court for a hearing where i was told that i will be detained in Robert A. Deyton Detention Facility because the prosecutors Norman L. Barnett and Stephanie E. Gabay Smith felt as if i should be held until they are done with me;
- On April 5th, 2022; a jury was selected that consisted of citizens of Georgia, and not my tribal members; when i moved for dismissal, it was denied, and when i asked if the jury consisted of Tsalagi Nationals, Jean-Paul Boulee stated "yes"; i then remained silent and did not select any jury members;
- On April 6th, 2022; a trial was held, no injured party came forth with a verifiable claim; my tribal government was not contacted by the court, but i contacted my tribe, and they were denied access to the court because they had tribal identification; the "witnesses" were the same agents who threatened me, and took and carried away my property; i presented several acts of congress, tribal documents, Constitutional carry act of Bill 319, and asserted my Article II, Bill of Rights; i was found guilty without the government proving that i was "commercial dealing," without acknowledging my Article 2, Bill of Rights, the Treaties, and the magistrate instructed the petit jury that "the law must be followed as he say it to be, whether they agree with it or not";
- then after trial, Jean-Paul Boulee stated that "he sees no reason to keep me detained," but the prosecutor[s] stated yet again, "we feel that he should be detained until we are done with him";
- on August 23rd, 2022; i was sentenced to 46 months and committed to the custody of the federal B.O.P.; labeled "mentally unstable," and a "sovereign citizen", even after prosecutor Norman L. Barnett acknowledged my Article 2, Bill of Right by stating; "Even though it is his 2nd amendment right, we here in the legal society feel" as if a "feeling" has any lawful or legal authority to convict and incarcerate any man; the court did not answer to any objections or presentments brought forth, and i did not consent to any Pre-sentence report, or give consent for my information to be accessed or used;
- on August 29th, 2022, a notice of appeal was filed, and the 11th CIRCUIT COURT responded with a jurisdictional question. i responded to both the court, and responded [rebutted] the response given by the trial court [see attached Appendix]. the court then found that it had jurisdiction over the appeal. since then i have filed x 3 notices of F.O.I.A. to receive the unredacted transcripts, and have yet to receive any record requested.

reason for granting this extraordinary writ

- there has been no crime committed of any nature by i, man to be prosecuted, convicted, and incarcerated. to date, i have remained in honor and disciplinary free. the prosecutor/solicitor admitted in open court August 23rd 2022, that the alleged crime is my Article 2, Bill of Right to exercise.
- i own and collect all types of semi-automatic handguns, that i have been gifted, or collected and acquired over the years by trading, or buying and selling with private sellers or collectors at gun shows all across this land. as one of my nation's range masters, i teach the proper nomenclature, maintain and carry and train every day; i work for a living, for almost 20 years as a Carpenter, Electrician, and Plumber, as i do have my own remodeling company.
- i am a common cherokee national, born into my tribe, within the limits of the United States. i have been taught and lived my Cherokee heritage, customs, laws, and i live a day to day life, currently teaching in our Embassy's and tribal school's all across this land. i properly notified the court of my status, and further proved my status as a national of the non-B.I.A. Tsalagi (GWLAYANISA) Cherokee Nation, as i seen the court refused to answer or rebut to all tribal documents entered into the case files; since the forefront of this matter.
- the trial court refused to honor my rights as an American Cherokee Indian, sovereign, natural man, or any rights or Constitutional guarantees, and labeled me as a "mentally unstable, sovereign citizen". i have been deprived of my right to a fair and full appeal, for the DISTRICT COURT refused to send me any records or transcripts requested by notice, and F.O.I.A request (3 times) [SEE attached Appendix 9], and filed those documents and records under seal, [SEE attached Appendix 4,5].
- the 11th CIRCUIT COURT OF APPEALS has affirmed this unlawful behavior, and also went against the 9th CIRCUIT in United States v. Bruce, no. 03-30171 ruling on the fact of a defendant raising the issue on his Indian status. the government has the ultimate burden of proof, and must prove that i am not an Indian, or uphold the treaties and dismiss the matter. for lack of subject matter and personal jurisdiction, and/or also the fact that no crime on either side [legal or lawful] has been committed; the CIRCUIT COURT also ignored the fact that my tribe found me innocent, and submitted the findings into the court, and to christopher carr;

- the 11th CIRCUIT COURT OF APPEALS ignored all of the constitutional violations brought forth, and ignored the fact that jurisdiction was challenged and not proven at any time on any record before, during, and after trial. the CIRCUIT COURT also ignored the fact that no consent was given to prosecute i, the Sovereign American Indian in an non-Article III court of record, created by congress.
- this Supreme Court has ruled that tribes retain jurisdiction over all their members [as the treaties and acts of Congress declares] subject to the question of exclusive jurisdiction under Indian major crimes act. this Supreme Court has also ruled that a man must be tried by a jury of his peers in C.F. [Patterson v. Alabama 294 U.S. 600], and based on our treaty of 1846, Article 2, it must be a jury of my country.
- the people, nor Indian tribes have any means of justice, or confidence in the courts, DISTRICT COURTS of Georgia, and 11th CIRCUIT COURT OF APPEALS to be fair, unbiased, and honorable when the courts make erroneous decisions, and cover up their actions by sealing and not publishing the judgements and opinions of the trustees/public servants.

• i have suffered, my family, and my tribe. we have suffered greatly in this matter. i lost everything i owned, my home, car, and all personal and real property. my good name and reputation have been tarnished, and an innocent man has been convicted and held captive with no justification. i have exhausted all remedies possible to receive the relief i am entitled to by submitting x 3 habeas corpus [one of which has been filed in this Supreme Court, "in re Hollowell v. Williams"] to be returned to my tribe in my original state.

• Wherefore, because of this unconstitutional prosecution, i respectfully require this honorable Court to review this matter, issue this writ of review, and overturn/dissmiss this matter, and return me to my tribe in my original state;

i say now, i hereby declare under penalty of perjury, all herein be true and valid;

* please see attached memorandum of law, [appendix 8];



Respectfully Submitted, 11/01/2023

JoVon-Montell Hollowell, Sovereign, beneficiary

Tsalagi Tribal Nation

"without prejudice"

Conclusion

this writ of review [certiorari] should be granted.



Respectfully submitted, 11/01/2023

JoVon-Montell Hollowell, Sovereign, beneficiary
Tsalagi Cherokee National

"without prejudice"