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State of Minnesota
In Court of Appeals

In the Matter of the Civil Commitment of

John Louis Beaulieu III.

RESPONDENT'S BRIEF AND APPENDIX

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LEGAL ISSUES

1. Whether a state trial court has personal jurisdiction over an enrolled member of the Red Lake Band of Chippewa Indians, who has resided on the Reservation for his entire life until he was taken into federal custody for crimes committed on the Reservation, for purposes of a civil commitment as a sexually dangerous person.

The Trial Court ruled for the Respondent.

In the Matter of Ivey, 687 N.W.2d 666, 670 (Minn. App. 2004).
International Shoe Co. v. Washington, 326 U.S. 310, 316, (1945).
18 U.S.C.A. § 1162 (2007).

2. Whether a state trial court has subject matter jurisdiction to commitment an enrolled member of the Red Lake Band of Chippewa Indians, who has resided on the Reservation his entire life until he was taken into Federal Custody, as a sexually dangerous person.

The Trial Court ruled for the Respondent.

Commissioner of Taxation v. Brun, 174 N.W.2d 120, 121 (Minn. 1970).
18 U.S.C.A. § 1162 (2007).

STATEMENT OF FACTS

John Louis Beaulieu, III, was born on the Red Lake Indian Reservation and resided there with his parents until the age of fourteen. The records reflect that Mr. Beaulieu is mentally retarded and is afflicted with Klinefelter's syndrome which requires treatment with testosterone replacement therapy. Tr. Trans. P. 23-24. During the period of time he was in federal custody and supervision, he was successfully discharged and completed treatment at the Adolescent Sexual Adjustment Program in Huron, South Dakota ("ASAP") and was successful discharged from the Leo Hoffman Center in St. Peter, Minnesota. Appellate App. AA5-6. Upon his discharge staff noted that he would continue to need a supervised living environment and sex specific care services. At that time, he

was removed from his home by the federal authorities and held in facilities outside of the Red Lake Reservation. Appellate App AA 13. Upon his release, he was placed in a group home to address those issues and while in that placement he felt threatened by staff members and their inappropriate behavior. Tr. Trans. P. 125. His fear manifested itself as acting out and escalated into suicide attempts. Id. This behavior led to his discharge. Id. After the placement in the group home, respondent was placed back in custody and transferred to the Lake Regions Law Enforcement Center in Devils Lake, North Dakota, to complete his Federal sentence. Appellate App AA 14. At no time prior to being taken into federal custody, or subsequent to federal custody, did Mr. Beaulieu reside in Beltrami County. The only contact he had with Beltrami County was when he was removed from the Lake Regions Law Enforcement Center in Devils Lake, North Dakota, while in Federal custody, by Beltrami County Deputies, not Federal Marshalls and brought to the Beltrami County jail to be held to face the commitment proceedings. Appellate App. AA 19.

Mr. Beaulieu was initially committed for a period of sixty days, at which time a review hearing was held, and he was committed for an indeterminate period of time. Appellate App. AA 11-12. On October 23, 2006, Mr. Beaulieu filed a pro se Petition for Relief of Judgment which the district court granted. Appellate App. AA 13.

The district court found that the court lacked jurisdiction to commit Respondent and found three facts which rendered this case unique for jurisdictional purposes: "First, Respondent (Beaulieu) is a member of the Red Lake Band of Chippewa Indians; second, other than during times subsequent to his Federal incarceration and state commitment, Respondent has always lived within the boundaries of the Red Lake Indian Reservation; and third, for jurisdictional purposes, the acts and offenses relied upon by the Court in committing Respondent as a sexually dangerous offender

occurred either within the boundaries of the Red Lake Indian Reservation or after he was involuntarily removed from the Reservation.”Appellant App. A.A. 17. Although the court recognized that the offenses upon which the commitment was based did not have to occur in Minnesota, nor did the conviction for the offenses have to occur in Minnesota, there had to be some jurisdictional connection between Mr. Beaulieu and the State of Minnesota to validate the commitment petition and there was none found.

ARGUMENT

I. Standard of Review

Respondent does not disagree with the Appellant’s standard of review.

II Whether a state trial court has personal jurisdiction over an enrolled member of the Red Lake Band of Chippewa Indians, who has resided on the Reservation for his entire life until he was taken into federal custody for crimes committed on the Reservation, for purposes of a civil commitment as a sexually dangerous person.

“Before a court can constitutionally exercise jurisdiction over a nonresident defendant, the plaintiff must make a prima facie showing that defendants have sufficient contacts with a state so that requiring them to defend in the state does not violate traditional notions of fair play and substantial justice. Dent-Air, Inc. v. Beech Mountain Air Services, Inc., 332 N.W.2d. 904, 906-07 (Minn. 1983)(citing International Shoe Co. v. Washington, 326 U.S. 310, 316, 66 S.Ct. 154, 158, 90 L.Ed. 95 (1945).Minnesota requires two elements for personal jurisdiction:

- (1) an adequate connection between the state and the party over whom jurisdiction is sought, or a basis for the exercise of jurisdiction; and (2) a form of process that satisfies the requirements of both due process and the Minnesota Rules of Civil Procedure governing the commencement of civil actions.”

In the Matter of Ivey, 687 N.W.2d 666, 670 (Minn. App. 2004)(citing Wick v. Wick, 67 N.W.2d 599, 603 (Minn. App. 2003

Mr. Beaulieu's contacts with the State of Minnesota were not sufficient and to require him to defend against this action in state court did "violate traditional notions of fair play and substantial justice." Mr. Beaulieu was taken from his home on his reservation, where he had lived his entire life, at the age of fourteen and placed in Federal custody where he remained until the State filed this commitment proceeding. Any contacts that he may have had outside his reservation prior to his removal was when he was a minor and subject to the supervision of his parents, and these contacts were not knowing and voluntary. While Mr. Beaulieu was placed in group homes and community settings, none were in Beltrami County, and he remained under the supervision of the Federal government. There was no "lengthy history in Beltrami County" as alleged by the Appellant, other than within the boundaries of his reservation.

Enrolled members of the Red Lake Band, living on the Red Lake Reservation, have a unique jurisdictional status and are not automatically under the jurisdiction of the State of Minnesota. "The land of the Red Lake Tribe has never been ceded formally into the United States." Commissioner of Taxation v. Brun, 286 Minn. 43, 47 (1970) "The Federal government has granted to the states civil and criminal jurisdiction over many other tribal Indians, but the Red Lake Band of Chippewa Indians much of their autonomy... and the states **may not** interfere with this tribal self-government." Id. (*Emphasis provided.*)

The Appellant argues that this case presents merely "irregularities in the establishment of personal jurisdiction" and that Ivey stands for the proposition that these irregularities "do not negate the assumption of personal jurisdiction." These issues are far greater than mere irregularities. Mr. Beaulieu had never resided anywhere other than the Red Lake Reservation until he was in Federal custody. He was then taken, without a warrant, without a hearing and without representation, from

his Federal placement by Beltrami County law enforcement, without any Federal purpose, and placed in the Beltrami County jail to face the commitment proceedings. This was not an irregularity, this was a clear violation of his constitutional rights.

Appellant relies on the Mr. Beaulieu's release plan to assert their commitment proceedings. However, a "plan" to do something is not enough to give a state jurisdiction. That would violate any notion of "fair play and substantial justice" and it still does not provide the required contacts with the state.

Appellant also asserts that Mr. Beaulieu's obligation to register with the Minnesota Bureau of Apprehension (BCA) is a basis for the exercise of personal jurisdiction over him. First of all, the appellant does not cite any statutory or case law that requires registration. Furthermore, in State v. Jones, the Minnesota Supreme Court recently held that an Indian residing on the Leech Lake Indian Reservation was required to register with the state as a predatory offender. State v. Jones, 729 N.W.2d 1, 6 ((2007)). However, Leech Lake is a Band that is subject to state jurisdiction under Public Law 280, and Red Lake is specifically excluded from this jurisdiction. 18 U.S.C. § 1162 (2007) Even if it did apply, that requirement isn't enough to establish a nexus to Minnesota.

Appellant claims that "he left the reservation, was off the reservation when committed and for several years prior to that." However, Mr. Beaulieu was in Federal custody during that entire period of time. As the district court judge in this matter stated in his memorandum to the order dated March 2, 2007, "cases where residents of the Red Lake Indian Reservation have been found to have subjected themselves to state jurisdiction, the residents had made a voluntary choice." Memorandum to Findings of Fact, Conclusions of Law and Order for Judgment, p. 7 (Mar. 2, 2007) (citing State ex rel. Anderson v. United States Veterans Hospital, 128 N.W.2d 710, 715 (Minn.

1964)). In addition, the district court referred to a recent case in which the Minnesota Court of Appeals “held that a petition for commitment should be filed in the county where the subject last resided before entering a correctional facility.” Id. at p. 4 (citing In the Matter of Ivey, 687 N.W.2d 666, 670 (Minn. App. 204)).

III. Whether a state trial court has subject matter jurisdiction to commitment an enrolled member of the Red Lake Band of Chippewa Indians, who has resided on the Reservation his entire life until he was taken into Federal Custody, as a sexually dangerous person.

SUBJECT MATTER JURISDICTION

Subject matter jurisdiction cannot be waived and a challenge can be raised at any time. Irwin v. Goodno, 686 N.W.2d 878, 880 (Minn. App. 2004). As a general rule, a commitment hearing can be held in state district court. State ex rel. Anderson v. United States Veterans Hospital, 128 N.W.2d 710, 715 (Minn. 1964). “Enrolled members of the Red Lake Band residing on the Reservation enjoy a unique jurisdictional status even though the Red Lake Indian Reservation lies within Beltrami County.” Memorandum to Findings of Fact, Conclusions of Law and Order for Judgment, p. 4 (Mar. 2, 2007) (citing Commissioner of Taxation v. Brun, 174 N.W.2d 120, 121 (Minn. 1970))

“State jurisdiction is pre-empted...if it interferes or is incompatible with Federal and tribal interests reflected in Federal law.” New Mexico v. Mescalero Apache Tribe, 462 U.S. 324, 334 (1983) (citations omitted), Tribal sovereignty is dependent on and subordinate to only the Federal Government, not the states. California v. Cabazon Band of Mission Indians, 480 U.S. 202, 207 (1987)

Congress has given several states jurisdiction over criminal offenses and some civil causes involving Native Americans on reservations through Public Law 280. 18 U.S.C.A. § 1162, 28

U.S.C.A. § 1360. The Red Lake Nation is specifically exempt from this Law – choosing instead to create its own courts and its own statutes to deal with all the civil and criminal matters not addressed by the Federal courts. Appellant agrees that the state may only exercise jurisdiction in certain situations where neither the Federal government nor the Band have occupied the field of law, thus the fact that this Band has occupied the issue of commitments should prevent any claim of the state’s jurisdiction. Appellant App. A.A. 30-43. In addition, the Tribal Code Section 411.02 requires registration of sex offenders to which Mr. Beaulieu arguably would, had he been allowed to return, been subject to. R.A. 1.

In its memorandum the district court went through a brief history of when states were allowed to exercise jurisdiction over the enrolled members of the Red Lake Band living on the Reservation:

The courts in Minnesota have developed three jurisdictional principles relating to this unique status of the Red Lake Indian Reservation and its residents.

The first principle provides that unless expressly provided for by Congress, Minnesota has no civil or criminal jurisdiction over activities occurring on the Reservation. *See Sigana v. Bailey*, 282 Minn. 367, 369, 164 N.W.2d 886, 888 (Minn. 1969)

One such express grant of authority occurred in 1929, when Congress delegated authority to the states to perform health and education inspections, and to enforce sanitation and quarantine laws within Indian territories. 25 U.S.C.A. § 231 (2007). Congress’s delegation of authority was intentionally contingent on the consent of self-governing tribes. *Id.*

Additionally, in 1953 Congress enacted Public Law 280, providing Minnesota with jurisdictional authority to enforce state laws within Indian territories. *See* 18 U.S.C.A. § 1162 (a)(2007). However, in deference to the wishes of the Red Lake Band of Chippewa Indians, the Red Lake Reservation was expressly excluded from the reach of Public Law 280. [foot note omitted] *See Id.*

Memorandum to Findings of Fact, Conclusions of Law and Order for Judgment, p. 5-6 (Mar. 2, 2007). The district court found that it did not have subject matter jurisdiction to hear civil

commitment proceedings against enrolled members of the Red Lake Band who reside on the Reservation.

Appellant acknowledges that, “the various tribes were once independent and sovereign nations.” McClanahan v. Arizona State Tax Comm’n, 411 U.S. 164,172 (1973), but then claims that sovereign power has been “diminished by conquest, treaty and assimilation.” However, the Red Lake Band has consistently protected their sovereign power and never signed Public Law 280, the Band. established its own constitution, statutes, and courts..

Appellant’s position is that the courts have subject matter jurisdiction over properly filed civil commitment hearings by virtue of “our” constitution. However, the Minnesota Constitution does not apply to Native American Indians who live on the Red Lake Reservation.

Appellant argues that in deciding whether or not state regulation interferes with tribal sovereignty, this court should consider that the tribe is not a party to this action. Appellant further notes that Respondent seeks to assert for the tribe an interest in self government as a defense to an individual commitment. Whether the tribe asserts or joins in the action at hand does not change or alter Mr. Beaulieu’s rights. He is an enrolled member of the Red Lake Band of Chippewa Indians and has resided on the Red Lake Reservation his entire life except for the years he was in Federal custody. He has the ability to assert his rights as a member of the Band and this is what he is doing.

Appellant asks this Court to reverse the lower court’s decision because Red Lake has no tradition of sovereignty in this area. Red Lake has a commitment statute that addresses mentally ill, mentally deficient and chemically dependent persons. Appellant does not know if Mr. Beaulieu would fit into one of the commitment criteria in Red Lake because it never allowed him to return to Red Lake and complete that process there. Certainly if Red Lake were concerned, it could have

instituted an action in tribal court however the Band was not given the opportunity due to the states interference. Mr. Beaulieu was diagnosed with personality disorder and borderline mental ability due to his Kleinfelter's syndrome diagnoses, thus he very well could fall under the Tribe's mental illness statute. To say that Red Lake has never dealt with sex offenders is just to say that they haven't dealt with sex offenders the way that the State has. But it is their right not to have a sex specific statute, though again, they do require registration of sex offenders and may very well address the matter of commitment of offenders in the near future. But the state cannot dictate that action. In addition, Mr. Beaulieu has successfully completed sex offender treatment in the very programs the State apparently wants to subject him to again but now for an indefinite period of time.

Even if this court finds that the state is not pre-empted, looking at the first step in the pre-emption analysis, ie, the Federal government's involvement in this issue. Federal statutes 18 U.S.C.A. Section 4248 (2006), dealing with sex offender commitments now apply only to current Federal prisoners or offenders but that scope certainly could be expanded in the future and based on the public concern about these matters, it is likely that they will. They have addressed the matter and, even if not applicable to Mr. Beaulieu due to the date of his discharge from federal custody, that factor alone shouldn't give rise to the states assertion of jurisdiction.

IV. Conclusion

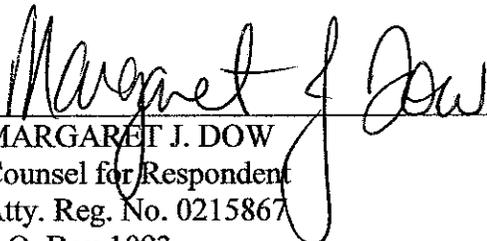
To commit Mr. Beaulieu is to infringe on the inherent rights of the Band and its members. Neither the State nor the County files commitments against tribal members in any other manner – mentally ill tribal members who live on the reservation are not brought into district court, even though the reservation does not have a psychiatric facility to treat those patients. Those same

patients could also travel from the Reservation and cause harm similar to or just as serious as the harm that the state is so anxious to prevent in this instance. The exercise of state jurisdiction in this case would undermine the authority of the tribal courts over Reservation affairs, and hence would infringe on the right of the Indians to govern themselves, which right was recognized by Congress in the Treaty of 1868 with the Navajos, and which right has never been taken away. Williams v. Lee 358 U.S. 217 Pp. 217-223

The state is pre-empted from inserting itself into the affairs of the Band and the lower Court's Order must be affirmed and Mr. Beaulieu should be ordered to be released from the institution at Moose Lake immediately

Respondent respectfully requests that this Court affirm the trials court's decision and order his immediate release from the Moose Lake facility.

Respectfully submitted,


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The appendix to this brief is not available for online viewing as specified in the *Minnesota Rules of Public Access to the Records of the Judicial Branch*, Rule 8, Subd. 2(e)(2) (with amendments effective July 1, 2007).