

James W. Burbank
Indian Tribal Member
P. O. Box 790076
Vernal, Utah 84079

FILED
CLERK, U.S. DISTRICT COURT

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DISTRICT OF UTAH

BY: _____
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United States District Court

District of Utah

James W. Burbank,)	
Plaintiff)	
)	State of Utah, County of Uintah,
United States District Court of Utah)	Uintah County Justice Court
All Judges)	47 East Main.
)	Vernal, Utah 84078
Utah State Political Entities)	
Utah Tax Commission)	Civil Case No. #03-3210
Utah D. M. V.)	Non-Jury
Dully and Authorized Acting)	
Judges of the State of Utah,)	
in behalf of State of Utah.)	
County of Uintah Political subdivision of)	
State of Utah, Uintah County)	
Justice Court Political subdivision)	
of State of Utah, Uintah County Attorney)	Judge Dale A. Kimball
Political subdivision of State of Utah, and)	DECK TYPE: Civil
Uintah County Sheriff Department Political)	DATE STAMP: 08/11/2004 @ 16:03:57
subdivision of State of Utah.)	CASE NUMBER: 2:04CV00742 DAK
)	
Defendants)	

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NOTICE

A) The United States District Court of Utah, all Judges of, are not being sued in this action. They the Judges by past rulings, show that their rulings to do with Indians are preadjusted towards Indian[s], tribe[s], and that the rulings must be sent to upper courts of remedy. It has been said by the Ute Indian Tribe, that only the 10th Circuit court can give a proper ruling in matters of Indians, and tribes. It is a matter known that the United States District Court of Utah Judges have shown that same type of negative response to this tribe, by claiming this tribe has no substance in standing, by the fact we are not federally recognized. The federal laws gives way even to non-federally recognized tribes to have, and gain the same substance in standing as other tribes have under Law.

B) This case therefor is being filed in, The United Stated District Court of Utah, to be sent to the 10th Circuit Court of the United States for a ruling in this matter.

Jurisdiction

1. This action is brought pursuant to U. S. Title 28, Sec. 1343 (a)(3), Sec. 1355 (b)(1)(a), Sec. 1360 (c), Sec. 1362, Sec. 2201 (a); Title VII Rule 57, 40 U.S.C. Sec. 1981, 1983, 1988; and the First, Fourth, Fifth, and Fourteenth Amendments to the United States Constitution. 25 U.S.C. - Title 25 Indians; Ch. 15, Sec. 1301; *Prairie Band of Potawatomi Indians vs. Pierce*, 253 F.3d 1234 (10th Cir 2001).

2. Jurisdiction is found in 25 U.S.C., 28 U.S.C., and 253 F.3d 1234 (10th Cir 2001), 40 U.S.C. aforementioned statutory and Constitutional provisions. Plaintiff further invokes the pendent jurisdiction of this Court to hear and decide claims arising under state law.

PARTIES

3. The Plaintiff, James W. Burbank, is a male member of an American Indian Tribe, who is and was at all times relevant to this COMPLAINT, a citizen of the United States, a resident of the State of Utah, and a Indian Tribal member, residing in Uintah County.

4. The Defendants, the State of Utah, the State Tax Commission, the Utah D.M.V., are political entities, and is being sued in its official capacity.

5. The dully and authorized acting Judges of the State of Utah, are in behalf of the State of Utah.

6. The County of Uintah, Uintah County Justice, Uintah County Attorney, and the Uintah County Sheriff Department are political subdivisions of the State of Utah.

7. The Defendant John Larson is a Uintah County Deputy Sheriff. He is in his official capacity.

8. The Sheriff Rick Hawkins is the Sheriff of Uintah County. He is in his official capacity.

9. The County Attorney Joann Strigham is the County Attorney. She is in her official capacity.

10. At all times relevant hereto, and all of their actions described herein, all the Defendants described herein, aforementioned, were acting under color of law, and under color of their authority as either political subdivisions or municipal corporations of the State of Utah, or as political entities being the State of Utah. As members of the Uintah County Sheriff Department, Uintah County Attorney within the State of Utah, and as agents of the State of Utah.

11. I, the Plaintiff, James W. Burbank, at no time have I said that the charges brought against me that I should be charged with any of them. I profess my innocence at all times, of the

fact I have Tribal Law to back me, and the Federal Law to back the tribe, and also of the fact that this tribe, or any other tribe need not be federally recognized to be a legal tribe, with a government, and with laws, and codes that the members like me must obey. Be it of the fact I was obeying tribal law, when the tribe instructed me, to, for my safety to have a tribal license plate on my timber truck, even though I was operating under the U. S. Timber and Agricultural Act, and even though it is being used as a piece of equipment.

FIRST CAUSE OF ACTION

12. On or about October 28, 2003, I the plaintiff, James W. Burbank, was leaving the Maeser 7-11 after fueling my timber truck. When I left the 7-11, I was stopped by Defendant Deputy John F. Laursen S-146, and ask for a driver license, proof of insurance, and registration. I handed him, Defendant Deputy John F. Laursen, my driver licence, proof of insurance, Indian Truck registration.

13. Defendant, Deputy John F. Laursen then returned to his patrol car. Upon returning Defendant Deputy Laursen informed me that I was to have my timber truck impounded, and handed me back my driver license, and proof of insurance. I then ask for my Indian registration back, he refused to return it.

14. I the plaintiff then ask Defendant Deputy F. Laursen, if I could take the tools, chains, and timbering equipment out my timber truck, it was granted that I could. I then called my wife to bring her state licenced vehicle to help.

15. At this time I the Plaintiff took time to call our Indian Tribal Law Department. Chief Law Enforcement office, Sprit Walker (Martin T. Campbell) took my call. I told him what was

taking place. He the tribal Law Enforcement Officer ask why the Defendant Deputy Laursen, why he would not Honor tribal law, I relayed this over to Defendant Laursen, he replied, NO ! Then it was ask if he Defendant Laursen would honor U. S. Timber and Agricultural Act, again the response was, NO ! The Defendant Deputy John F. Laursen, then handed me (the Plaintiff) a citation for, failure to secure a State of Utah Registration, and no mud flaps.

16. While I the Plaintiff was unloading the timber truck, a wrecker pulled up, the towing company was Caps Auto Wrecking. He refused to tow a Indian Tribal Licensed vehicle. The Defendant Deputy John F. Laursen was very upset, by the refusal. It was found out later that another towing service was call, Bobs Auto, its noted here that the Tribal License Plate had been removed, and it was removed after I the Plaintiff had left the scene. The said piece of Equipment is in a Utah State impound lot in Uintah County, as I was informed, and not as the impound slip indicated, it gave a different location.

SECOND CAUSE OF ACTION

17. Two days latter the tribal Judge called Caps Auto wrecking, and ask were the Plaintiffs timber truck was, it was then learned that the second wrecker service was called, Bob's Auto, of Vernal, Utah. Bob's Auto was called and it was found out the Equipment was not at the location as it was on the impound slip, but in State impound.

18. I the Plaintiff went to that location, and found my Timber Truck. At that time I found that the tribal licence plate had been ripped of the bumper, with part of it still there. Only the parts where the screws were held the pieces of the licence plate.

19. Several weeks later the tribal Chief of Law Enforcement sent the Defendant Sheriff Rick

Hawkins a letter with Federal Laws to show that both Defendants, Rick Hawkins, and John F Laursen, were not able to take said Equipment. Some time late the Defendant Sheriff Rick Hawkins, responded to our Law Enforcement Officer in a closed meeting, that he the Defendant Sheriff Rick Hawkins, would put the tribal Officer in jail if he used the power of his office any more to help a tribal member again, and did not care if he was tribal law enforcement, or was voted into that Position.

20. The Defendant Sheriff Rick Hawkins made it very clear to the tribal Chief Sriggri Sannavi, when he the Chief, ask the Sheriff why he would not obey Tribal Law, and Federal Law, and return the Plaintiffs property. The Defendant Sheriff Rick Hawkins stated, "I will not obey any Federal Law unless our County Attorney tells me to, and that goes for Tribal Law also.

THIRD CAUSE OF ACTION

21. The Uintah County Justice system was sent information from me, and from tribal law enforcement, to the County Attorney to review. As such the Uintah County Attorney has made not effort to reply as to the Federal Laws, and Indian Laws used. The only reply was to move forward with the charges at hand.

22. Next action was to send the Uintah County Justice Court paper work to show they had no grounds to move forward on. My paper work, the tribal Law Enforcement paper work was promptly returned. Then a warrant was put into force.

FOURTH CAUSE OF ACTION

23. When the Defendants caused the criminal INFORMATION and the WARRANT OF ARREST to be issued and filed in the Uintah County Justice Court system, they further deprived me the Plaintiff of my civil rights, and tribal rights by creating a criminal record for the said Plaintiff. I, the Plaintiff feel and alleges upon information and belief that the said Defendants have filed and sent to the Utah Stat Department of Criminal Identification, and then to Federal Bureau of Investigation, and other state and national offices, perhaps even the new Home Land Security Department and did thereby create a permanent criminal file, and record of the Plaintiff, which violates my (the Plaintiffs) rights as described;

24. The said Defendants should be ordered by this Court to take whatever action is necessary to see that the my records, the Plaintiffs as described are expunged from every city, state, national, and all other to which it has been sent.

25. WHEREFORE, I, the Plaintiff demand Judgement against the State of Utah, Utah State Tax Commission, and The Utah Department of Motor Vehicles. The Defendants, Deputy John F. Laursen, Sheriff Rick Hawkins, and County Attorney Joann Stringham, are not being sued, they only acted under the directions from the State of Utah, under color of law. The State of Utah has the power to know better, the State sets the tone of actions that are taken by the political subdivisions of the State of Utah. The State has the information of what Federal Laws are in power now, and to know what they are as to the rights of Indian[s], and the ruling that are in favor of Indian[s]. The state knows that all Indian Tribes and Native American Indians are protected under the U.S. Congress, and Federal Indian Laws. The State knows Indian Tribes have the same rights as others governments do, and to have Tribal Law, and codes, which the

State is not to encroach on.

26. I, the plaintiff have lost sales, lost timber I payed for, was not able to work my self, and forced to spend the winter of 2003 and 2004 out of work. With the only income of my wife, she made very little that winter, it was very hard.


COMPENSATION SECTION

- 1) Compensatory damages in the amount of, \$175,000.00
- 2) Punitive damage in the amount of;\$200,000.00
- 3) Reasonable fees for people needed to help get the information to file this Case, league team who made my information fall in-place, the people in the tribal Government who found the information, and for an Attorney if needed.
- 4) Interest on all of the said amounts at the highest legal rate allowed by law. Both before and after Judgement.
- 5) That the Defendants take whatever action that is necessary to make sure that all Of the criminal records currently on file against me, said Defendant, that are in Any public office, or held as their private records, to which the Defendants or any Of them, or agents of, have sent said records, be expunged so there is no reference to the Plaintiff charged with said offenses described herein above, and that no one can bring them to light in the future to cause harm to Plaintiff.
- 6) That the State of Utah be so instructed, to follow the Federal Indian Laws, and U. S. Court ruling. To Instruct the political entities, of the State of

Utah, and the political subdivisions of the State of Utah to do so like wise.

- 7) Costs of court and such other relief as the Court deems appropriate.
- 8) The return of my property, just as it was the day it was taken.
- 9) That the State of Utah can not sue me, or my tribe, to collect any compensation
They might feel they need, that they the State of Utah get relief from the political
Subdivisions of said State that caused this wrongful action
- 10) The return of my State driver license, and tribal papers taken.

Indian Tribal Member
Wamanpoa Nation
Tribe of Grayhead
Wolf Band


James W. Burbank

Date: 7-28-04