A16-0199
STATE OF MINNESOTA
IN COURT OF APPEALS

COPY

STATE OF MINNESOTA,
RESPONDENT,

VS.

TRESSA LEE BISSONETTE,
APPELLANT.

RESPONDENT'S BRIEF AND ADDENDUM

FRANK BIBEAU
Attorney at Law
Atty. Reg. No. 306460
Bibeau Law Office
51124 County Road 118
Deer River, MN 56636
218-760-1258

Attorney for Appellant

CHRISTOPHER J. STRANDLIE
Cass County Attorney

JEANINE R. BRAND
Assistant Cass County Attorney
Atty. Reg. No. 0218509
300 Minnesota Avenue
P.O. Box 3000
Walker, MN 56484
(218) 547-7255

LORI SWANSON
Minnesota Attorney General
1800 Bremer Tower
445 Minnesota Street
St. Paul, MN 55101
(651) 296-7578

Attorneys for Respondent

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Page

MINNESOTA DECISIONS:

FEDERAL DECISIONS:

MINNESOTA STATUTES AND RULES:

FEDERAL STATUTES:

SECONDARY SOURCE:

LEGAL ISSUES

I. DOES THE DISTRICT COURT HAVE SUBJECT MATTER JURISDICTION FOR THE CRIME OF CHILD ENDANGERMENT (NEGLECT OR ENDANGERMENT OF A CHILD) IN VIOLATION OF MINNESOTA STATUTE SECTION 609.378?

The District Court ruled in the affirmative.

A. THE RECORD IS DEFICIENT FOR THE COURT TO MAKE A DETERMINATION.

State v. Meldrum, 724 N.W.2d 15, 22 (Minn. App. 2006), *review denied* Jan. 24, 2007.

Minn. R. Crim. P. 28.02, subd. 8

State v. Davis, 773 N.W.2d 66 (Minn. 2009)

State v. R.M.H., 617 N.W.2d 55 (Minn. 2000)

B. THE CHARGE OF CHILD ENDANGERMENT (NEGLECT OR ENDANGERMENT OF A CHILD) IS CRIMINAL AND PROHIBITORY, AND THEREFORE, THE DISTRICT COURT HAS SUBJECT MATTER JURISDICTION.

California v. Cabazon Band of Indians, 480 U.S. 202, 207, 107 S.Ct. 1083, 1087, 94 L.Ed.2d 244 (1987)

State v. Busse, 644 N.W. 2d 79 (Minn. 2002)

State v. R.M.H., 617 N.W.2d 55 (Minn. 2000)

State v. Stone, 572 N.W. 2d 725 (Minn. 1997).

STATEMENT OF THE FACTS

Appellant stipulated to the State's evidence in a *Lothenbach* plea under Minn. R. Crim. P. 26.01, subd. 4. The Court found Appellant guilty of the charge. The offense occurred within the Leech Lake Reservation. (T. 11).

ARGUMENT

I. MINNESOTA DISTRICT COURT HAS SUBJECT MATTER JURISDICTION OVER THE CRIME OF CHILD ENDANGERMENT (NEGLECT OR ENDANGERMENT OF A CHILD) IN VIOLATION OF MINNESOTA STATUTE SECTION 609.378.

A. STARDARD OF REVIEW

On appeal, issues of jurisdiction are reviewed *de novo. See State v. R.M.H.,* 617 N.W.2d 55, 58 (Minn. 2000). In reviewing a case in which the facts are not disputed and the issue presented is purely a question of law, as here, this Court gives no deference to the courts below. *See State v. Busse,* 644 N.W.2d 79, 82 (Minn. 2002).

B. APPELLANT HAS FAILED TO MAKE A RECORD SUFFICIENT FOR THIS COURT TO MAKE A DETERMINATION ON THE APPEALED ISSUE.

Appellant's opening line of the Introduction states that Appellant is "an Indian who lives and works in the Leech Lake Reservation." (Appellant's Brief, p. 1). However, the trial court record is devoid of any documentation to support that alleged fact, or of any stipulation of the parties to that effect. The Court deemed, by stipulation of the parties, that the offense occurred within the boundaries of the Leech Lake reservation. (T. 11) Respondent tried to establish an appropriate record for the determination. (T. 11-12). However, the appellant placed nothing in the trial court record to support the allegation that she 1) "is an Indian; 2) or works in the Leech Lake Reservation" at either the contested hearing on the motion to dismiss for lack of subject

matter jurisdiction, or at the trial on the matter pursuant to Rule 26.01, subd. 4.[1] (T. 66-78). Appellant footnotes a reference to the Petition for Extraordinary Writ to support the basis for the assertion (Appellant's Brief, p.1). Respondent avers that this is not part of the trial court record, and thus, should not be considered by the appellate court. The record on appeal consists of the documents filed in the district court, the offered exhibits, and the transcript of the proceedings, if any. Minn. R. Crim. P. 28.02, subd. 8. If an allegation in a brief on appeal is outside of the record, it must be disregarded. *State v. Meldrum,* 724 N.W.2d 15, 22 (Minn. Ct. App. 2006), *review denied* Jan. 24, 2007. In general, the Minnesota Court of Appeals will not consider evidence outside the record. *State v. Breaux*, 620 N.W.2d 326, 334 (Minn. App. 2001). A reviewing court cannot base its decision on matters outside the record on appeal and any matters not part of the record must be stricken. *Id.* Nonetheless, were this Court to take judicial notice of the Writ filed by Appellant, it would find no documentation in that file that would support proof of being a Native American/Indian, or which band or tribe she purports to be a member of.

It is insufficient merely to allege that appellant is an Indian for purposes of challenging subject matter jurisdiction. (Appellant's Brief, p. 1). Minnesota Courts have specifically held that even civil/regulatory offenses are enforceable against members of other bands or tribes from outside the subject reservation. For example, in *R.M.H.,* the

[1] At the trial, Appellant stipulated to the State's case. The documents submitted to the court support the basis that Appellant lives in the vicinity where the offense occurred. Where she works is of no consequence to the issue.

Minnesota Supreme Court held that the District Court properly exercised jurisdiction over a speeding offense committed by a member of an Indian tribe on a reservation of which R.M.H. was not a member. *State v. R.M.H.,* 617 N.W. 2d 55, 58 (Minn. 2000). Similarly, the Supreme Court held that the District Court had subject matter jurisdiction over Davis, who was a member of the Leech Lake Band of the Minnesota Chippewa Tribe, for a traffic offense that occurred on the Mille Lacs reservation. *State v. Davis*, 773 N.W.2d 66, 79 (Minn. 2009). Therefore, this Court does not possess essential facts (membership and tribal affiliation) necessary to determine the underlying issue, and this appeal should be dismissed. Appellant argues applicability of treaties, federal law--including the Indian Child Welfare Act, and federal non-Public Law 280 case law. Because there is no record of Appellant being Native American, an enrolled member of any tribe, or that Leech Lake is within federal jurisdiction, nearly all of Appellant's arguments facially fail.

C. REGARDLESS, THE CRIME OF CHILD ENDANGERMENT (NEGLECT OR ENDANGERMENT OF A CHILD) IS CRIMINAL AND PROHIBITORY, AND THEREFORE, THE DISTRICT COURT HAS SUBJECT MATTER JURISDICTION.

Should this Court make a determination that there is a sufficient record, somehow, for a determination of the appealed issue, Respondent asserts that the district court properly exercised subject matter jurisdiction over the crime. Appellant was charged with one count of Child Endangerment (Neglect or Endangerment of a Child) —Likely Substantial Harm Physical/Emotional Health, in violation of Minnesota Statute section 609.378, subd. 1(a)(1), which states:

> (a)(1) A parent, legal guardian, or caretaker who willfully deprives a child of necessary food, clothing, shelter, health care, or supervision appropriate to the child's age, when the parent, guardian, or caretaker is reasonably able to make the necessary provisions and the deprivation harms or is likely to substantially harm the child's physical, mental, or emotional health is guilty of neglect of a child and may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both. If the deprivation results in substantial harm to the child's physical, mental, or emotional health, the person may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both.

In this matter, the appellant was charged with the gross misdemeanor level of the charge, and the Court found her guilty of the crime.

1. The State of Minnesota has jurisdiction under Public Law 280 to criminally prosecute a Native American tribal member for the criminal charge of Child Endangerment (Neglect or Endangerment of a Child) occurring within the reservation boundaries.

It is well established that a state may enforce its laws against enrolled tribal members on the tribal reservation when Congress has expressly so provided. *California v. Cabazon Band of Indians,* 480 U.S. 202, 207, 107 S.Ct. 1083, 1087, 94 L.Ed.2d 244 (1987). Minnesota is one of six states to which Congress has granted such subject-matter jurisdiction under Public Law 280. Pub.L. No. 83–280, 67 Stat. 588–89 (1953) (codified as amended at 18 U.S.C. § 1162 (1994), 25 U.S.C. §§ 1321–24 (1994), 28 U.S.C. § 1360 (1994)). Section 2(a) of the Act provided Minnesota "jurisdiction over offenses committed by or against Indians * * * and the criminal laws of [the] State * * * shall have the same force and effect within such Indian country." Pub.L. No. 280 § 2(a), 67 Stat. 588 (1953) (codified as amended at 18 U.S.C. § 1162(a) (1994)). The purpose of this grant was to combat the problem of lawlessness on certain reservations and the lack of adequate tribal law enforcement. *Bryan v. Itasca County,* 426 U.S. 373, 379, 96 S.Ct.

2102, 2106, 48 L.Ed.2d 710 (1976). Pursuant to this grant of authority, Minnesota has broad criminal and limited civil jurisdiction over all Indian Country within the state, except the Red Lake Reservation, which Public Law 280 excepted from the grant of authority, and the Bois Forte Reservation at Nett Lake. *State v. Stone,* 572 N.W. 2d 725, 728 & n.3 (Minn. 1997). *See* also *State v. R.M.H.,* 617 N.W. 2d 55, 58 (Minn. 2000). Public Law 280 specifically states:

> (a) Each of the States or Territories listed in the following table shall have jurisdiction over offenses committed by or against Indians in the areas of Indian country listed opposite the name of the State or Territory to the same extent that such State or Territory has jurisdiction over offenses committed elsewhere within the State or Territory and the criminal laws of such State or Territory shall have the same force and effect within such Indian country as they have elsewhere within the State or Territory. . .

18 USC § 1162 (a). Minnesota is listed on the table.

Minnesota appellate courts have consistently found the type of heightened criminal policy conduct included in this case to be criminal/ prohibitory in nature in Public Law 280 jurisdictions, as noted below. To the contrary, most of the appellant's brief cites the exceptional circumstances standard that would apply in jurisdictions such as Red Lake and Bois Forte, where Congress has not expressly granted authority under Public Law 280. Therefore, most of the argument is inapplicable to this case, where the offense occurred within a Public Law 280 jurisdiction.

Because Minnesota's Leech Lake Reservation is a Public Law 280 jurisdiction, the applicable standards arise in the landmark cases of *Cabazon* and *Stone*. *California v. Cabazon Band of Indians,* 480 U.S. 202, 107 S.Ct. 1083, 94 L.Ed.2d 244 (1987) ; *State v. Stone,* 572 N.W. 2d 725 (Minn. 1997). In *Cabazon,* the United States Supreme Court

adopted the following test for determining whether a state law is criminal and hence fully enforceable on a reservation:

> (I)f the intent of the state law is generally to prohibit certain conduct, it falls within Pub. L. 280's grant of criminal jurisdiction, but if the state law generally permits the conduct at issue, subject to regulation, it must be classified as civil/regulatory and Pub. L. 280 does not authorize its enforcement on an Indian reservation. The shorthand test is whether the conduct at issue violates the State's public policy.

Cabazon, 480 U.S. at 208, 107 S. Ct. at 1088. The Court noted that the distinction it drew is not a bright-line rule, adding: "The applicable state laws governing an activity must be examined in detail before they can be categorized as regulatory or prohibitory." *Id.* at 211, fn. 10, 107 S.Ct. at 1089 fn. 10.

Recognizing that *Cabazon* did not clearly state whether the "conduct at issue" that is to be analyzed is the broad conduct or the narrow, the Minnesota Supreme Court in *Stone* developed a two-step approach. *State v. Stone,* 572 N.W. 2d 725, 729-730 (Minn. 1997). As the Court observed "(t)his distinction becomes crucial when the broad conduct is generally permitted but the narrow conduct is generally prohibited, or vice versa." *Id.* at 729. When the narrow conduct presents substantially different or heightened public policy concerns, we will focus on the narrow conduct. *Id.* at 730. *See* also *Jones,* 729 N.W.2d 1, 5 (Minn. 2007), *cert. denied, Jones v. Minnesota*, 552 U.S. 1097, 128 S.Ct. 879 (Mem), 169 L.Ed.2d 726 (2008).

The first step of the *Stone* approach is to determine the focus of the *Cabazon* test. *Stone*, 572 N.W.2d at 730. The broad conduct will be the focus of the test unless the narrow conduct "presents substantially different or heightened public policy concerns." *Id.* Once the focus is identified, the second step is simply to apply the *Cabazon* test: If

the conduct is generally permitted, subject to exception, then the law controlling it is civil/regulatory; if the conduct is generally prohibited, the law is criminal/prohibitory. *Id.*; *Jones,* 729 N.W.2d at 5.

The Court in *Stone* specified that in close cases, "conduct is criminal if it violates the state's public policy." *Stone,* 572 N.W. 2d at 730. The Court interpreted "public policy," as used in the *Cabazon* test, to mean public *criminal* policy. *Id.*. Public criminal policy goes beyond merely promoting the public welfare. *Id.* It seeks to protect society from "serious breaches in the social fabric, which threaten grave harm to person or property." *Id.* The Court identified four factors as useful when determining whether an activity violates the state's criminal policy:

(1) the extent to which the activity directly threatens physical harm to person or property, or invades other's rights;
(2) the extent to which the law provides for exceptions and exemptions;
(3) the blame worthiness of the actor; and
(4) the nature and severity of the potential penalties for a violation of the law.

Id.; *Jones,* 729 N.W.2d at 5, 6.

In *State v. Busse,* 644 N.W. 2d 79 (Minn. 2002), the respondent was charged by complaint with driving after cancellation as inimical to public safety, a gross misdemeanor. His driver's license had been cancelled, following his fourth alcohol-related offense. Respondent, an enrolled member of the White Earth Band of Ojibwe, moved to dismiss for lack of subject matter jurisdiction as the offense occurred within the boundaries of the White Earth Reservation. Respondent was charged and convicted of

Driving After Cancellation as Inimical to Public Safety, a gross misdemeanor, under Minn. Stat. § 171.24, subdivision 5. The Court explained as follows:

> Busse's gross misdemeanor offense is but one piece of a larger fabric of laws aimed at increasing the severity of punishment against those persons who, due to their alcohol and drug use, pose a particularly severe threat to the safety of others. The pattern of behavior signals both a significant alcohol or drug problem and a defiance of the laws of our state and, thus, a significant risk to public safety. The ability of Minnesota to protect its citizens would be severely compromised if the state is not allowed to enforce cancellation of driving privileges, one of the most important remedies in terms of public safety, for driving while intoxicated.
>
> *State v. Busse*, 644 N.W.2d at 86.

The Court followed *Stone's* direction to consider the extent to which the activity directly threatens physical harm. *Stone,* 572 N.W.2d at 730. Busse argued his driving could not pose heightened public policy concerns because he was not intoxicated while driving. The Court explained, however, Busse's license was canceled because the commissioner determined that any driving of a motor vehicle on a public road by Busse was inimical to public safety. Busse would only be labeled as inimical to public safety under the statute if he had demonstrated at least three incidents in which he consumed sufficient alcohol or drugs to put him over the legal limit, drove, and was caught. Given this history, the appellate court concluded that his driving poses a risk to public safety and implicates heightened public policy concerns. *Busse,* 644 N.W.2d at 85, 86. The court summarized that the criminal sanction imposed, the direct threat to physical harm, the need for the state to be able to enforce cancellations based on a threat to public safety, and the absence of exception to the offense of driving after cancellation based on being inimical to public safety all demonstrate heightened public policy concerns. The court concluded the

offense of driving after cancellation as inimical to public safety presents substantially different or heightened public policy concerns. *Id.* at 87, 88.

Further, in *State v. Busse,* the court concluded under the first step of the *Cabazon/Stone* test that Busse's offense presented heightened public policy concerns, and that under the second step of the test driving after cancellation or denial as inimical to public safety is strictly prohibited conduct within the border of the state of Minnesota. *Id.* at 88. Unlike driving in general, driving after cancellation as inimical to public safety, is generally prohibited conduct and under the *Cabazon/Stone* analysis the offense is criminal/prohibitory. *Id.*

Citing *Busse,* the Minnesota Supreme Court in *Jones* explained its characterization of the broad and narrow conduct at issue based on what is required or prohibited of certain populations is consistent with the approach taken in *Busse. Jones,* 729 N.W. 2d at 6.

In this case, Appellant argues that her behavior is an internal domestic tribal issue. But in applying the *Busse* analysis, neglecting a child where the child is placed in a situation that is likely to substantially harm the child's physical, mental, or emotional health, is generally prohibited conduct and therefore, is criminal/prohibitory.

2. Neglect of a child by a parent, guardian or caretaker where such willful deprivation harms or is likely to substantially harm the child's physical, emotional, or mental health, presents heightened public criminal policy concerns.

Both the broad and narrow conduct of neglecting a child violates criminal public policy. In reality, all negligence of children is generally prohibited. Therefore, the broad

conduct is generally prohibited. Negligence of children that is likely to substantially harm their physical, mental, or emotional state , whether defined as broad or narrow conduct, has heightened criminal public policy concerns. The criminal child neglect and endangerment statute involves heightened public policy concerns because children are extremely vulnerable and the parent is generally the one trusted by that child for protection. The laws were created to protect children from situations that may cause permanent or fatal trauma or injury. Minnesota enacted this law as a gross misdemeanor offense because children are extremely vulnerable and look to parents or caretakers to ensure their safety. Neglect of a child to the point of posing that risk is a criminal public policy concern. Behavior that subjects a child to the safety concerns prohibited by the statute "breaches . . . the social fabric [and] threaten[s] grave harm to persons or property." *State v. Van Wert*, No. A05-2211at *1, (Minn. Ct. App. March 13, 2007), *citing State v. Stone, supra.*[2]

3. The plain language of Minn. Stat. § 609.378, demonstrates that it is "criminal/prohibitory" for purposes of state jurisdiction under Public Law 280.

In order to properly apply the jurisdictional test established in *Cabazon* and *Stone,* it is necessary to understand the state's public policy regarding criminal neglect of a child. In *State v. Tice,* 686 N.W.2d 351 (Minn. App. 2004), the Minnesota Court of

[2] Pursuant to Minn. Stat. § 480A.08, subd. 3 (2004), a copy of, *State v. Van Wert*, No. A05-2211, (Minn. App. March 13, 2007) is reproduced in Respondent's Addendum at RA1-RA4.

Appeals analyzed the difference between mere negligence and criminal negligence in interpreting the plain language of the statute:

> Thus, we must presume that the child-neglect statute, as well as the child-endangerment statute, requires more than a simple deviation from the standard of care. *See id.;* Minn. Stat. § 609.378, subd. 1(a)(1) (requiring willful conduct for child neglect), (b)(1) (requiring intentional or reckless conduct for child endangerment).
>
> Civil negligence requires that the harm that results be reasonably foreseeable. *Flom v. Flom,* 291 N.W.2d 914, 916 (Minn.1980). The risk of harm must be greater than being merely "within the realm of any conceivable possibility." *Kuhl v. Heinen,* 672 N.W.2d 590, 593 (Minn. Ct. App. 2003). The risk of harm required by the criminal statutes at issue here must be even higher, at least absent a clear indication of a contrary legislative intent. And, as this court noted in *Cyrette,* the legislature has required willful conduct in the child-neglect statute, "an aggravated form of negligence." 636 N.W.2d at 348 *citing* Prosser & Keeton on Torts 212 (5th ed. (1984)). Thus, while respondents' conduct may have been ill-advised, a clear legislative intent appears to criminalize only conduct that is *more* than ordinary civil negligence.

State v. Tice, 686 N.W.2d at 354.

In applying the *Stone* factors to the case at hand, the analysis reveals that the criminal neglect of a child violates the state's criminal public policy. First, "the extent to which the activity directly threatens physical harm to person or property, or invades other's rights directly," is met because the language of the factor matches almost verbatim the element of the charge. Secondly, there are no exemptions or exceptions to the Child Endangerment (Neglect or Endangerment of a Child) charge, except for spiritual care. Minn. Stat. § 609.378, subd. 1(a)(1). Third, a parent or guardian, the person entrusted for the care and safety of the child would be the sole culprit for harm or risk of harm that arises out of such neglect. Blameworthiness means the perpetrator knew what they are legally required to do, and did not do it. *State v. Johnson,* 598 N.W.2d 680,

689 (Minn. 1999). Certainly, Appellant knew her obligation to parent the child by providing for sufficient supervision, *inter alia*, for him. Finally, as in *Busse*, this charge entails at least a gross misdemeanor penalty with a possible felony charge, depending on the harm caused to the child. The *Cabazon* factors, as applied to the Neglect and Endangerment of Child statute, clearly show that such activity violates the state's criminal public policy to protect children.

4. **The United States Congress has granted power to the District Court to enforce the Child Endangerment (Neglect or Endangerment of a Child) Statute.**

Taking jurisdiction away from the State on Indian Reservation would create a checkerboard effect of enforcement on Indian Reservations such as the Leech Lake Reservation. The Leech Lake Reservation is an open reservation, wherein both Indian and non-Indians reside. 25 U.S.C. § 1302 (7) of the United States Code only allows Indian tribes exercising the power of self-government to impose maximum penalties of up to one year in prison and a fine of $5,000 or both. Appellant agreed that the Leech Lake Band did not have a similar enforceable law. (T. 8).

5. **Like other decisions by the Minnesota appellate courts, the charge in this matter is criminal and prohibitory and therefore, the District Court properly exercised subject matter jurisdiction over the crime.**

Minnesota appellate courts have provided a litany of cases in which they found that the subject crimes, along with other charges that encompassed certain driving statuses, were criminal and prohibitory in nature, because they were based on heightened public policy concerns.

The case at hand, which involved the neglectful supervision of a very young, non-verbal child, demonstrates the same or higher concerns expressed by the appellate courts in *Van Wert*[3] (Assault), *Busse*[4] (DACIPS), *Losh*[5] (Driving After Revocation based on DWI), *St. Clair*[6] (Controlled Substance in the Fifth Degree), *Jones*[7] (Predatory Offender Registration), *Roy*[8] (Ineligible Person Possessing Firearm), *Folstrom*[9] (Carrying Pistol Without a Permit), *Robinson*[10] (Minor Consumption), *Larose*[11] (Trespass), and *Couture*[12] (DWI).

The crime of Child Endangerment (Neglect or Endangerment of a Child) is unlike those cases in which the appellate courts have found a lack of subject matter jurisdiction. Most of those cases, like the *Stone* case, deal with more minor traffic regulations that do not necessarily pose a heightened public policy concern, and many tribal courts have traffic codes that can adequately govern member's driving conduct.

---

[3] *State v. Van Wert*, No. A05-2211, 2007 WL 738640 (Minn. App. March 13, 2007) RA1-4
[4] *State v. Busse,* 644 N.W.2d 79 (Minn. 2002)
[5] *State v. Losh*, 755 N.W.2d 736 (Minn. 2008)
[6] *State v. St. Clair,* 560 N.W.2d 732 (Minn. Ct. App. 1997)
[7] State v. *Jones,* 729 N.W.2d 1 (Minn. 2007), cert. denied, 552 U.S. 1097, 128 S.Ct. 879 (Mem), 169 L.Ed.2d 726 (2008)
[8] *State v. Roy,* 761 N.W.2d 883 (Minn. Ct. App. 2009)
[9] *State v. Folstrom,* 331 N.W.2d 231 (Minn. 1983)
[10] *State v. Robinson*, 572 N.W.2d 720 (Minn. 1997)
[11] *State v. Larose,* 543 N.W.2d 426 (Minn. Ct. App. 1996)
[12] *State v. Couture*, 587 N.W.2d 849 (Minn. Ct. App. 1999).

Finally, Appellant's argument that neglect of a child is a "domestic tribal issue" failed before this Court in *State v. Van Wert*, where Van Wert argued that domestic disputes should be civil and regulatory. *State v. Van Wert*, 2007 WL738640 (Minn. App. 2007) (RA 1-4). The *Van Wert* court applied the *Busse* analysis and concluded that because assault is generally prohibited, it violates criminal public policy. Thus, the District Court properly exercised jurisdiction.

CONCLUSION

Appellant has failed to create a record for which relief can be granted. Therefore, Respondent requests that the Court affirm the trial court's decision. Alternatively, Minnesota's Child Endangerment (Neglect or Endangerment of a Child) statute is similar to the crimes the appellate courts have found that raise heightened criminal public policy concerns, and through the short-hand test or the two-step analysis, have determined that district courts have subject matter jurisdiction. Respondent respectfully requests that this Court protect all children by dismissing this appeal, or alternatively, find that the District Court properly exercised jurisdiction over the charge.

Children have the right, regardless of their ethnicity, to be safe wherever they are.

Dated: _____

Respectfully submitted,

Jeanine R. Brand
Assistant Cass County Attorney
Atty. Reg. No. 0218509
P.O. Box 3000, Courthouse
300 Minnesota Avenue
Walker, MN 56484, (218) 547-7255
Attorney for Respondent