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UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

ANGELITA M. CHEGUP, et. al, Plaintiffs v. UTE INDIAN TRIBE OF THE UINTAH AND OURAY RESERVATION, et al., Defendants.	**SUPPLEMENTAL MEMORANDUM ON TRIBAL EXHAUSTION** Civil Case No. 2:19-cv-00286-BSJ Judge Bruce S. Jenkins

Pursuant to the Court's Order entered at the conclusion of the Status Conference held May 19, 2022, Defendants Ute Indian Tribe of the Uintah and Ouray Reservation; Tribal Business Committee for the Ute Indian Tribe of the Uintah and Ouray Reservation; Luke Duncan; Tony Small; Shaun Chapoose; Edred Secakuku; Ronald Wopsock; and Sal Wopsock ("Defendants") respectfully submit this Supplemental Memorandum on Tribal Exhaustion. In support of their position Defendants state as follows:

FACTUAL AND PROCEDURAL BACKGROUND

In this action the Plaintiffs seek habeas corpus relief under the Indian Civil Rights Act, 25 U.S.C. §§ 1301-1303, based upon their banishment by the Ute Indian Tribe of the

Uintah and Ouray Reservation. (*Compl.* at 1) (Dkt. 2). The Plaintiffs are enrolled members of the Ute Indian Tribe. Defendant Ute Indian Tribe of the Uintah and Ouray Reservation ("Tribe") is a federally recognized Indian tribe. Defendant Tribal Business Committee of the Ute Indian Tribe of the Uintah and Ouray Reservation ("Business Committee") is the supreme governing body of the Tribe. Defendants Luke Duncan, Tony Small, Shaun Chapoose, Edred Secakuku, Ronald Wopsock, and Sal Wopsock are current or former members of the Business Committee and all were members of the Business Committee when Plaintiffs filed this case.

In accordance with Tribal law and following notice, on November 27, 2018 the Business Committee held a hearing to decide whether the Plaintiffs were to be banished. (*Id.* ¶¶ 29, 35.) The Plaintiffs walked out of the hearing before it began. (*Id.* ¶ 36.) Following the hearing, the Business Committee issued Orders of Banishment for each of the Plaintiffs, temporarily banishing them from the Uintah and Ouray Reservation for five years. (*Id.* ¶¶ 37-38.)

Plaintiffs initiated this case on April 29, 2019 by filing a Civil Rights Complaint. (*Id*.) By their Complaint, Plaintiffs petitioned for a Writ of Habeas Corpus pursuant to the Indian Civil Rights Act of 1968, 25 U.S.C. §§ 1301-1304, based upon alleged unlawful restraint on liberty imposed by their banishment. (*Id.*) Plaintiffs requested, in addition to other relief, that the Court set aside their banishment.

On July 12, 2019, the Defendants filed a Motion to Dismiss Complaint and Memorandum in Support. (Dkt. 45). Among other things, the Defendants argued the Complaint should be dismissed pursuant to Fed. R. Civ. P. 12(b)(1) because the Court

lacked subject matter jurisdiction. The Defendants argued that claims against the Tribe, its governing body, and its officers – i.e., all the Defendants – are barred by sovereign immunity unless Plaintiffs could prove jurisdiction under 25 U.S.C § 1303, the habeas corpus provision of the ICRA and the sole basis on which Plaintiffs' claimed jurisdiction. The Defendants further argued that federal courts have uniformly held there is no jurisdiction under § 1303 unless the petitioners are in custody. Case law also uniformly holds that a habeas corpus petition under § 1303 cannot be heard unless the petitioners have exhausted their tribal remedies. The Defendants argued that Plaintiffs had met neither of those requirements and that the case should therefore be dismissed. (*Id.* at pp. 6-14.)

Following a hearing, the Court entered its Memorandum Decision and Order on December 3, 2019, granting the Defendants' motion and dismissing Plaintiffs' complaint and petition for writ of habeas corpus with prejudice. (Dkt. 85). The Court entered its Judgment the same day. (Dkt. 86). The Plaintiffs appealed to the Court of Appeals for the Tenth Circuit and following briefing and oral argument the Tenth Circuit issued its Mandate on April 11, 2022 (Dkt. 100).

The Tenth Circuit explained this Court's ruling as follows:

> The district court dismissed the case pursuant to Federal Rule of Civil Procedure 12(b)(1) for lack of subject matter jurisdiction. Relying on our court's unpublished decision in *Oviatt v. Reynolds*, 733 F. App'x 929 (10th Cir. 2018), the Second Circuit's decision in *Shenandoah v. United States Department of the Interior*, 159 F.3d 708 (2d Cir. 1998), and the Ninth Circuit's decision in *Tavares v. Whitehouse*, 851 F.3d 863 (9th Cir. 2017), the district court concluded that temporary banishment does not constitute detention for purposes of ICRA § 1303, so the court was unable to adjudicate the dispute. As relevant here, the district court noted that dismissal was also required if the banished members had failed to exhaust

> tribal remedies. But because the district court had already determined that they had "failed to establish that they [we]re 'in custody,'" it chose "not [to] address tribal exhaustion."

Chegup v. Ute Indian Tribe of the Uintah and Ouray Reservation, 28 F.4th 1051, 1059 (10th Cir. 2022). The Tenth Circuit concluded, however, that the district court should have begun by addressing tribal exhaustion. *Id*. "Out of respect for comity and the tribal sovereignty interests that undergird ICRA, we conclude that the district court should have started its analysis at exhaustion." *Id*. at 1060. On that basis, the Court reversed the district court's decision and remanded "with instruction to first decide whether tribal exhaustion precludes the banished members from proceeding in federal court." *Id*. at 1071-72.

ARGUMENT

I. The Tenth Circuit Mandate Requires that this Court Decide the Tribal Exhaustion Issue Before Considering Other Issues.

The Tenth Circuit has held that "it was improper in this case to consider whether banishment constituted detention before first addressing whether tribal exhaustion effectively mooted that question." *Chegup v. Ute Indian Tribe of the Uintah and Ouray Reservation,* 28 F.4th 1051, 1070 (10th Cir. 2022). For that reason, the Court's mandate instructs this Court to consider exhaustion before considering any other issues. *Id*. at 1071-72.

In *Plaintiffs' Brief on Remaining Issues*, filed May 31, 2022 (Dkt. 110), Plaintiffs ask the Court to rule on a number of issues other than tribal exhaustion. To address those issues before deciding the exhaustion issue would, however, violate the Tenth Circuit

mandate. The "mandate rule" "provides that a district court must comply strictly with the mandate rendered by the reviewing court." *Huffman v. Saul Holdings, Ltd. P'ship*, 262 F.3d 1128, 1132 (10th Cir. 2001). The Court should therefore limit its decision to the exhaustion question at this time.

II. Plaintiffs Must Exhaust Tribal Remedies Before Seeking Habeas Corpus Relief in Federal Court.

"All federal courts addressing the issue mandate that two prerequisites be satisfied before they will hear a habeas petition filed under ICRA: [t]he petitioner must be in custody, and the petitioner must first exhaust tribal remedies." *Chegup*, at 1060 (quoting Cohen's Handbook of Federal Indian Law § 9.09 (2017)). "Both are independent potential grounds for dismissal that implicate different interests." *Id*. at 1059. "[W]hen a federal court has subject-matter jurisdiction over a claim arising in Indian country over which a tribal forum has colorable jurisdiction, principles of comity and the federal policy of promoting tribal self-government generally require that the plaintiff fully exhaust tribal remedies before proceeding in federal court." *Id*. at 1060 (quoting Restatement of the Law of Am. Indians § 59 cmt. a (Am. Law Inst., Proposed Final Draft 2021)). "At a minimum, exhaustion of tribal remedies means that tribal appellate courts must have the opportunity to review the determinations of the lower tribal courts." *Id*. (quoting *Iowa Mut. Ins. Co. v. LaPlante,* 480 U.S. 9, 17 (1987)). The tribal exhaustion rule applies to petitions filed under section 1303 of the ICRA. *Id*. at 1061 (citing *Valenzuela v. Silversmith*, 699 F.3d 1199, 1205-06 (10th Cir. 2012)).

III. There Are a Limited Number of Exceptions to the Tribal Exhaustion Rule; They Are Applied Narrowly and Require a Party Invoking an Exception to Make a Substantial Showing of Eligibility.

The Tenth Circuit has recognized the following limited exceptions to the tribal exhaustion requirement:

> "(1) where an assertion of tribal jurisdiction is motivated by a desire to harass or is conducted in bad faith; (2) where the tribal court action is patently violative of express jurisdictional prohibitions; (3) where exhaustion would be futile because of the lack of an adequate opportunity to challenge the tribal court's jurisdiction; (4) when it is plain that no federal grant provides for tribal governance of nonmembers' conduct on land covered by the main rule established in *Montana v. United States, 450 U.S. 544 (1981)*; or (5) it is otherwise clear that the tribal court lacks jurisdiction so that the exhaustion requirement would serve no purpose other than delay." *Norton, 862 F.3d at 1243* (alteration omitted) (quoting *Burrell v. Armijo, 456 F.3d 1159, 1168 (10th Cir. 2006*)).

Chegup, at 1061.

The Court went on to hold that a party attempting to invoke an exception bears a difficult burden. "While these exceptions are meaningful, they are applied narrowly. Our court has taken a strict view of the tribal exhaustion rule. We have required a party invoking any of these exceptions to make a substantial showing of eligibility." *Id*. (citations, internal quotation marks, and alterations omitted). The Court stressed that, "Although claims of futility, bias, bad faith, and the like roll easily off the tongue, they are difficult to sustain." *Id*. (quoting *Ninigret Dev. Corp. v. Narragansett Indian Wetuomuck Hous. Auth.*, 207 F.3d 21, 34 (1st Cir. 2000)).

IV. The Plaintiffs Had Tribal Remedies Available and Failed to Exercise them Before Filing this Case.

In its mandate, the Court of Appeals found that Tribal law granted the Tribal Court "exclusive authority to hear appeals from orders of exclusion and/or removal after a

hearing has been held thereon before the Ute Business Committee." *Chegup*, at 1061 (quoting Ute Indian Exclusion & Removal Code § 3-1-11(1) (2014)). A copy of the Ute Indian Exclusion & Removal Code (Tribal Ordinance No. 14-004) is attached hereto as Exhibit A. Further, Section 3-1-11(2) of the Exclusion & Removal Code provides that, "The Appellate Court shall have exclusive authority to hear appeals from orders of exclusion and/or removal after a hearing has been held thereon before the Tribal Court." The Plaintiffs, therefore, were entitled to two levels of appellate review following the Business Committee exclusion hearing. The Plaintiffs do not dispute that they failed to bring an action in Tribal Court. *Chegup*, at 1061. Rather, "the banished members invoke the bad-faith and futility exceptions to the tribal exhaustion rule." *Id*.

V. None of Plaintiffs' Arguments for Exception to Tribal Exhaustion Withstand Examination.

A. The Tenth Circuit Emphasized the Strength of the Defendants' Tribal Exhaustion Arguments and the Weakness of the Plaintiffs' Purported Excuses for Failing to Exhaust Their Remedies.

The Tenth Circuit found that "tribal exhaustion is *an obvious and compelling obstacle* in this case." *Chegup*, at 1062 (emphasis added). "[T]he comity and sovereignty concerns that motivate tribal exhaustion doctrine are at their zenith when a federal court stands in direct supervision of a tribe's sovereign actions." *Id*. "[E]xhaustion was a ripe, obvious, and procedurally proper way to resolve the case." *Id*. at 1067.

The Court based its decision to remand this case on "the importance of tribal sovereignty and the strength of the Tribe's exhaustion arguments." *Id*. It explained that "it would be a very different case if the arguments for tribal exhaustion were baseless", but "we find the arguments and facts sufficiently compelling to support our decision that

exhaustion must be considered before detention in this case." *Id*. at 1068. "Our decision that exhaustion must be decided first is party informed by the weakness of the banished members' cursory arguments for excusing their failure to exhaust, as juxtaposed with the importance of that requirement and the exacting standard courts apply to its exceptions." *Id*.

The Court found, as an example, that Plaintiffs' contention that they could not challenge their banishments because of a Tribal ordinance which prohibited Tribal courts from reviewing Business Committee actions was "not compelling." *Id*. (This issue is discussed further below.)

The Court then went on to hold as follows:

> Nor do we find the banished members' other charges of futility and bad faith persuasive enough to have supported the district court's decision to ignore exhaustion. At bottom, the banished members do not appear to have made a "substantial showing" that exhaustion should be excused. *Thlopthlocco*, 762 F.3d at 1238. Far from it, this case seems to substantiate the First Circuit's observation that while "claims of futility, bias, bad faith, and the like roll easily off the tongue, they are difficult to sustain." *Ninigret Dev. Corp.*, 207 F.3d at 34.

Chegup, at 1069 (footnote omitted). Examining Plaintiffs' latest arguments confirms the Tenth Circuit's findings. The arguments do not stand up to examination.

B. As the Tenth Circuit Found, the Plaintiffs Had Appellate Remedies Available Following Entry of Their Banishment Orders; Those Orders Were Not "Finally Resolved" at the Same Time they Were Entered.

Plaintiffs contend that the banishment orders state that the issue was "finally resolved". (*Pls.' Br. on Remaining Issues* at 8) (Dkt. 110). Plaintiffs cite ECF No. 21, at 10 for their claim. That document is, however, a resolution of the Business Committee, not a banishment order, and it includes the standard "finally resolved" language common

to Business Committee and other organizational resolutions. The banishment orders contain no such language. ECF No. 21 at 4-7.

Plaintiffs cite *Lawrence v. Florida*, 549 U.S. 327, 332 (2007), for the claim that in any habeas action, the term "finally resolved" means that no other "avenues of relief remain open." It is unclear which of two things Plaintiffs mean by this.

On the one hand**,** Plaintiffs may be saying because the resolution included standard "finally resolved" language, then it follows as a matter of law that there was no appeal open to Plaintiffs. If this is their claim, it is inconsistent with the Tenth Circuit's finding that Tribal law *did* grant the Plaintiffs the right to appeal their banishment to Tribal Court after the hearing before the Business Committee. *Chegup*, at 1061. The Tenth Circuit's ruling therefore defeats Plaintiffs' claim that the resolution closed out the possibility of appeal.

If this is what Plaintiffs are saying, then they have also misconstrued *Lawrence*. That case actually stated that, "State review ends when the state courts have finally resolved an application for state postconviction relief. After the State's highest court has issued its mandate or denied review, no other state avenues for relief remain open." *Lawrence*, at 332. The Supreme Court thus held that as long as other avenues of relief remain open (as the Tenth Circuit found that they were in the present case), the case is *not* fully resolved. Plaintiffs' specious reliance on the use of the phrase "finally resolved" in a Tribal resolution does not override the Tenth Circuit's ruling that they had further avenues of relief available following entry of their banishment orders.

On the other hand, Plaintiffs may be saying that they were confused by the resolution into believing that they had no right of appeal. If this is their meaning, this claim is inconsistent with their assertion that this is *not* "a case where Plaintiffs 'did not know of the existence of any option to file a tribal court petition" due to 'ignorance of the law.'" (*Pls.' Br. on Remaining Issues* at 9). Plaintiffs' admission of knowledge of their right to file with the Tribal Court belies any claim that they were misled by the "finally resolved" language.

The inclusion of the "finally resolved" language in a Tribal resolution therefore does not show that the Plaintiffs had no appeal open to them or that they were misled by the resolution into believing they had no appeal.

C. Tribal Ordinance No. 13-022 Did Not Prevent the Plaintiffs from Appealing Their Banishments.

Plaintiffs next contend that Ordinance No. 13-022 prohibited the Tribal courts from hearing appeals from the banishment orders. The provisions of the ordinance on which Plaintiffs rely were, however, superseded by the later-enacted Tribal Ordinance No. 14-004, the Ute Indian Exclusion & Removal Code, a copy of which is attached hereto as Exhibit A. Sections 3-1-11(1) and (2) of the Ordinance give the Tribal Court and the Tribal Appellate Court authority to hear appeals from orders of exclusion after hearings are held before the Business Committee. Furthermore, Section 3-1-13 of the Ordinance expressly repealed any prior Tribal ordinances which conflict with it. To the extent, therefore, that any provisions of Ordinance No. 13-022 might have prevented Plaintiffs from appealing their banishment in Tribal Court, those provisions were repealed by Ordinance 14-004. As discussed above, the Tenth Circuit stated that the Plaintiffs' argument based on

Ordinance 13-022 "is not compelling." *Chegup*, at 1068. In fact, the Plaintiffs admitted in their appeal that the relevant provisions of Ordinance No. 13-022 had been "arguably superseded". *Id*.

Plaintiffs also accuse the Defendants of having kept Ordinance No. 14-004 "secret". (*Pls.' Br. on Remaining Issues* at 9-10). The Banishment Orders themselves, however, include numerous references to the Ordinance. A copy of the Banishment Order of Angelita Chegup is attached hereto as Exhibit B. The banishment orders of the other three Plaintiffs are substantially identical. Additionally, Plaintiffs have admitted that "Plaintiffs knew the law quite well; in fact, Ms. Kozlowicz was at one point an accredited 'lay advocate' in Ute tribal court." (*Pls.' Br. on Remaining Issues* at 9). Because Plaintiffs knew Tribal law, then even if they did not have copies of the Ordinance, they or their lawyers were aware, or should have been aware, of their ability to obtain copies of it through Tribal Ordinance No. 13-023, An Ordinance to Provide for Tribal Freedom of Information, a copy of which is attached hereto as Exhibit C**.** In any event, Plaintiffs received a copy of Ordinance 14-004 no later than July 12, 2019 when Defendants included it as an exhibit to the Motion to Dismiss Complaint (Dkt. 45) they filed and served that day.

Plaintiffs' contention that Ordinance No. 13-002 precluded their appeals is therefore baseless.

D. Ms. Kozlowicz's Belated Claim of Having Attempted to File an "Appeal" in Tribal Court Strains Credibility and Is Problematic in Other Ways.

Next, for the first time in this litigation, Plaintiffs assert that Plaintiffs Kozlowicz and Jenkins attempted to file a document with the Tribal Court on December 5, 2018, but that the Tribal Court clerk rejected it. (*Pls.' Br. on Remaining Issues* at10-11; *Third Decl. of Lynda M. Kozlowicz* ¶¶ 2,4 (Dkt. 113)).

Defendants question Ms. Kozlowicz's credibility on this point. Plaintiffs made no previous mention of this alleged attempted filing during the more than three years in which this case has been pending, even though it would have been of potential importance to them. In her two declarations, Ms. Jenkins makes no mention of ever having gone to Tribal court, either with or without Ms. Kozlowicz (Dkt. 24 and 51). In fact, in her original *Declaration*, Ms. Jenkins asserts her belief that there *is* no appellate process. (*Decl. of Mary Carol Jenkins* ¶ 7 (Dkt. 24)). This is clearly inconsistent with Ms. Kozlowicz's claim that she and Ms. Jenkins unsuccessfully tried to file an appeal. Similarly, Ms. Kozlowicz does not mention her alleged unsuccessful filing attempt in either of her previous declarations (Dkt. 23 and 50). In Ms. Kozlowicz's *Second Declaration,* she describes having gone to Tribal Court to "see it there was anything [she] could do to get relief from the Banishment Committee Banishment Order." She says nothing, however, about attempting to file anything . (*Second Decl. of Lynda M. Kozlowicz* ¶ 8 (Dkt. 50)). There is also no mention of rejected filings in any of Plaintiffs' pleadings or numerous briefs in this Court and the Tenth Circuit. In its mandate, the Tenth Circuit indicated its impression that the banished members *had not* alleged that the tribal court clerk refused to allow

them to file paperwork. *Chegup*, at 1069 fn.16. This is therefore a new claim and one which the Plaintiffs surely would have brought up much earlier in the case had it actually occurred as described by Ms. Kozlowicz.

There are additional problems with Ms. Kozlowicz's declaration. First, her statements of what the Tribal court clerk allegedly told her are inadmissible hearsay under Rule 802 of the Federal Rule of Evidence and should not be considered by this Court. Also, there is nothing in the attachment to Ms. Kozlowicz's *Third Declaration* that supports her claim that she attempted to file it with the Tribal Court or that the clerk refused to accept it. There are no "rejected" or other stamps or writing from the Court. Although Ms. Kozlowicz declares in paragraph 4 of her *Third Declaration* that the document attached to that declaration is a "true and correct copy" of the document she tried to file, the handwritten note at the top of the first page is presumably Ms. Kozlowicz's own after-the-fact addition and was presumably not part of the document she allegedly tried to file. The only evidence, therefore, that Ms. Kozlowicz and Ms. Jenkins tried to file anything is Ms. Kozlowicz's own self-serving and greatly belated declaration.

A further problem with Ms. Kozlowicz's claim of having tried to file an appeal is that the document she allegedly tried to file is not an appeal. It is an "Application for Temporary Restraining Order and Request to Show Cause", and it does not purport to appeal from the Business Committee's banishment order. As mentioned, Plaintiffs assert that they all knew Tribal law "quite well" and that Ms. Kozlowicz, as a former lay advocate, was particularly knowledgeable. (*Pls.' Br. on Remaining Issues* at 9). Given her experience, Ms. Kozlowicz certainly knew that applications for temporary restraining

orders are distinct from appeals. Furthermore, Plaintiffs were represented by a lawyer on November 27, 2018. *Chegup*, at 1057. They do not explain, however, why their counsel did not assist them with filing an appeal.

Additionally, even if Ms. Kozlowicz's claim were plausible, it would apply only to her and Ms. Jenkins. Ms. Chegup and Ms. Amboh do not claim they ever tried to file anything with Tribal Court following their banishment.

It is clear that because of the lack of support for their previous arguments (and the Tenth Circuit's being unpersuaded by those arguments), Plaintiffs are attempting to alter the record in a manner inconsistent with their previous testimony and briefing. The Tenth Circuit held that at the time Plaintiffs filed their appeal, "the tribal exhaustion issue was squarely presented and briefed by the parties below as a basis for dismissal." *Id*. at 1067. The issue was therefore ready for decision prior to the time of the appeal, and Plaintiffs' self-serving and belated attempt to create new issues at this time should be rejected by this Court.

Finally, even if the Court does not reject Ms. Kozlowicz's claim outright, the claim raises so many factual questions that, before allowing the case to proceed, the Court should order an evidentiary hearing on the limited issue of whether Plaintiffs can meet their burden of proving that some of them attempted to file an appeal that was rejected by the clerk of the Tribal Court.

E. Plaintiffs Could Still Have Filed Their Appeals with the Tribal Court when They Filed this Case.

Plaintiffs also do not explain why they did not exhaust their remedies by filing appeals in Tribal Court, with the assistance of current counsel, prior to initiating this action,

since they still had time to have done so. Plaintiffs were banished following their hearing on November 27, 2018. Their deadline for filing an appeal began running that day at the earliest. Ordinance No. 14-004 (Ex. A hereto), which provides the banished members with a right of appeal to Tribal Court, does not include a deadline for such appeals. The deadline is therefore governed by the one-year statute of limitations set forth in Section 1-8-7 the Law and Order Code of the Ute Indian Tribe of the Uintah and Ouray Reservation[1] which provides as follows:

> Limitations in Civil Actions. Unless otherwise specifically provided in the Law and Order Code, the following limitations on the b[ringing] of civil actions will apply: (1) Any action against the Tribe or its officers or employees arising from the performance of their official du[ties] must be commenced within one year of the date the cause of action accrued.

The Plaintiffs could therefore have appealed their banishments in Tribal Court up to November 27, 2019. Plaintiffs initiated the present action on April 29, 2019, a date well within the statute of limitations for their Tribal Court appeal. Plaintiffs were represented by their current counsel at that time but do not explain why they filed this case before appealing to Tribal Court. "[E]ven if the tribal court's doors were closed to the banished members in the past, they were obligated to knock again before bringing the present suit." *Chegup*, at 1068. Plaintiffs thereby failed to exhaust their Tribal remedies.

CONCLUSION

The banished members had additional Tribal remedies available following their banishment, but they did not pursue them. In fact, they / might still have pursued them at

[1] Available at https://narf.org/nill/codes/ute_uintah_ouray/index.html.

the time they filed this action. Their arguments for being excused from tribal exhaustion are baseless. The Court should therefore grant Defendant's Motion to Dismiss.

Respectfully submitted this 13th day of June, 2022.

J. PRESTON STIEFF LAW OFFICES, LLC

/s/ J. Preston Stieff
J. Preston Stieff
Attorney for Defendants

CERTIFICATE OF SERVICE

I certify that on the 13th day of June, 2022, I caused a true and correct copy of the foregoing **SUPPLEMENTAL MEMORANDUM ON TRIBAL EXHAUSTION** to be filed electronically with the Court which will send notification of such filing to all parties of record.

/s/ J. Preston Stieff
J. Preston Stieff