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7 ATTORNEYS FOR WASHOE COUNTY
DETENTION FACILITY

8
9 UNITED STATES DISTRICT COURT

10 DISTRICT OF NEVADA

11 * * *

12 JOSEPH CANTRELL,

13 Petitioner,

Case No. 3:23-cv-00174-MMD-CLB

14 vs.

MOTION TO DISMISS

15 WASHOE COUNTY SHERIFF
DETENTION FACILITY,

16 Respondent. /

17
18 Respondent Washoe County Detention Facility hereby moves to dismiss this habeas
19 petition. This motion is based upon the following Memorandum of Points and Authorities and
20 exhibits hereto, Federal Rule of Civil Procedure 12(b)(6), and all pleadings and papers on file in
21 this matter.

22 MEMORANDUM OF POINTS AND AUTHORITIES

23 This is a petition for writ of habeas corpus, pursuant to 25 U.S.C § 1303, filed by
24 Petitioner Joseph Cantrell, a prisoner of the Pyramid Lake Tribe, challenging his conviction and
25 sentence entered in the Pyramid Lake Tribal Court. Petitioner is housed at the Washoe County

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1 Detention Facility (“WCDF”) pursuant to interlocal agreement between the Washoe County
2 Sheriff’s Office and the Bureau of Indian Affairs.

3 On September 5, 2023, this Court ordered a response from WCDF and the Pyramid
4 Lake Tribal Prosecutor to address the grounds for habeas relief. (ECF No. 21 at pp. 1-2).

5 **I. Respondent Washoe County did not participate in Petitioner’s underlying**
6 **criminal case or the tribal court proceedings and therefore cannot respond**
7 **to the bulk of Petitioner’s grounds for relief.**

8 Petitioner’s First, Second, Third, Fourth, and Sixth Grounds for relief challenges
9 Petitioner’s underlying conviction and sentence in the Pyramid Lake Tribal Court. As this
10 Court is well-aware, the Pyramid Lake Tribe is a sovereign government. The WCDF is not a
11 part of the Tribe’s government or its court system. Accordingly, these grounds for relief are
12 inapplicable to WCDF and the Tribe, not WCDF, should therefore explain why Petitioner is
13 being lawfully held in custody by the Tribe.

14 An Indian tribe has the inherent power “to exercise criminal jurisdiction” over its
15 members. *See* 25 U.S.C. § 1301(2). The term “Indian” means “any person who would be subject to
16 the jurisdiction of the United States as an Indian under section 1153, Title 18, if that person
17 were to commit an offense listed in that section in Indian Country to which that section
18 applies.” *See* 25 U.S.C. § 1301(4). *See also Means v. Navajo Nation*, 432 F.3d 924, 928-31 (9th Cir.
19 2005) (an Indian tribe has inherent sovereign judicial power in criminal cases against member
20 who qualifies as an Indian for purposes of 18 U.S.C. § 1153).

21 The Indian Civil Rights Act of 1968 (ICRA) provides an Indian with a set of civil rights
22 that a tribal government may not abridge. *See* 25 U.S.C. § 1302. And this Court has jurisdiction
23 to protect the rights afforded by ICRA. *See* 25 U.S.C. § 1303 (“[t]he privilege of the writ of
24 habeas corpus shall be available to any person, in a court of the United States, to test the
25 legality of his detention by order of an Indian tribe.”).

26 The Nevada Constitution created the office of the County Sheriff and the Nevada
Legislature establishes by law a Sheriff’s duties. *See* Nev. Const. Art. 4, Sec. 32; NRS 248.010.

1 The Washoe County Sheriff's Office oversees the operation of the Washoe County Detention
2 Facility and the prisoners incarcerated within the facility. *See* NRS 248.050. In this capacity, the
3 Sheriff's Office may enter into an Agreement to incarcerate United States prisoners. *See* NRS
4 211.060. The WCSO has an Agreement with the United States Bureau of Indian Affairs to house
5 prisoners of the Pyramid Lake Tribe.

6 In furtherance of state and federal relations, the Washoe County Sheriff's Office has
7 entered into an agreement the federal Bureau of Indian Affairs to house prisoners of the
8 Pyramid Lake Tribe. Pursuant to this arrangement, it would be inappropriate for Respondent
9 Washoe County to attempt to defend or address Petitioner's grounds for relief that are seeking
10 questioning the validity of his conviction or sentence by a sovereign jurisdiction like the
11 Pyramid Lake Tribe.

12 **II. A Petition for Writ of Habeas Corpus is the improper method to challenge**
13 **Petitioner's conditions of confinement.**

14 Petitioner's Fifth Ground for Relief asserts that his Eighth Amendment rights were
15 violated based on his conditions of confinement. Specifically, Petitioner complains about unsafe
16 cell conditions, inadequate medical care, inadequate food, and placement in isolation without a
17 hearing. ECF No. 20 at 10-11. Within his petition, Petitioner states that he is "not asking for
18 anything I just want to inform this court and people that this is what is happening behind
19 closed doors." *Id.* at 11.

20 "To the extent Petitioner seeks to challenge the conditions of his confinement, he
21 cannot do so in a habeas corpus proceeding." *Zaragosa-Solis v. Gutierrez*, 2023 WL 5163463, at *3
22 (D. Ariz. Aug. 11, 2023), *reconsideration denied*, 2023 WL 5983801 (D. Ariz. Sept. 14, 2023). Habeas
23 corpus proceedings are the proper mechanism for a prisoner to challenge the "legality or
24 duration" of confinement. *Preiser v. Rodriguez*, 411 U.S. 475, 484, 93 S.Ct. 1827, 1833, 36 L.Ed.2d
25 439 (1973). A civil rights action, in contrast, is the proper method of challenging conditions of
26 confinement. *See Badea v. Cox*, 931 F.2d 573,574 (9th Cir. 1991).

1 Petitioner’s Fifth Ground for Relief does not challenge the legality or duration of his
2 confinement, and accordingly, it is inappropriately included in this habeas corpus petition.
3 Accordingly, Respondent Washoe County respectfully requests that it be dismissed from this
4 petition and that the Fifth Ground for Relief be dismissed in its entirety.

5 Dated this 16th day of November, 2023.

6 CHRISTOPHER J. HICKS
7 District Attorney

8 By /s/ Michael W. Large
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CERTIFICATE OF SERVICE

Pursuant to FRCP 5(b), I certify that I am an employee of the Office of the District Attorney of Washoe County, over the age of 21 years and not a party to nor interested in the within action. I certify that on this date, I deposited for mailing in the U.S. Mails, with postage fully prepaid, a true and correct copy of the foregoing document in an envelope addressed to the following:

JOSEPH CANTRELL
2300242
911 PARR BLVD.
RENO, NV 89512

Dated this 16th day November, 2023.

/s/ C. Theumer
C. Theumer