

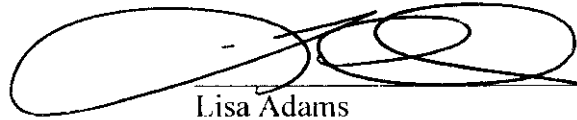
**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH DAKOTA  
WESTERN DIVISION**

|   |   |                                |
|---|---|--------------------------------|
| <b>WILLIAM BIRDNECKLACE,</b>            | ) |                                |
|   | ) |                                |
| <b>Plaintiff,</b>                       | ) | <b>Civil No. 07-5008</b>       |
|   | ) |                                |
| <b>v.</b>                               | ) | <b>AFFIDAVIT OF LISA ADAMS</b> |
| <b>JOHN YELLOW BIRD STEELE, et al.,</b> | ) |                                |
|   | ) |                                |
| <b>Defendants.</b>                      | ) |                                |
|   | ) |                                |

1. Lisa Adams, being duly sworn upon, deposes and states as follows:
2. I swear under penalty of perjury the following is true to the best of my knowledge:
3. My name is Lisa Adams.
4. I am the Chief Judge of the Oglala Sioux Tribal Court.
5. I was duly elected to that position in 2006 by the Oglala Sioux people.
6. William Birdnecklace submitted faxes to the Oglala Sioux Tribal Court from a Minnesota fax number.
7. I have saved a copy of his fax where he requested that OST enrolled members vote for him for President. I swear and verify that the attached fax is a true and unaltered copy of the fax my office received.
8. The originating number of the fax is 612-722-1978, a Minneapolis, Minnesota number.
9. Mr. Birdnecklace further gives that same number as his contact number.
10. I have personal knowledge that Mr. Birdnecklace petitioned to run for Oglala Sioux Tribal President on an absentee ballot from Minnesota.
11. I have only ever spoken to Mr. Birdnecklace in the Oglala Sioux Tribal Court house.
12. Any conversations I had about him were in my chambers, with the doors closed.
13. My chambers are only accessible from the court room or through two sets of doors leading off from the main hallway of the court house.
14. The conversation Mr. Birdnecklace claims to have overheard occurred in my chambers.
15. In my chambers, in the presence of two others, I questioned Mr. Birdnecklace's competence after reviewing the pleadings he filed in my Court and subsequently argued at a hearing.
16. Mr. Birdnecklace could not understand why I was granting summary judgment against his client because he failed to allege the necessary elements of a negligence claim.
17. I verify that the attached Memorandum In Support of Appellant's Notice of Appeal was submitted by Mr. Birdnecklace.

18. In that memorandum, it is clear that Mr. Birdnecklace neither understands does that there can be no breach of duty if there is no duty to act nor that a judge's grant of a motion to dismiss is not advocating on behalf of a party.
19. I was also disturbed by his frequent citations to admiralty law for cases that occurred entirely within the boundaries of the Pine Ridge Indian Reservation, a decidedly land locked area.
20. I had knowledge of numerous complaints against Mr. Birdnecklace by tribal members who hired him.
21. Many of his clients complained that he was not doing his promised work and was unreachable because he was living in Minnesota.
22. I warned Mr. Birdnecklace that if he were taking money from clients while living in Minnesota he would be in trouble with the Oglala Supreme Court.
23. Mr. Birdnecklace swore to me that he was returning all the money he took from clients.
24. I personally received the following described documents, and true and correct copies are attached as exhibits:
  - a. Fax from William Birdecklace, announcing his candidacy for Oglala Sioux Tribal President (Exhibit A).
  - b. Iron Cloud v. Butler Machinery, Memorandum In Support of Appellant's Notice of Appeal, submitted to the Oglala Sioux Tribal Court by William Birdnecklace (Exhibit B).

Dated this 1<sup>st</sup> day of October, 2007.

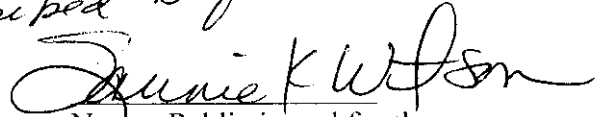


Lisa Adams

Dated this 1 day October, 2007.

*Sworn & Subscribed before me*

SEAL



Notary Public in and for the  
State of South Dakota

My Commission Expires 12/13/10.

WILLIAM BIRDNECKLACE FOR OST PRESIDENT

FACSIMILE TRANSMITTAL SHEET

|               |                                      |                                     |                                   |
|---------------|--------------------------------------|-------------------------------------|-----------------------------------|
| TO:           | OST Enrolled Voting Members          | FROM:                               | William Birdnecklace              |
| COMPANY:      | Courts / Prosecutors                 | DATE:                               | 09/28/2006                        |
| FAX NUMBER:   | Pine Ridge / Kyle.                   | TOTAL NO. OF PAGES INCLUDING COVER: | 6                                 |
| PHONE NUMBER: |                                      |                                     |                                   |
| RE:           | Write-In Ballot William Birdnecklace | YOUR REFERENCE NUMBER:              | Contact me today at: 612-722-1978 |

☐ URGENT ☐ FOR REVIEW ☐ PLEASE COMMENT ☐ PLEASE REPLY ☐ PLEASE RECYCLE

NOTES/COMMENTS:

1. Vote for William Birdnecklace (Volunteers welcome to Post and Distribute)!
2. Successful Senate and Congressional Candidates on Write-In Ballots
3. Affidavit and Notice of Declaration of Intent
4. Motion to Dismiss all charges against all OST Tribal Members.

www.courts.state.ma.us/lprb

AG 7651-296-6196  
651-266-3030

[CLICK HERE AND TYPE RETURN ADDRESS]

1 William Birdnecklace  
2 P.O. Box 525  
3 Manderson, SD 57756-0525  
4 605-441-7675

5 **Attorney for Appellant**

6 OGLALA SIOUX TRIBE  
7 OGLALA SIOUX TRIBAL COURT  
8 PINE RIDGE RESERVATION

ss. IN TRIBAL SUPREME COURT

9 Patrick Iron Cloud Sr. ) Case No.: CA 07-634  
10 Appellant, (Petitioner) )  
11 vs. ) MEMORANDUM IN SUPPORT OF  
12 Butler Machinery Co. ) PETITIONER'S MOTION TO PETITION  
13 Appellee ) THE COURT FOR RE-HEARING EN BANC  
14 )  
15 )

16 Memorandum in Support

17 I. Introduction

18 The Case

19 This case is derived from a dispute between Butler Machinery Co.  
20 and Patrick Iron Cloud Sr., for charges of rental fees on  
21 construction equipment rented by Mr. Iron Cloud on or about  
22 April 15, 2004. The actual dispute has never been heard by the  
23 trial court. The presiding judge was Lisa Adams, who was  
24 temporarily appointed to the position as Chief Judge by the OST  
25 Tribal Council of 2004-2006. Prior to December 5, 2006, this  
26 case was in pre-trial status, in consideration of a motion to  
27 dismiss this case filed by the petitioner herein.  
28  
29  
30

1 The presiding judge Lisa Adams submitted application to run in  
2 the tribal election of 2006 for position as Chief Judge, such  
3 nomination was ruled null and void by the Election Court of  
4 Appeals in October 2006; however, this court order was never  
5 honored by Lisa Adams nor any of the other nullified candidates.  
6 This case was proceeded to trial by Lisa Adams post December 5,  
7 2006, at which time a proper court order was in effect which  
8 nullified Lisa Adam's candidacy to elected office. Petitioner's  
9 attorney wrote a letter to the Appellee attorney of record to  
10 discuss resolution and a mutual request for a proper judge, in  
11 order to proceed with the dispute in a proper and legal court  
12 with a legal and proper presiding judge, in order to protect the  
13 due process rights of both parties.

14  
15 Attorney for Appellee did not respond to this request. Lisa  
16 Adams issued a final order against the petitioner herein.  
17 Petitioner appealed the decision. The appeal was denied.  
18 Petitioner now submits his motion for re-hearing en banc.

## 21 II. Law and Argument

### 22 Action of the Court

23 On May 4, 2007, the Oglala Sioux Tribe Supreme Court (OST Supra)  
24 convened to hear oral arguments in the case Iron Cloud vs.  
25 Butler Machinery Co. The Appellant's attorney of record was did  
26 not attend the hearing and submitted a faxed argument and  
27 statement to the court for consideration. This fax was accepted  
28 by the court officially for consideration in another case heard  
29 simultaneously, Birdnecklace v. White, which statement and  
30 argument was considered and reasoned in the "White" case,

1 however, the arguments submitted in the same fax and statement  
2 which were explicitly intended for the court in Iron Cloud v.  
3 Butler Machinery Co. were completely excluded from consideration  
4 in the court's final decision.

5  
6 Legitimacy of Trial Court

7 Prior to December 5, 2006 (the "inauguration" of the 2006-2008  
8 administration for the OST), the court was proper in that Lisa Adams  
9 the presiding judge was properly appointed by the 2004-2006  
10 administration for temporary service as OST Chief Judge as prescribed  
11 by law. However, a court order was issued in October 2006 ordering a  
12 new election and finding null and void all candidacies of all  
13 candidates at that time including Lisa Adams who was a candidate for  
14 OST Chief Judge.

15  
16 The trial court on its face is null and void and all its orders are  
17 null and void for reason of the person Lisa Adams having been found  
18 null and void by a proper court order issued and a currently standing  
19 order issued by the Election Court of Appeals. Because this situation  
20 exists which is extremely unique, this Supreme Court must consider its  
21 legitimacy regardless of procedure or motions submitted regarding this  
22 issue to the trial court. It would be legally incoherent for  
23 petitioner to have filed any motion to this effect to the trial court  
24 for the trial court to reason its own legitimacy. This is why the  
25 petitioner requested the attorney for the Appellee attorney to  
26 mutually agree to change judges. The appellant submits and raises  
27 such issues here in this motion to re-hear en banc.

28  
29 Issue 1: The subject matter of this case involves the court's  
30 legal definition of Oglala Lakota citizenship, is the court's  
acceptance of a null and void order issued by person currently

1 in commission of a criminal act (OSTL&OC Ch. 9 Sec. 72) and  
2 whose position is null and void in and of itself?

3 Chapter 9 section 72 of the OST Law and Order Code enumerates a  
4 criminal violation for anyone to actively violate a standing  
5 order of the court. The Election Court of Appeals issued an  
6 order in October 2006 which nullified the candidacy of Lisa  
7 Adams as a candidate for Chief Judge. This order is still  
8 standing, and a overt violation of this court order was carried  
9 out by Lisa Adams. Since Lisa Adams is and was in violation of  
10 a court order during the time of the issuance of a final trial  
11 order; Petitioner herein argues that Lisa Adams cease to be a  
12 proper jurist of the court, and violated the due process rights  
13 of the Petitioner by subjecting the court to a bias court and  
14 improper and illegally seated judge. The standing court order  
15 is not appealable by the OST Supreme Court as established by law  
16 OST Ord. 06-04, and the order in question is still standing and  
17 proper.  
18

19 This situation defines the trial court as void in its procedure  
20 and any orders issued by such. As the preamble of the OST  
21 Constitution stipulates that the OST will establish laws not in  
22 conflict with the Constitution of the United States, the U.S.  
23 Supreme Court found in regard to void orders that an improper  
24 court is  
25

26 "without authority, its judgments and orders are regarded as  
27 nullities. They are not voidable, but simply void; and form no  
28 bar to a recovery sought, even prior to a reversal in opposition  
29 to them. They constitute no justification; and all persons  
30 concerned in executing such judgments or sentences, are  
considered, in law, as trespassers." Elliot v. Piersol, 1 Pct.  
328, 340, 26 U.S. 328, 340 (1828)

1 Issue 2: The court's adherence to court procedure is proper in  
2 that an issue not raised in trial is inadmissible at appeal -  
3 however, is a trial and order null and void when it has been  
4 issued by individual whose position as judge was officially  
5 voided and nullified by a proper court, and by a current and  
6 standing court order?

7 The petitioner has a right to due process of law, which include  
8 an inalienable right to a proper and unbiased court. A court  
9 which presides in the best interest of law, and is established  
10 in law. However, the presiding judge is in violation of the law  
11 and the OST Code of Judicial Conduct outlined in Ch.1 of the  
12 OSTL&OC, Section 2.7 et. seq. Petitioner argues that the orders  
13 of Lisa Adams became null and void on December 5, 2006 and every  
14 order after which is null and void for reason of such contempt  
15 for law, as well as reasons of Lisa Adams' lack of membership to  
16 the tribe and inability for eligibility to participate in tribal  
17 elections as a candidate for any office and for position as  
18 Chief Judge of OST Courts.

19  
20 Issue 3: Does the petitioner have a duty and obligation to  
21 adhere to procedure where no procedure or process exists?

22 Petitioner has no ability to proceed with a void and null court,  
23 as the judge is not recognized by the law by any definition as a  
24 proper judge. The court therefore has no proper jurist prudence  
25 in order to proceed with any trial, and especially to consider  
26 any motion or in which to issue orders. No procedure or  
27 prescribed law exists in which describes how to proceed in a  
28 court which has a judge who is currently and criminally seated  
29 as judge with no proper authority by which to preside over the  
30 petitioner's dispute. Also, the OST laws do not prescribe a



1 procedure or process by which to file motions to a court  
2 presided by a person who is completely ineligible to participate  
3 in Lakota Affairs as a non-Indian elected official. This event  
4 of a non-Indian elected official is an impossibility as the OST  
5 Ordinances and laws dictate one must be a tribal member and  
6 provide proof of Indian blood to be nominated for any elected  
7 office (OST Ord. 06-04).

8  
9 Without a proper court to whom to submit pleadings, and that  
10 such a courts existence such as the one the petitioner was  
11 subject to, is a violation of due process rights possessed by  
12 petitioner and guaranteed to the petitioner as a tribal member  
13 by and through the OST Constitution.

14  
15 Issue 4: The court's final decision to establish a new  
16 definition of tribal citizenship, and the court's jurisdiction  
17 to make such changes to the OST Constitution without  
18 appropriation by the OST Tribal Council or approval by the U.S.  
19 Secretary of Interior; is this consistent with the OST  
20 Constitution, and imperially consistent with OST laws?

21 This Supreme Court has issued an order in this case, to uphold  
22 the orders of Lisa Adams. Petitioner argues this is a very  
23 important issue to re-hear for reason of the impact this  
24 decision may have upon the Oglala Nation, and the contradiction  
25 this decision in contrast to the law established to determine  
26 the eligibility of people to participate in Lakota Affairs as  
27 tribal members, to enroll in the tribe, to sit as an elected  
28 official of the Oglala Nation.

29 The court's decision to in effect redefine the definition of  
30 Lakota Citizenship as to include Lisa Adams in order to justify  
proper jurisprudence of the trial court's decision in this case

1 is imperative for a re-hearing, and for further deliberation of  
2 the matter, before this decision is made permanent for testing  
3 in federal or even South Dakota State Courts.

4  
5  
6 III. Conclusion

7 The Petitioner requests a re-hearing of this case to be  
8 scheduled, and for argument and evidence to be considered in  
9 full; for the very reason of the very importance of the  
10 decision's affect on the change in policy and law that would  
11 effectively disenfranchise the OST Constitution, and the  
12 enrolled members of the OST.

13  
14 For the foregoing reasons, this Court should grant a motion to  
15 re-hear en banc the above-mentioned case.

16  
17 Dated this 2<sup>nd</sup> day of July, 2007.

18  
19 By: 

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