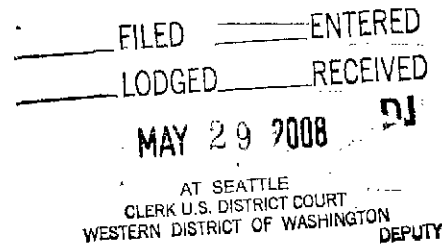


The Honorable



UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

Case No.

CV8 - 844 JLR

**PETITION FOR WRIT OF HABEAS
CORPUS**

Indian Civil Rights Act, 25 U.S.C. § 1303



08-CV-00844-CMP

BILL T SWEET, CAROLYN LUBENAU,
SHARON FRELINGER, MARILEE MAI,
VYONDA ROSE, LOIS SWEET DORMAN,
LINDA SWEET BAXTER, BEN SWEET, and
CHARLES "CHUCK" WILLOUGHBY,
Unlawfully Banished Enrolled Members of the
Snoqualmie Indian Tribe,

Petitioners,

v.

MARYANNE HINZMAN, ARLENE
VENTURA, MARGARET MULLEN,
KATHERINE M. BARKER, FRANCES DE
LOS ANGELES, ROBERT HINZMAN, NINA
REPIN, KANIUM VENTURA, JO-ANNE
DOMINICK, JERRY ENICK, NATHAN
"PAT" BARKER, and STACI MOSES, in their
official capacities as the purported Members of
the Snoqualmie Indian Tribal Council,

Respondents.

COMES NOW Petitioners, by and through their counsel of record, and hereby petition

the Court for a Writ of *Habeas Corpus* pursuant to the Indian Civil Rights Act of 1968, 25

U.S.C. §§ 1301-1303, for relief from the unlawful restraint on liberty imposed by Respondents

PETITION FOR WRIT OF HABEAS CORPUS
(CASE NO.) - PAGE 1

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ATER WYNNE LLP
LAWYERS
601 UNION STREET, SUITE 1501
SEATTLE, WA 98101-2341
(206) 623-4711

1 in the form of a resolution providing full permanent "banishment" from the Snoqualmie Indian
2 Tribe for alleged treasonous crimes without due process or equal protection of the laws.
3 Petitioners have been stripped of tribal membership, deprived of access to vital tribal services,
4 and "banished" from Tribal lands. This Court is the only forum available to test the legality of
5 Respondents' actions. Petitioners represent unto the Court as follows:

6
7 **I. INTRODUCTION**

8 1. Petitioners are "banished" for acts allegedly constituting *inter alia*, the crime of
9 "treason" by Respondents who purport to act as the Tribal Council of the Snoqualmie Indian
10 Tribe ("Tribe"), a federally recognized Indian tribe, without the slightest hint of legal authority.
11 Petitioners have had neither an opportunity nor an available forum to test the legality of the
12 banishment.

13 2. Banishment represents nothing less than the coerced and peremptory deprivation of
14 Petitioners' membership in the Tribe, as well as their social status and cultural affiliation.
15 Among other things, banishment results in a denial of access to critical services such as Indian
16 Health Services health care and loss of certain tribal employment opportunities. The exclusion
17 from Tribal lands and loss of Tribal identity are a severe restraint on Petitioners' personal
18 liberty. Banishment constitutes a punitive, criminal sanction for which relief can be sought
19 from this Court under the Indian Civil Rights Act, 25 U.S.C. § 1303.
20

21 3. Petitioners seek to be liberated from the unlawful restraint on their personal liberties
22 imposed by Respondents' unlawful banishment resolution and to have the purported
23 banishment resolution set aside and declared null and void.
24
25

II. JURISDICTION

1 4. The Court has jurisdiction, and the power to grant this Writ and the requested relief,
2 under 25 U.S.C. § 1303, which provides that the “privilege of the writ of habeas corpus shall
3 be available to any person, in a court of the United States, to test the legality of his detention by
4 order of an Indian tribe.”

5 5. To establish jurisdiction, petitioners seeking relief under 25 U.S.C. § 1303 must
6 establish that: (1) the proceeding at issue is criminal in nature; (2) the Tribe is unlawfully
7 restraining their personal liberty; and (3) they have exhausted all available tribal remedies.
8 *Quair v. Sisco*, 359 F. Supp.2d 948 (E.D. Cal. 2004). Petitioners’ allegations satisfy these
9 elements.
10

11 6. Respondents’ banishment resolution amounts to a criminal sanction resulting in a
12 severe restraint on liberty that is unlawful under Section 1302 of the Indian Civil Rights Act, as
13 well as Article XI of the Tribe’s Constitution which makes it unlawful to, among other things,
14 abridge the freedom of speech, deny any person equal protection of the laws, or deprive any
15 person of liberty without due process of law.
16

17 7. Petitioners have no other remedy. There are no tribal remedies to exhaust.
18 Respondents have denied Petitioners a means to contest the unlawful restraint on personal
19 liberty, and it would be futile to seek a tribal remedy as the governmental functions of the
20 Tribe are dominated by Respondents. The Tribe has no Tribal Court. There is no process for
21 review of an action of the Tribal Council. Where, as here, petitioners have been denied their
22 liberty without access to a forum to dispute the legality of the banishment, courts have properly
23 exercised jurisdiction. *Poodry v. Tonawanda Band of Seneca Indians*, 85 F.3d 874, 895-98 (2d
24 Cir. 1996) (holding that banishment of tribal members from their reservation is a sufficient
25

1 restraint on liberty to permit habeas jurisdiction under 25 U.S.C. § 1303); *see Hamdi v.*
2 *Rumsfeld*, 542 U.S. 507 (2004) (holding that even an “enemy combatant” must be afforded
3 judicial process to contest the validity of the restraint because “it would turn our system of
4 checks and balances on its head to suggest that a citizen could not make his way to court with a
5 challenge to the factual basis for his detention by his government, simply because the
6 Executive opposes making available such a challenge”).

7 8. Venue is proper in this district as all or a substantial part of the events or omissions
8 giving rise to the actions complained of herein occurred within this district. Petitioners’
9 liberties are restrained in this district. Respondents are residents within this district.

10 9. No other application for this Writ has been made to any other Judge or Court.

11 **III. PARTIES**

12 10. Petitioner Bill T Sweet is an enrolled member of the Snoqualmie Indian Tribe. In
13 May 2005, Petitioner Sweet was elected to serve as the Chairman of the Tribe’s Tribal Council
14 for a four year term. Petitioner was banished by the Respondents on April 27, 2008 for alleged
15 crimes amounting to treason as confirmed in the purported banishment resolution, Resolution
16 No. 49-08, dated May 8, 2008. Petitioner was not afforded an opportunity to contest the
17 allegations or challenge the banishment resolution. Petitioner is barred from Tribal lands and
18 has been stripped of his Tribal identity, constituting an unlawful restraint on liberty, without
19 access to the courts and in violation of his constitutional rights.

20 11. Petitioner Carolyn Lubenau is an enrolled member of the Snoqualmie Indian Tribe.
21 In May 2007, Petitioner Lubenau was elected to serve as a member of the Tribe’s Tribal
22 Council for a four year term. Petitioner was banished by Respondents on April 27, 2008 for
23
24
25

1 alleged crimes amounting to treason as confirmed in the purported banishment resolution,
2 Resolution No. 49-08, dated May 8, 2008. Petitioner was not afforded an opportunity to
3 contest the allegations or challenge the banishment resolution. Petitioner is barred from Tribal
4 lands and has been stripped of her Tribal identity, constituting an unlawful restraint on liberty,
5 without access to the courts and in violation of her constitutional rights.

6 12. Petitioner Marilee Mai is an enrolled member of the Snoqualmie Indian Tribe. In
7 May 2007, Petitioner Mai was elected to serve as an alternate member of the Tribe's Tribal
8 Council for a two year term. Petitioner was banished by Respondents on April 27, 2008 for
9 alleged crimes amounting to treason as confirmed in the purported banishment resolution,
10 Resolution No. 49-08, dated May 8, 2008. Petitioner was not afforded an opportunity to
11 contest the allegations or challenge the banishment resolution. Petitioner is barred from Tribal
12 lands and has been stripped of her Tribal identity, constituting an unlawful restraint on liberty,
13 without access to the courts and in violation of her constitutional rights.

14 13. Petitioner Sharon Frelinger is an enrolled member of the Snoqualmie Indian Tribe.
15 In May 2007, Petitioner Frelinger was elected to serve as a member of the Tribe's Tribal
16 Council for a four year term. Petitioner was banished by Respondents on April 27, 2008 for
17 alleged crimes amounting to treason as confirmed in the purported banishment resolution,
18 Resolution No. 49-08, dated May 8, 2008. Petitioner was not afforded an opportunity to
19 contest the allegations or challenge the banishment resolution. Petitioner is barred from Tribal
20 lands and has been stripped of her Tribal identity, constituting an unlawful restraint on liberty,
21 without access to the courts and in violation of her constitutional rights.

22 14. Petitioner Vyonda Rose is an enrolled member of the Snoqualmie Indian Tribe. In
23
24
25

1 May 2005, Petitioner Rose was elected to serve as a member of the Tribe's Tribal Council to a
2 four year term. Petitioner was banished by Respondents on April 27, 2008 for alleged crimes
3 amounting to treason as confirmed in the purported banishment resolution, Resolution No. 49-
4 08, dated May 8, 2008. Petitioner was not afforded an opportunity to contest the allegations or
5 challenge the banishment resolution. Petitioner is barred from Tribal lands and has been
6 stripped of her Tribal identity, constituting an unlawful restraint on liberty, without access to
7 the courts and in violation of her constitutional rights.

8 15. Petitioner Lois Sweet Dorman is an enrolled member of the Snoqualmie Indian
9 Tribe. Petitioner was banished by Respondents on April 27, 2008 for unknown crimes as
10 confirmed in the purported banishment resolution, Resolution No. 49-08, dated May 8, 2008.
11 Petitioner was not afforded an opportunity to contest the allegations or challenge the
12 banishment resolution. Petitioner is barred from Tribal lands and has been stripped of her
13 Tribal identity, constituting an unlawful restraint on liberty, without access to the courts and in
14 violation of her constitutional rights.

15 16. Petitioner Linda Sweet Baxter is an enrolled member of the Snoqualmie Indian
16 Tribe. Petitioner was banished by Respondents on April 27, 2008 for alleged crimes
17 amounting to treason as confirmed in the purported banishment resolution, Resolution No. 49-
18 08, dated May 8, 2008. Petitioner was not afforded an opportunity to contest the allegations or
19 challenge the banishment resolution. Petitioner is barred from Tribal lands and has been
20 stripped of her Tribal identity, constituting an unlawful restraint on liberty, without access to
21 the courts and in violation of her constitutional rights.

22 17. Petitioner Ben Sweet is an enrolled member of the Snoqualmie Indian Tribe.
23
24
25

1 Petitioner was banished by Respondents on April 27, 2008 for the alleged crime of "treason" as
 2 confirmed in the purported banishment resolution, Resolution No. 49-08, dated May 8, 2008.

3 Petitioner was not afforded an opportunity to contest the allegations or challenge the
 4 banishment resolution. Petitioner is barred from Tribal lands and has been stripped of his
 5 Tribal identity, constituting an unlawful restraint on liberty, without access to the courts and in
 6 violation of her constitutional rights.

7 18. Petitioner Charles "Chuck" Willoughby is an enrolled member of the Snoqualmie
 8 Indian Tribe. Petitioner was banished by Respondents on April 27, 2008 for alleged crimes
 9 amounting to treason as confirmed in the purported banishment resolution, Resolution No. 49-
 10 08, dated May 8, 2008. Petitioner was not afforded an opportunity to contest the allegations or
 11 challenge the banishment resolution. Petitioner is barred from Tribal lands and has been
 12 stripped of his Tribal identity, constituting an unlawful restraint on liberty, without access to
 13 the courts and in violation of his constitutional rights.

14 19. Respondent Maryanne Hinzman is an enrolled member of the Snoqualmie Indian
 15 Tribe.¹ At all times relevant herein, Respondent has been participating in the illegal shadow
 16 government that is purporting to serve as the Tribe's Tribal Council. Respondent participated
 17 in the meeting that resulted in the banishment of Petitioners, failed to provide Petitioners with
 18 an opportunity to contest the allegations against them, and signed the banishment resolution,
 19
 20
 21

22 ¹ Respondents are sued in their official capacity as the purported members of the Snoqualmie Indian Tribe
 23 Tribal Council. In so alleging, Petitioners do not waive their argument that Respondents are not the duly-elected
 24 members of the Tribal Council and do not waive their argument that the actions taken by Respondents are invalid,
 25 unlawful, and of no force or effect. Respondents have acted and continue to act in a manner that is contrary to the
 Constitution and laws of the Tribe. Respondents do not have sovereign immunity, especially where, as here,
 allegations of personal restraint and deprivation of personal rights have been raised. *Dry Creek Lodge v. Arapahoe
 and Shoshone Tribes*, 515 F.2d 926 (10th Cir. 1975). Respondents' actions are not insulated from habeas review
 merely because they involve or affect membership in the Tribe.

1 Resolution No. 49-08, dated May 8, 2008. Petitioners' individual liberty is restrained as a
2 result of Respondent's actions. Respondent is sued in her official capacity, which, as of the
3 date of this filing, purports to be "Chairwoman."

4 20. Respondent Arlene Ventura is an enrolled member of the Snoqualmie Indian Tribe.
5 At all times relevant herein, Respondent has been participating in the illegal shadow
6 government that is purporting to serve as the Tribe's Tribal Council. Respondent participated
7 in the meeting that resulted in the banishment of Petitioners, failed to provide Petitioners with
8 an opportunity to contest the allegations against them, and signed the banishment resolution,
9 Resolution No. 49-08, dated May 8, 2008. Petitioners' individual liberty is restrained as a
10 result of Respondent's actions. Respondent is sued in her official capacity, which, as of the
11 date of this filing, purports to be "Secretary."

13 21. Respondent Margaret Mullen is an enrolled member of the Snoqualmie Indian
14 Tribe. At all times relevant herein, Respondent has been participating in the illegal shadow
15 government that is purporting to serve as the Tribe's Tribal Council. Respondent participated
16 in the meeting that resulted in the banishment of Petitioners, failed to provide Petitioners with
17 an opportunity to contest the allegations against them, and, on information and belief voted in
18 favor of or otherwise supported the banishment resolution, Resolution No. 49-08, dated May 8,
19 2008. Petitioners' individual liberty is restrained as a result of Respondent's actions.
20 Respondent is sued in her official capacity, which, as of the date of this filing, purports to be
21 "Treasurer."

23 22. Respondent Katherine M. Barker is an enrolled member of the Snoqualmie Indian
24 Tribe. At all times relevant herein, Respondent has been participating in the illegal shadow
25

1 government that is purporting to serve as the Tribe's Tribal Council. Respondent participated
2 in the meeting that resulted in the banishment of Petitioners, failed to provide Petitioners with
3 an opportunity to contest the allegations against them, and, on information and belief voted in
4 favor of or otherwise supported the banishment resolution, Resolution No. 49-08, dated May 8,
5 2008. Petitioners' individual liberty is restrained as a result of Respondent's actions.
6 Respondent is sued in her official capacity, which, as of the date of this filing, purports to be
7 "Honorary Lifetime Member."

8
9 23. Respondent Frances de los Angeles is an enrolled member of the Snoqualmie
10 Indian Tribe. At all times relevant herein, Respondent has been participating in the illegal
11 shadow government that is purporting to serve as the Tribe's Tribal Council. Respondent
12 participated in the meeting that resulted in the banishment of Petitioners, failed to provide
13 Petitioners with an opportunity to contest the allegations against them, and, on information and
14 belief voted in favor of or otherwise supported the banishment resolution, Resolution No. 49-
15 08, dated May 8, 2008. Petitioners' individual liberty is restrained as a result of Respondent's
16 actions. Respondent is sued in his official capacity, which, as of the date of this filing, purports
17 to be "Council Member."

18
19 24. Respondent Robert Hinzman is an enrolled member of the Snoqualmie Indian
20 Tribe. At all times relevant herein, Respondent has been participating in the illegal shadow
21 government that is purporting to serve as the Tribe's Tribal Council. Respondent participated
22 in the meeting that resulted in the banishment of Petitioners, failed to provide Petitioners with
23 an opportunity to contest the allegations against them, and, on information and belief voted in
24 favor of or otherwise supported the banishment resolution, Resolution No. 49-08, dated May 8,
25

1 2008. Petitioners' individual liberty is restrained as a result of Respondent's actions.

2 Respondent is sued in his official capacity, which, as of the date of this filing, purports to be

3 "Council Member."

4 25. Respondent Nina Repin is an enrolled member of the Snoqualmie Indian Tribe. At
5 all times relevant herein, Respondent has been participating in the illegal shadow government
6 that is purporting to serve as the Tribe's Tribal Council. Respondent participated in the
7 meeting that resulted in the banishment of Petitioners, failed to provide Petitioners with an
8 opportunity to contest the allegations against them, and, on information and belief voted in
9 favor of or otherwise supported the banishment resolution, Resolution No. 49-08, dated May 8,
10 2008. Petitioners' individual liberty is restrained as a result of Respondent's actions.

11 2008. Petitioners' individual liberty is restrained as a result of Respondent's actions.

12 Respondent is sued in her official capacity, which, as of the date of this filing, purports to be

13 "Council Member."

14 26. Respondent Kanium Ventura is an enrolled member of the Snoqualmie Indian
15 Tribe. At all times relevant herein, Respondent has been participating in the illegal shadow
16 government that is purporting to serve as the Tribe's Tribal Council. Respondent participated
17 in the meeting that resulted in the banishment of Petitioners, failed to provide Petitioners with
18 an opportunity to contest the allegations against them, and, on information and belief voted in
19 favor of or otherwise supported the banishment resolution, Resolution No. 49-08, dated May 8,
20 2008. Petitioners' individual liberty is restrained as a result of Respondent's actions.

21 2008. Petitioners' individual liberty is restrained as a result of Respondent's actions.

22 Respondent is sued in his official capacity, which, as of the date of this filing, purports to be

23 "Council Member."

24 27. Respondent Jo-Anne Dominick is an enrolled member of the Snoqualmie Indian
25

1 Tribe. At all times relevant herein, Respondent has been participating in the illegal shadow
2 government that is purporting to serve as the Tribe's Tribal Council. Respondent participated
3 in the meeting that resulted in the banishment of Petitioners, failed to provide Petitioners with
4 an opportunity to contest the allegations against them, and, on information and belief voted in
5 favor of or otherwise supported the banishment resolution, Resolution No. 49-08, dated May 8,
6 2008. Petitioners' individual liberty is restrained as a result of Respondent's actions.
7 Respondent is sued in her official capacity, which, as of the date of this filing, purports to be
8 "Council Member."
9

10 28. Respondent Jerry Enick is an enrolled member of the Snoqualmie Indian Tribe. At
11 all times relevant herein, Respondent has been participating in the illegal shadow government
12 that is purporting to serve as the Tribe's Tribal Council. Respondent Enick overstepped his
13 role as non-voting honorary Chief of the Tribe to assume power of the Tribal Council's day-to-
14 day business and orchestrated the overthrow of the Tribe's Constitutionally-elected
15 government to act in the place of the duly elected Chairman. Respondent participated in the
16 meeting that resulted in the banishment of Petitioners, failed to provide Petitioners with an
17 opportunity to contest the allegations against them, and, on information and belief voted in
18 favor of or otherwise supported the banishment resolution, Resolution No. 49-08, dated May 8,
19 2008. Petitioners' individual liberty is restrained as a result of Respondent's actions.
20 Respondent is sued in his official capacity, which, as of the date of this filing, purports to be
21 "Chief," "Head Chief," or, on information and belief, "Chairman."
22

23 29. Respondent Nathan "Pat" Barker is an enrolled member of the Snoqualmie Indian
24 Tribe. At all times relevant herein, Respondent has been participating in the illegal shadow
25

1 government that is purporting to serve as the Tribe's Tribal Council. Respondent participated
2 in the meeting that resulted in the banishment of Petitioners, failed to provide Petitioners with
3 an opportunity to contest the allegations against them, and, on information and belief voted in
4 favor of or otherwise supported the banishment resolution, Resolution No. 49-08, dated May 8,
5 2008. Petitioners' individual liberty is restrained as a result of Respondent's actions.

6 Respondent is sued in his official capacity, which, as of the date of this filing, purports to be
7 "Sub-Chief" and/or "Council Member."

8
9 30. Respondent Staci Moses is an enrolled member of the Snoqualmie Indian Tribe. At
10 all times relevant herein, Respondent has been participating in the illegal shadow government
11 that is purporting to serve as the Tribe's Tribal Council. Respondent participated in the
12 meeting that resulted in the banishment of Petitioners, failed to provide Petitioners with an
13 opportunity to contest the allegations against them, and, on information and belief voted in
14 favor of or otherwise supported the banishment resolution, Resolution No. 49-08, dated May 8,
15 2008. Petitioners' individual liberty is restrained as a result of Respondent's actions.
16 Respondent is responsible for the unlawful restraint on liberty. Respondent is sued in her
17 official capacity, which, as of the date of this filing, purports to be "Alternate Council Member."
18

19 **IV. STATEMENT OF FACTS**

20 **A. Overview of the Tribe's Constitutional Governing Structure**

21 31. The Snoqualmie Indian Tribe is a federally recognized Indian tribe with 637
22 enrolled members as of December 31, 2006. The Tribe regained Federal recognition in
23 October 1999.
24

25 32. The Snoqualmie tribal government operates pursuant to the Constitution of the

1 Snoqualmie Indian Tribe, approved by the United States on October 22, 2002, and is governed
2 by an eleven member Tribal Council, nine of whom have regular voting rights on the council.
3 The Chairman only votes in the event of a tie vote. The nine regular Tribal Council members
4 are elected to serve staggered four-year terms. Two alternate Tribal Council members serve
5 two-year terms. Alternates attend all scheduled Tribal Council meetings but neither count for
6 purposes of establishing a quorum nor possess voting rights, unless the Tribal Council has not
7 achieved a quorum, in which case one (whose participation is resolved by the Chairman) or, if
8 needed, both alternates may be counted for such purposes.
9

10 33. In addition to the eleven total regular and alternate Tribal Council members, there
11 are three honorary non-voting positions. The Tribe's "Chiefs Council" (a separate entity of the
12 Tribe currently made up of a Chief (Respondent Jerry Enick) and a Sub-chief (Respondent
13 Nathan "Pat" Barker, who is also on the Tribal Council)), addresses Tribal cultural and non-
14 business matters, and may attend and participate in Tribal Council meetings. The Chief is not
15 counted for purposes of establishing a quorum of the Tribal Council and may not vote on
16 Tribal Council decisions unless needed to establish a quorum, provided the Alternates have
17 been included for purposes of establishing a quorum or are unavailable. There is also a
18 honorary Lifetime Council member position that does not vote or count for purposes of
19 establishing a quorum.
20

21 34. The Tribal Council performs the legislative and executive functions of the Tribal
22 government and possesses the authority to take certain enumerated acts. The Tribe's
23 Constitution reserves to the Tribe's General Council, made up of all tribal members, certain
24 other powers. No power of any kind is granted or reserved to the honorary Chief.
25

B. May 12, 2007 General Membership Annual Meeting and Elections

35. On April 20, 2007, notice was provided concerning the May 12, 2007 General Membership annual meeting in accordance with the requirements of Article III, Section 3(b) of the Tribe's Constitution. The agenda included elections as an action item.

36. On May 12, 2007, the duly noticed general membership meeting was held at the Monroe Longhouse at the Evergreen State fairgrounds. Petitioner Bill T Sweet, as Chairman of the Snoqualmie Tribe, presided at the meeting. After obtaining a quorum of the Tribal Council and the General Council, the meeting proceeded to the business at hand which included the election of six Tribal Council positions: four four-year terms for regular Council positions and two two-year terms for Alternate positions. Only persons with valid tribal identification cards, confirmed by the Enrollment Officer, were issued green voter bracelets and were eligible to vote.

37. Elections were held and the six Council positions were filled. The four newly elected full-time members of the Tribal Council included tribal members Sharon Frelinger and Carolyn Lubenau, as well as Elise Erickson, and Mary Ann Hinzman. Alternate Council members Marilee Mai and Robert Hinzman were also elected.

38. Upon the conclusion of the election, and the subsequent internal selection of officer positions, the elected members of the Tribal Council were as follows: Chairman, Bill T Sweet; Vice-Chairwoman Carolyn Lubenau; Treasurer, Sharon Frelinger; Secretary, Vyonda Rose; Council Members Mary Ann Hinzman, Elise Erickson, Frances de los Angeles, Nina Ripen; Arlene Ventura; and Nathan "Pat" Barker; and Alternate Council Members Robert Hinzman and Marilee Mai. The Chiefs Council was comprised of Sub-Chief Nathan "Pat" Barker and

Chief Jerry Enick. There is also the honorary position of Lifetime Council member held by Katherine Barker.

C. Subsequent Meetings of the Tribal Council

39. Regular meetings of the Tribal Council were held on May 31, 2007; June 28, 2007; July 12, 2008; July 26, 2007; and August 16, 2007. A Special Tribal Council meeting was held on July 30, 2007. At no time was there a challenge to the membership of the Tribal Council. No concerns were expressed about the veracity of May 12, 2007 election.

D. Respondent Enick's Government Take-Over

40. A regular Tribal Council meeting was held on August 16, 2007. During the agenda item "New Business of the Tribal Council," Respondent Enick, the ceremonial honorary Chief, had his spokesperson Joe Mullen read from a letter stating the Chief's discontent with what he perceived to be the fact that "Members who were against the Tribe having a casino" are now on the Tribal Council. Respondent Enick concludes the letter as follows:

As . . . traditional Chief of the Snoqualmie Tribe, I declare that the Snoqualmie Tribal Chairman and the Snoqualmie Tribal Council members elected in May 2007 are suspended from the Tribal Council and all committees until there is a meeting of the membership to have new elections.

41. Attached to his letter were two petitions. The first was a "petition to recall the Tribal Chairman Bill T Sweet." The second "petition is a referendum petition that declares the elections of May 12, 2007 invalid." The letter does not provide any detail as to why the May 12, 2007 meeting should be declared invalid.

E. Unsuccessful Effort to Mediate Dispute

42. On August 23, 2007, the Tribal Administrator and Tribal In-House Counsel issued a memorandum to the Tribal Council providing a "Staff Recommendation to Resolve Inter-tribal

Dispute.”

43. The memorandum concluded that Respondent Enick’s “petition” to declare the May 12, 2007 meeting invalid should be treated as a “referendum” even though the petition was cleared labeled as a “Petition.” Upon changing the nature of the “petition” to a “referendum,” the Tribal Administrator stated that the referendum had received enough signatures to be called for a vote. The difference in treatment is significant. A referendum requires 35 signatures to be scheduled for vote; a petition requires the signatures of 1/3 of the eligible voters of the Snoqualmie Indian Tribe. *Compare* CONST. art. XII, § 1 *with* CONST. art. VII, § 3. It is much easier to qualify a referendum for a vote.

44. The memorandum directed the Chairman to call a vote on the referendum as provided in the Tribe’s Constitution. Because Respondent Enick had “suspended” the Chairman, no such vote was ever called.

45. The memorandum stated that staff was still working to verify that sufficient eligible signatures had been gathered for the petition to recall the Chairman.

46. With respect to the declared “suspension” of the Tribal Council by Respondent Enick, the Tribal Administrator and In-House Counsel inexplicably concluded that although:

the Snoqualmie Tribal Constitution does not include a provision that explicitly gives the Chief the authority to suspend individual Council members . . . because the Chief is a traditional position, not one created under the [Constitution] . . . the Constitution does not set forth the parameters of the traditional Chief’s authority. . . . That omission does not mean, however, that the Chief authority does not exist.

The memorandum stops short of affirming Respondent Enick’s action, instead stating vaguely that “this is a complicated Indian law matter with no cut and dry answer.” Without answering

the question, the memorandum suggested that a mediator be hired to broker a resolution.

1 47. Four days later, on August 23, 2007, the Tribal Administrator, apparently acting
2 under his own authority, took action to change the locks at the Tribal Administration Building.
3 Petitioner Sweet, who was still Chairman, was not consulted about the change of locks until
4 after the locks had been changed.

5 48. On August 29, 2007, the Tribal Administrator and In-House Counsel issued another
6 memorandum providing a list of five potential mediators to resolve the suspension dispute. A
7 mediator was ultimately chosen and a site selected by agreement of all parties. Respondents
8 never met with the mediator.
9

10 **F. Unlawful September 8, 2007 Quarterly General Membership Meeting**

11 49. On August 10, 2007, notice was provided by the duly elected Tribal Council of a
12 quarterly General Membership Meeting to take place at the Tribal Administration Building at
13 11:00 am on September 8, 2007. Nothing in the notice and agenda for the General Meeting
14 discusses elections or membership issues. This is consistent with Tribal law which provides
15 that elections only take place at the annual meeting in May. *See* CONST. Art. III, §§ 3(a), 3(d),
16 3(h).
17

18 50. On August 23, 2007, Respondent Ventura, acting on behalf of Respondent Enick's
19 shadow government, using letterhead indicating "Tribal Council: Suspended by order of Chief
20 Enick pending petition Review," sent a notice indicating that the meeting location was changed
21 to the Evergreen State Fair Grounds. The notice does not mention the agenda and does not
22 make any changes to the agenda.
23

24 51. There is no known transcript of the September 8, 2007 meeting. On information
25 and belief, the following events took place at the meeting: Respondent Enick started the

1 meeting by introducing three chiefs from First Nation groups in Canada to discuss a Chief's
2 roles and responsibilities under Canadian tribal law; Pete Connick, an attorney apparently
3 representing Respondent Enick, stated that Respondent Enick had the power to call elections
4 and suspend the Tribal Council because the Constitution was silent as to the Chief's roles and
5 responsibilities; the meeting was called to order without a quorum of the Tribal Council; the
6 Chairman did not preside over the meeting as required by the Tribe's Constitution (CONST. art.
7 V, § 2); and, an election commenced where new members of the Tribal Council hand-picked
8 by Respondent Enick were purported to have been elected. This election went forward despite
9 the fact that Petitioners were not removed from office or replaced pursuant to the Tribe's
10 Constitution before new persons were purportedly elected.

12 52. On information and belief, there were insufficient signatures on the petition to recall
13 Petitioner Sweet as Chairman and no vote took place to recall the Chairman.

14 53. Grievances were filed by certain tribal members with the Tribe's In-House Counsel
15 concerning the conduct of the meeting. No response has been received.

16 54. The day after the September 8, 2007 General Membership Meeting, Petitioner
17 Lubenau organized and submitted three referendums to the Tribe's In-House Counsel
18 concerning the meeting and seeking to restore the May 12, 2007 duly elected government.
19 Each referendum was accompanied by more than the minimum signatures necessary to qualify
20 a referendum for a vote. No response has been received.

22 **G. Purported Special Tribal Council Meeting on October 4, 2007**

23 55. On October 4, 2007, a "Special Tribal Council Meeting" was called by Respondents
24 for the stated purposes of "electing officers." As of that date, Respondents' purported Tribal
25

1 Council was comprised of the following persons: "Chief, Jerry Enrick; Frances de los
2 Angeles, Staci Moses, Arlene Ventura, Margaret Mullen, Yvonda Rose, Nathan Barker, Joanne
3 Dommick, Bill Sweet, Nina Repin, Bobby Hinzman, Maryann Hinzman, and Katherine
4 Barker."

5 **H. Unlawful Voter Disenfranchisement Letters**

6 56. In undated letters received in March 2008, Petitioners, members of their families,
7 and approximately 40-60 other enrolled Snoqualmie tribal members, began receiving voter
8 disenfranchisement letters from Cheryl Mullen, the Enrollment Officer acting on behalf of
9 Respondents. The self-executing letters state as follows:
10

11 On January 10, 2008, the Tribal Council reaffirmed the 1/8 blood
12 quantum requirement for voting members (this provision is also
13 found in the Tribe's Constitution, Article II, Sec. 1). Tribal
14 enrollment records show that you are below the 1/8th Snoqualmie
15 blood quantum requirement. The Council directed me to advise all
members on Tribal roll below the 1/8th Snoqualmie blood
quantum requirement that you are not allowed to vote or hold
office in the Tribe. Other rights and benefits will continue.

16 This is the first indication, at any time, that these previously enrolled Snoqualmie tribal
17 members now, somehow, are below the 1/8 blood quantum to vote or hold office. The letters,
18 on their face, do no more than purport to state that the members are losing their right to vote
19 and hold office. There is no means provided to challenge the loss of voting rights.
20

21 57. The letters were accompanied by Respondents' "Resolution No. 07-2008"
22 discussing the membership criteria. No documentation was produced with the letters to
23 indicate why Respondents believe that these enrolled tribal members lack the requisite blood
24 quantum to vote or hold office. As of the date of this filing, no documentation has been
25 produced by Respondents.

I. Unlawful Rejection of Requests for Meeting to Discuss Disenfranchisement

58. Members of the tribal community receiving the disenfranchisement letters asked for a meeting with Respondents to discuss the issue and obtain access to documents.

59. On March 6, 2008, Respondents responded with a letter indicating that “[m]eetings with the Council are unnecessary in view of the clear requirement of 1/8th Snoqualmie blood.”

60. The March 6, 2008 letter also lists the persons who were purporting to operate the tribal government as of that date. Respondents’ purported government is as follows: “Jerry Enick – Tribal Chief;” “Tribal Secretary” Arlene Ventura; Margaret Mullen who is now identified as “Treasurer;” Mary Ann Hinzman who is now identified as “Vice-Chair;” Nina Repin who is identified as “Deputy Secretary;” Kathy Barker who is identified as “Lifetime Council; and “Tribal Council Members” Robert Hinzman, Frances de los Angeles, Kanium Ventura, Nathan Barker, and Joanne Dominick. Staci Moses is identified as a Tribal Council member in the letter’s footer, but did not sign the letter.

J. Respondents’ Purported Resolutions of Discipline Supporting Banishment

61. On April 12, 2008, Respondents issued purported “resolutions of discipline” directed at Petitioners. The resolutions were signed by Respondent “Mary Anne Hinzman, Vice-Chair” and Respondent “Arlene Ventura, Tribal Secretary.”

62. The resolutions indicate that the recipients are purportedly “Socially banished . . . until the Special April Membership Meeting.” The resolutions immediately effect banishment, without any due process, as they purport to prohibit the recipients from “participating in Tribal events or being on the premises of Snoqualmie Tribal properties or lands until the special membership meeting.”

63. The purported “resolutions of discipline” provide the allegations supporting banishment. The resolutions state that banishment will be for the alleged crime of “treason” or for acts that constitute the crime of treason, such as “attempting to form a shadow government and for undermining Tribal sovereignty.” The Resolutions noted the intention of respondents to “recommend[] to the General Membership to banish [the recipient].” Each resolution is Petitioner-specific and states different, often vague, criminal acts allegedly requiring banishment.

64. “Resolution of Discipline” No. 29-2008 directed at Petitioner Bill T Sweet indicates the intention of Respondents to “recommend[] to the General Membership to banish Mr. Bill T. Sweet for undermining Tribal sovereignty and attempting to injure the Snoqualmie Tribal Community in order to assert his own political agenda”

65. “Resolution of Discipline” No. 30-2008 directed at Petitioner Frelinger indicates the intention of Respondents to “recommend[] to the General Membership to banish Ms. Frelinger for attempting to form a shadow government and for undermining Tribal sovereignty and attempting to injure the Snoqualmie Tribal Community in order to assert her own political agenda”

66. “Resolution of Discipline” No. 31-2008 directed at Petitioner Rose indicates the intention of Respondents to “recommend[] to the General Membership to banish Ms. Rose for failing to return tribal Property after being removed as Tribal Secretary and attempting to form a shadow government and for undermining Tribal sovereignty and attempting to injure the Snoqualmie Tribal Community in order to assert her own political agenda”

67. “Resolution of Discipline” No. 32-2008 (dated April 8, 2008) directed at Petitioner

1 Lubenau indicates the intention of Respondents to “recommend[] to the General Membership
2 to banish Ms. Lubenau for attempting to form a shadow government and for undermining
3 Tribal sovereignty and attempting to injure the Snoqualmie Tribal Community in order to
4 assert her own political agenda”

5 68. “Resolution of Discipline” No. 33-2008 directed at Petitioner Mai indicates the
6 intention of Respondents to “recommend[] to the General Membership to banish Ms. Mai for
7 attempting to form a shadow government and for undermining Tribal sovereignty and
8 attempting to injure the Snoqualmie Tribal Community in order to assert her own political
9 agenda”

10 69. “Resolution of Discipline” No. 34-2008 directed at Petitioner Willoughby indicates
11 the intention of Respondents to “recommend[] to the General Membership to banish Mr.
12 Willoughby for “repeated conduct unbecoming a tribal member” described as “a pattern of
13 aggressive behavior towards tribal elders and staff over the past few years” and “for
14 undermining Tribal Sovereignty by participating in efforts to form a shadow government.”

15 70. “Resolution of Discipline” No. 36-2008 directed at Petitioner Linda Sweet Baxter
16 indicates the intention of Respondents to “recommend[] to the General Membership to banish
17 Ms. Linda Sweet Baxter for “conduct unbecoming a tribal member and supposed spiritual
18 leader” described as “demonstrated inappropriate conduct as a supposed religious leader in
19 admonishing tribal elders in the name of the great spirit” and “for undermining Tribal
20 Sovereignty by participating in efforts to form a shadow government.”

21 71. “Resolution of Discipline” No. 37-2008 directed at Petitioner Ben Sweet indicates
22 the intention of Respondents to “recommend[] to the General Membership to banish Mr. Ben
23
24
25

1 Sweet for treason and undermining Tribal Sovereignty by participating in efforts to form a
2 shadow government.”

3 72. Petitioner Lois Sweet Dorman did not receive a Resolution of Discipline. Petitioner
4 does not know what the criminal charge is against her warranting purported banishment.

5 **K. Purported Banishment Meeting**

6 73. On April 14, 2008, Respondents published notice of a “Emergency Snoqualmie
7 Tribe Membership Meeting” for April 27, 2008. The agenda listed as a business item
8 “Banishment.”

9 74. On April 18, 2008, Respondents issued an open letter to Tribal members stating that
10 “Mr. Bill T. Sweet is no longer Chairman of the Snoqualmie Indian Tribe. He has been
11 removed by will of the people, the Head Chief, and the Tribal Council.” Petitioner Sweet has
12 no idea when this purported “removal” occurred or under what legal authority.
13

14 75. The open letter also states that the April 27, 2008 meeting would consider
15 “banishment of individuals from the Sweet/ Willoughby family that are attempting to form an
16 illegal shadow government. . . . the Tribal Council is recommending full banishment.”
17

18 76. The open letter is signed by a new cast of characters purporting to act on behalf of
19 the tribal government: “Jerry Enick, Head Chief”; Nathan Patrick Barker, Chief; Mary Anne
20 Hinzman; Frances de los Angeles; Arlene Ventura; Margaret Mullen; Lifetime, Kathy Barker;
21 Robert Hinzman; Nina Repin; Kanium Ventura; Jo-Anne Dominick; Staci Moses, Alternate;
22 Earl Moses, Elder; Ray Mullen; Josephine Gabel, Elder.”

23 77. On information and belief, Respondents issued new “preferred voter” cards to a
24 selected group of enrolled Snoqualmie Tribal Members on April 25, 2008. Only these
25

1 “preferred voters” were to be allowed to vote at the meeting held on April 27, 2008.

2 78. On April 27, 2008, Respondents purported to hold an Emergency Snoqualmie Tribe
3 Membership Meeting.

4 79. Petitioners were not allowed into the meeting. Petitioners were restrained by hotel
5 security and members of the Issaquah Police Department from being lawfully present in a
6 public place, the Hilton Garden Inn, where the meeting was taking place. Petitioners never
7 made it farther than the lobby.

8 80. Petitioners were not allowed to contest the criminal allegations against them.

9 81. Petitioners were not allowed to confront their accusers.

10 82. Petitioners were not allowed to present witnesses on their behalf.

11 83. Petitioners were subject to threats and verbal harassment from Respondent Enick’s
12 supporters who brandished t-shirts stating “Followers of Chief Enick – Yeah, that’s right, the
13 REAL Indians.”

14 84. No authority has been granted Respondents to order Petitioners banished from tribal
15 lands or to call a general membership meeting to purport to hold a vote concerning banishment.
16

17 85. According to a press release issued by Respondents on April 28, 2008, “At a
18 meeting of the Snoqualmie Tribal Membership on April 27, 2008 in Issaquah, WA nine (9)
19 individuals were fully banished. These individuals are no longer members of the tribe.”
20

21 86. The press release issued April 28, 2008 by Respondents revises the “officer
22 positions” of the cast of characters purporting to operate the tribal government again: “Tribal
23 Chairman, Maryann Hinzman,; Secretary; Arlene Ventura; Treasurer, Margaret Mullen;
24 Honorable Lifetime, Katherine M. Barker; Council: Frances de los Angeles, Robert Hinzman,
25

1 Nina Repin, Kanium Ventura Jo-Anne Dominick; Chief, Jerry Enrick; Sub-Chief, Nathan (Pat)
2 Barker, Alternates: Staci Moses.” It is unknown who is and is not a voting member of the
3 purported Tribal Council.

4 **L. Purported Banishment Resolution Dated May 8, 2008**

5 87. On May 8, 2008, a banishment resolution, Resolution No. 49-08, was submitted to
6 the United States Bureau of Indian Affairs by Respondents. The banishment resolution is
7 attached as Exhibit A hereto and is incorporated by this reference herein.

8 88. Petitioner Bill T Sweet received a copy of the banishment resolution on May 13,
9 2008 from the United States Bureau of Indian Affairs. Respondents have not provided a copy
10 of the resolution directly to any of the Petitioners.

11 89. Respondents’ purported banishment resolution states that: “on April 27, 2008 the
12 General Membership of the Snoqualmie Tribe voted to banish the following nine individuals:
13 Bill T. Sweet, Carolyn Lubenau, Sharon Frelinger, Marilee Mai, Lois Sweet Dorman, Linda
14 Baxter, Ben Sweet, Charles (Chuck) Willoughby, and Vyonda Rose . . . since these nine
15 individuals have been banished, they are removed from the Tribal rolls and are no longer
16 eligible for any benefits and are no longer considered Snoqualmie Tribal members.”

17 90. Respondents’ purported banishment resolution does not state what the vote of the
18 general membership was that supposedly banished Petitioners.

19 91. Respondents’ purported banishment resolution does not state the legal or factual
20 basis for banishment. There is no mention of what alleged criminal acts led to banishment.
21 The resolution vaguely indicates that banishment was “in accordance with the Snoqualmie
22 Tribal Constitution and the laws, traditions, and customs of the Snoqualmie Tribe.”
23
24
25

1 92. The purported banishment resolution is signed by MaryAnne Hinzman purporting
2 to act as "Chairperson" and Arlene Ventura, purporting to act as Tribal Secretary, with a vote
3 of 8-0 in favor of the Resolution. It is unknown who voted on Resolution No. 49-08.

4 93. Respondents' purported banishment resolution, issued without providing Petitioners
5 a hearing or any opportunity to contest the criminal allegations made against them, are and
6 continue to be a severe restraint on Petitioners' personal liberty.

7 94. A resolution of permanent banishment, even absent efforts to enforce it, constitutes
8 a punitive sanction imposed for allegedly criminal behavior in violation of Petitioners' rights
9 guaranteed under Title I of the Indian Civil Rights Act. Actual physical custody is not a
10 jurisdictional prerequisite for federal habeas review. *See Jones v. Cunningham*, 371 U.S. 236,
11 243 (1963).
12

13 95. Permanent banishment, especially, as here, without any opportunity to contest the
14 allegations, is a severe form of restraint on liberty akin to denationalization or denaturalization.
15

16 96. Petitioners are and continue to be denied any and all access to challenge the
17 unlawful banishment resolution of the ever-changing Respondents' purported government, and
18 continue to suffer immediate and irreparable harm as a result of Respondents' actions that
19 violate Petitioners' constitutional rights guaranteed by the Indian Civil Rights Act and the
20 Snoqualmie Tribe's Constitution.

21 //

22 //

23 //

24 //

V. CAUSES OF ACTION

FIRST CLAIM FOR RELIEF

Unlawful Restraint on Personal Liberty in Violation of the Due Process Clause of the Indian Civil Rights Act

97. Petitioners reallege and incorporate by reference all proceeding paragraphs as if fully set forth herein.

98. The Indian Civil Rights Act provides that “[t]he privilege of the writ of habeas corpus shall be available to any person, in a court of the United States, to test the legality of his detention by order of an Indian tribe.” 25 U.S.C. § 1303.

99. The Indian Civil Rights Act provides that “No Indian tribe exercising the powers of self-government shall – . . . (8) . . . deprive any person of liberty or property without due process of law.” 25 U.S.C. § 1302(8).

100. The Tribe’s Constitution mirrors this language and provides that the “Snoqualmie Indian Tribe shall not in exercising its powers of self government: . . . 8. . . . deprive any person of liberty of [sic] property without due process of law.” CONST. art. XI, § 1(8).

101. Petitioners have been denied due process of law by Respondents, acting as the purported Tribal Council. Respondents’ May 8, 2008 banishment resolution was issued without any opportunity to contest the criminal allegations made against Petitioners.

102. Petitioners have received no hearing or process of any kind, at any time.

103. Respondents have offered no legal or factual justification for banishment.

104. There is no Tribal Court forum or other means to contest the criminal charges or to protest the banishment resolution.

105. Respondents’ banishment of Petitioners constitutes a criminal sanction and a denial

of the most fundamental right guaranteed by the due process clause of the Indian Civil Rights
PETITION FOR WRIT OF HABEAS CORPUS
(CASE NO.) - PAGE 27

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ATER WYNNE LLP
LAWYERS
601 UNION STREET, SUITE 1501
SEATTLE, WA 98101-2341
(206) 623-4711

1 Act – freedom from arbitrary restraints on personal liberty.

2 106. Completely unjustified restraints on personal liberty in violation of due process are
3 paradigmatically arbitrary and in violation of the protections afforded to Indians by the Indian
4 Civil Rights Act.

5 107. Respondents have violated and continue to violate Petitioners' right to be free from
6 arbitrary restraints on liberty as guaranteed by the Indian Civil Rights Act and the Bill of
7 Rights of the Tribe's Constitution.

8 **SECOND CLAIM FOR RELIEF**

9 **Unlawful Restraint on Personal Liberty in Violation of the Equal Protection Clause of the**
10 **Indian Civil Rights Act**

11 108. Petitioners reallege and incorporate by reference all proceeding paragraphs as if
12 fully set forth herein.

13 109. The Indian Civil Rights Act provides that "No Indian tribe exercising the powers of
14 self-government shall – . . . (8) deny any person within its jurisdiction the equal protection of
15 its laws" 25 U.S.C. § 1302(8).

16 110. The Tribe's Constitution mirrors this language and provides that the "Snoqualmie
17 Indian Tribe shall not in exercising its powers of self government: . . . 8. Deny to any person
18 within its jurisdiction the equal protection of its laws" CONST. art. XI, § 1(8).

19 111. The Snoqualmie Tribe's Constitution provides that the "General Council may
20 impose a penalty of full or partial banishment against any enrolled tribal member for good
21 cause in accord with Snoqualmie Tribal tradition or the acts and resolutions of the tribe."
22 CONST. art. II, § 3.

23 112. Petitioners have not received equal protection of Tribal laws in violation of
24
25

1 fundamental constitutional rights protected by the Indian Civil Rights Act and the Tribe's Bill
2 of Rights. Respondents' have discriminatorily applied Tribal laws against Petitioners and
3 Petitioners' interests.

4 113. Petitioners have been denied equal protection of the laws by Respondents'
5 discriminatory application of Tribal law. There is no "good cause" for banishment under
6 Tribal law. The Tribe's laws were ignored during the banishment process.

7 114. Petitioners have been denied equal protection of the laws by Respondents'
8 discriminatory application of Tribal traditions. On information and belief, Snoqualmie
9 tradition does not support banishment for the actions of Petitioners who, at all times relevant,
10 were either acting in accordance with the duties of their elected office or undertaking acts
11 protected under the Indian Civil Rights Act and the Bill of Rights of the Tribe's Constitution.

12 115. Petitioners have been denied equal protection of the laws by Respondents'
13 intentional interference with voting rights in issuing letters purporting to strip Petitioners of
14 tribal membership for purposes of voting and holding office that further foreclosed Petitioners'
15 ability to contest the criminal allegations against them.

16 116. Petitioners have been denied equal protection of the laws by Respondents'
17 intentional interference with voting rights in issuing new "preferred voter" cards to a selected
18 group in violation of Article III, § 2 of the Tribes Constitution that further foreclosed
19 Petitioners' ability to contest the criminal allegations against them.

20 117. Petitioners have been denied equal protection of the laws by Respondents' calling
21 and holding a general membership meeting to vote on banishment even though Respondents
22 lack Constitutional authority to call and preside over such a meeting. CONST. art. V, § 2.
23
24
25

1 118. Respondents have violated and continue to violate Petitioners' right to be free from
 2 arbitrary restraints on liberty as guaranteed by the Indian Civil Rights Act and the Bill of
 3 Rights of the Tribe's Constitution.

4 **THIRD CLAIM FOR RELIEF**

5 **Unlawful Restraint on Personal Liberty in Violation of the Freedom of Speech and** 6 **Assembly Provisions of the Indian Civil Rights Act**

7 119. Petitioners reallege and incorporate by reference all proceeding paragraphs as if
 8 fully set forth herein.

9 120. The Indian Civil Rights Act provides that "No Indian tribe exercising the powers of
 10 self-government shall – . . . (1) make or enforce any law . . . abridging the freedom of speech .
 11 . . or of the rights of the people peaceably to assemble and to petition for a redress of
 12 grievances." 25 U.S.C. § 1302(1).

13 121. The Tribe's Constitution mirrors this language and provides that the "Snoqualmie
 14 Indian Tribe shall not in exercising its powers of self government: . . . 1. Make or enforce any
 15 law . . . abridging the freedom of speech . . . or of the right of the people peaceable to assemble
 16 and to petition for a redress of grievances." CONST. art. XI, § 1(1).

17 122. Respondents abridged Petitioners' freedom of speech and right of peaceable
 18 assembly by banishing them, without due process, for acts constituting protected speech,
 19 including admonishing tribal leaders in public, speaking with tribal members, holding meetings
 20 with the other duly elected Tribal Council members, and participating in an effort to meet and
 21 meeting with representatives from the U.S. Bureau of Indian Affairs.

22 123. Respondents have violated and continue to violate Petitioners' right to be free from
 23 arbitrary restraints on liberty as guaranteed by the Indian Civil Rights Act and the Bill of
 24
 25

Rights of the Tribe's Constitution.

FOURTH CLAIM FOR RELIEF

Unlawful Restraint on Personal Liberty in Violation of the Right to Be Informed of Charges and Confront Witnesses Provision of the Indian Civil Rights Act

124. Petitioners reallege and incorporate by reference all proceeding paragraphs as if fully set forth herein.

125. The Indian Civil Rights Act provides that "No Indian tribe exercising the powers of self-government shall – . . . (6) deny to any person in a criminal proceeding the right to . . . be informed of the nature and cause of the accusation, to be confronted with the witnesses against him, to have compulsory process for obtaining witnesses in his favor" 25 U.S.C. § 1302(6).

126. The Tribe's Constitution mirrors this language and provides that the "Snoqualmie Indian Tribe shall not in exercising its powers of self government: . . . 6. Deny to any person in a criminal proceeding the right to . . . be informed of the nature and cause of the accusation, to be confronted with the witness against him/her, to have compulsory process for obtaining witnesses in his/her favor" CONST. art. XI, § 1(6).

127. Respondents abridged Petitioners' right to be confronted with the witnesses against them and to obtain witnesses in their favor when Respondents denied Petitioners access at any time from the issuance of the "resolution of discipline" through the present to contest the charges against them, face their accusers, or offer evidence or witnesses in their favor.

128. In addition, Respondents abridged Lois Sweet Dorman's right to be informed of the nature and cause of the accusation against her. She was banished without first receiving a "resolution of discipline" or any other formal indication of the crimes she was alleged to have

committed warranting banishment.

129. Respondents have violated and continue to violate Petitioners' right to be free from arbitrary restraints on liberty as guaranteed by the Indian Civil Rights Act and the Bill of Rights of the Tribe's Constitution.

FIFTH CLAIM FOR RELIEF

Unlawful Restraint on Personal Liberty in Violation of the Freedom of Religion Provision of the Indian Civil Rights Act

130. Petitioners reallege and incorporate by reference all proceeding paragraphs as if fully set forth herein.

131. The Indian Civil Rights Act provides that "No Indian tribe exercising the powers of self-government shall – . . . (1) make or enforce any law prohibiting the free exercise of religion" 25 U.S.C. § 1302(1).

132. The Tribe's Constitution mirrors this language and provides that the "Snoqualmie Indian Tribe shall not in exercising its powers of self government: . . . 1. Make or enforce any law prohibiting the free exercise of religion" CONST. art. XI, § 1(1).

133. Respondents abridged Petitioner Linda Sweet Baxter's freedom of religion by banishing her, without due process, for "inappropriate conduct as a supposed religious leader in admonishing tribal leaders in the name of the great spirit."

134. Respondents have violated and continue to violate Petitioner Linda Sweet Baxter's right to be free from arbitrary restraints on liberty as guaranteed by the Indian Civil Rights Act and the Bill of Rights of the Tribe's Constitution.

//

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VI. REQUESTS FOR RELIEF

WHEREFORE, Petitioners respectfully request that the Court grant the following relief:

- A. Issue the requested Writ or, to the extent necessary, order Respondents to immediately show cause why the requested Writ should not issue and to answer the allegations contained herein.
- B. To the extent necessary, permit Petitioners to conduct discovery and submit written briefs in advance of any evidentiary hearing concerning this Petition.
- C. Declare that Respondents' banishment resolution is a punitive sanction for allegedly criminal conduct for which a writ of *habeas corpus* is available.
- D. Declare that Respondents' banishment resolution demonstrates a sufficiently severe potential or actual restraint on liberty to warrant *habeas* review.
- E. Declare that Respondents, collectively and individually, as purported Tribal officials have acted in violation of Federal law and Tribal law.
- F. Declare that Respondents, collectively and individually, have violated the protections afforded under the Indian Civil Rights Act and the Snoqualmie Tribe's Constitution by imposing a severe restraint on personal liberty without affording Petitioners due process or equal protection, or providing Petitioners with the right to confront witnesses and obtain witnesses on their behalf, and by abridging Petitioners' freedom of religion, and freedom of speech and of peaceable assembly.
- G. Order Respondents to discharge Petitioners from the restraints on Petitioners' personal liberty.

- 1 H. Issue an Order vacating Petitioners' alleged criminal conviction for acts
2 constituting treason.
3 I. Issue an Order vacating and setting aside Petitioners' alleged banishment to
4 restore Petitioners' tribal identity.
5 J. Award Petitioners reasonable attorneys' fees and costs.
6 K. Grant such other and further relief as the Court may deem just and proper.
7

8 DATED this 29th day of May, 2008.

9 ATER WYNNE LLP

10 By: 

11 Rob Roy Smith, WSBA #33798
12 Peter H. Haller, WSBA #11371
13 Steven J. Kennedy, WSBA #16341

14 ATER WYNNE LLP
15 Suite 1501, 601 Union Street
16 Seattle, WA 98101-3981
17 (206) 623-4711
18 (206) 467-8406 (fax)
19 rrs@aterwynne.com

20 Attorneys for Petitioners
21
22
23
24
25

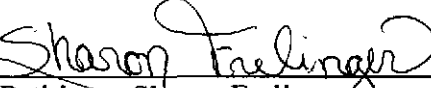
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By: 
 Petitioner Bill T Sweet

BILL T SWEET, being duly sworn deposes and says under penalty of perjury of the laws of the state of Washington that he is one of the petitioners in this action; that he has read the foregoing Petition and knows the contents thereof; that the same is true to the best of his knowledge, except as to matters therein to be stated on information and belief, and that as to those matters he believes it to be true.

By: 
 Petitioner Carolyn Lubenau

CAROLYN LUBENAU, being duly sworn deposes and says under penalty of perjury of the laws of the state of Washington that she is one of the petitioners in this action; that she has read the foregoing Petition and knows the contents thereof; that the same is true to the best of her knowledge, except as to matters therein to be stated on information and belief, and that as to those matters she believes it to be true.

By: 
 Petitioner Sharon Frelinger

SHARON FRELINGER, being duly sworn deposes and says under penalty of perjury of the laws of the state of Washington that she is one of the petitioners in this action; that she has read the foregoing Petition and knows the contents thereof; that the same is true to the best of her knowledge, except as to matters therein to be stated on information and belief, and that as to those matters she believes it to be true.

By: 
 Petitioner Marilee Mai

MARILEE MAI, being duly sworn deposes and says under penalty of perjury of the laws of the state of Washington that she is one of the petitioners in this action; that she has read the foregoing Petition and knows the contents thereof; that the same is true to the best of her knowledge, except as to matters therein to be stated on information and belief, and that as to those matters she believes it to be true.

By: 
 Petitioner Lois Sweet Dorman

LOIS SWEET DORMAN, being duly sworn deposes and says under penalty of perjury of the laws of the state of Washington that she is one of the petitioners in this action; that she has read the foregoing Petition and knows the contents thereof; that the same is true to the best of her knowledge, except as to matters therein to be stated on information and belief, and that as to those matters she believes it to be true.

1 By: Linda Sweet Baxter
 2 Petitioner Linda Sweet Baxter

3 LINDA SWEET BAXTER, being duly sworn deposes and says under penalty of
 4 perjury of the laws of the state of Washington that she is one of the petitioners in this action;
 5 that she has read the foregoing Petition and knows the contents thereof; that the same is true to
 6 the best of her knowledge, except as to matters therein to be stated on information and belief,
 7 and that as to those matters she believes it to be true.

8 By: Ben Sweet
 9 Petitioner Ben Sweet

10 BEN SWEET, being duly sworn deposes and says under penalty of perjury of the laws
 11 of the state of Washington that he is one of the petitioners in this action; that he has read the
 12 foregoing Petition and knows the contents thereof; that the same is true to the best of his
 13 knowledge, except as to matters therein to be stated on information and belief, and that as to
 14 that matters he believes it to be true.

15 By: Charles D Willoughby
 16 Petitioner Charles "Chuck" Willoughby

17 CHARLES "CHUCK" WILLOUGHBY, being duly sworn deposes and says under
 18 penalty of perjury of the laws of the state of Washington that he is one of the petitioners in this
 19 action; that he has read the foregoing Petition and knows the contents thereof; that the same is
 20 true to the best of his knowledge, except as to matters therein to be stated on information and
 21 belief, and that as to that matters he believes it to be true.

22 By: Vyonda Rose
 23 Petitioner Vyonda Rose

24 VYONDA ROSE, being duly sworn deposes and says under penalty of perjury of the
 25 laws of the state of Washington that she is one of the petitioners in this action; that she has read
 26 the foregoing Petition and knows the contents thereof; that the same is true to the best of her
 27 knowledge, except as to matters therein to be stated on information and belief, and that as to
 28 that matters she believes it to be true.

29 SUBSCRIBED and SWORN to before me this
 30 28th day of May, 2008.

31 Susan Arellano
 32 Susan Arellano (Printed Name)

33 NOTARY PUBLIC in and for the State of Washington
 34 residing at Covington
 35 My commission expires 7-27-11

SUSAN ARELLANO
 STATE OF WASHINGTON
NOTARY PUBLIC
 MY COMMISSION EXPIRES
 07-27-11

MAY-13-2008 TUE 11:25 AM

FAX NO.

P. 02

May. 9. 2008 9:50AM

No. 6527 P. 2



SNOQUALMIE INDIAN TRIBE

RESOLUTION # 49 - 08



April 27, 2008 BANISHMENT

WHEREAS, the Snoqualmie Indian Tribe is the sovereign entity recognized as a signatory Tribe to the Point Elliott Treaty of 1855; and

WHEREAS, the Snoqualmie Tribal Council is the governing body of the Snoqualmie Indian Tribe by authority of its Constitution; and

WHEREAS, the Snoqualmie Tribal Council is the duly elected council of the General Membership and is responsible for the protection of the health, safety, and welfare of the members of the Snoqualmie Indian Tribe; and

WHEREAS, on April 27, 2008, the General Membership of the Snoqualmie Indian Tribe voted to banish the following nine individuals: Bill T. Sweet, Carolyn Lebrun, Sharon Fellingner, Marilee Mai, Lois Sweet Dorman, Linda Baxter, Ben Sweet, Charles (Chuck) Wilcox, and Yvonne Rose; and

WHEREAS, since these nine individuals have been banished, they are removed from the Tribal rolls and are no longer eligible for any benefits and are no longer considered Snoqualmie Tribal members;

NOW, THEREFORE, BE IT RESOLVED that the Tribal Council hereby accepts the General Membership's decision to banish these nine individuals as a lawful action done in accordance with the Snoqualmie Tribal Constitution and the laws, traditions and customs of the Snoqualmie Tribe.

CERTIFICATION

Voted on this 8th of May, 2008 with a quorum present and voting for 8
 Against 0 Abstaining 0

Mary Ann Blumstein
 Mary Ann Blumstein, Chairperson

Adlene Ventura
 Adlene Ventura, Tribal Secretary

EXHIBIT

A

CERTIFICATE OF SERVICE

I hereby certify that I have this 29th day of May, 2008, caused one (1) original and two (2) copies of the *Petition for Writ of Habeas Corpus* along with the Filing Fee of \$5.00 (Five and 00/100 U.S. Dollars) to be delivered to the following in the manner described:

Clerk of the Court:

Clerk of the United States District Court
700 Stewart Street, Lobby Level
Seattle, WA 98101

☒ Personal Delivery
☐ U.S. Mail (Certified, Return Receipt Requested)
☐ Overnight Mail
☐ Facsimile:
☐ E-mail:

I hereby certify that I have this 29th day of May, 2008, caused one (1) copy of the *Petition for Writ of Habeas Corpus* to be delivered to the following in the manner described:

Respondents Maryanne Hinzman, Arlene Ventura, Margaret Mullen, Katherine M. Barker, Frances De Los Angeles, Robert Hinzman, Nina Repin, Kanium Ventura, Jo-Anne Dominick, Jerry Enick, Nathan "Pat" Barker, and Staci Moses:

8130 Railroad Ave, Suite 103
P.O. Box 969
Snoqualmie, WA 98065

☐ Personal Delivery
☐ U.S. Mail (Certified, Return Receipt Requested)
☒ Overnight Mail
☐ Facsimile:
☐ E-mail:

I declare the above to be true and correct under penalty of perjury.

DATED this 29th day of May, 2008, at Seattle, WA.

