

As described more fully in the Memorandum in Support of Motion for Relief Pursuant to this Court's Continuing Jurisdiction ("Memorandum"), the State of Michigan ("State") has charged two Sault Tribe tribal members, Troy Nestor Jensen and Wade William Jensen ("Jensens"), in Delta County with the alleged violation of state law under MCL 750.157a and MCL 324.48723 for conspiracy to "purchase, sell or buy fish taken without a commercial fishing license." State of Michigan, 94th Judicial District, 47th Judicial Circuit, Complaints, Misdemeanor, Case Nos. 20100011110 and MM20100011111. (Exhibit B to Memorandum). To the best of the Tribe's knowledge and belief, the Jensens' jury trial in State court in Delta County is set to begin on May 10. Expedited consideration is necessary under W.D. Mich. LCivR 7.1(e) because the relief requested by the Tribe's Motion may be rendered moot before the Motion is briefed in accordance with the schedule for judicial resolution set forth in the 2000 Consent Decree. Section XIX(C)(2) of the 2000 Consent Decree provides that "[t]he other parties may file a responsive pleading within thirty (30) days." The responses therefore would not be due until after the jury trial has already begun.

The relief requested by the Tribe in this case goes to the heart of the Delta County court's jurisdiction to proceed with its prosecution. As discussed in the Memorandum, the provisions of the Consent Decree, once adopted and approved by the Court, "operate as an injunction." *Williams v. Vukovich*, 720 F.2d 909, 920 (6th Cir. 1983). Thus, this Court's ruling on the Tribe's motion would bind the State of Michigan, and all of its agents and employees, including the Delta County Prosecutor. *See Grand Traverse Band of Ottawa and Chippewa Indians v. Michigan Dep't of Natural Res., et al.*, 141 F.3d 635, 641–42 (6th Cir. 1998) ("it is well settled that third parties who interfere with a court order may be enjoined from doing so" and that even

citizens of the State which was a party to the prior proceedings are bound by the decision)
(internal citations omitted).

The Tribe accordingly requests that responsive pleadings be filed by April 25, which is ten (10) days after service of the Tribe's Motion and Memorandum, and that the Tribe's reply be due within five (5) days after service of the response(s). The Tribe's proposed expedited briefing schedule would ensure that the matter is fully briefed before the jury trial begins.

Counsel for the State has been contacted and indicated that the State will oppose this Motion.

Respectfully submitted this 14th day of April, 2011.

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CERTIFICATE OF SERVICE

I hereby certify that on April 14, 2011, I electronically filed the foregoing document with the Clerk of the Court using the ECF system which will send notification of such filing to counsel of record. I hereby certify that I have also sent a true and correct copy of the foregoing document by United States Postal Service and, where an electronic mail address was available, by electronic mail, to the following individuals in accordance with Section XIV(C) of the 2000 Consent Decree:

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