

APPEAL, CLOSED, \_LDF

**U.S. District Court  
Western District of Oklahoma[LIVE] (Oklahoma City)  
CRIMINAL DOCKET FOR CASE #: 5:09-cr-00327-M-1  
*Internal Use Only***

Case title: United States of America v. Langford

Date Filed: 10/27/2009

Date Terminated: 03/10/2010

Assigned to: Honorable Vicki  
Miles-LaGrange

Appeals court case number: '10-6070'  
'Tenth Circuit'

**Defendant (1)**

**Robert M Langford**

*TERMINATED: 03/10/2010*

represented by **Susan M Otto**

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*ATTORNEY TO BE NOTICED*

**Daniel L White**

Daniel L White Attorney at Law  
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*ATTORNEY TO BE NOTICED*  
*Designation: CJA Appointment*

**Pending Counts**

None

**Disposition**

**Highest Offense Level (Opening)**

None

**Terminated Counts**

18:13,1151,1152 SPECTATOR AT  
PLACE WHERE A COCKFIGHT WAS  
OCCURRING  
(1)

**Disposition**

The Court Affirms dft's conviction and  
sentence

**Highest Offense Level (Terminated)**

Misdemeanor

**Complaints**

None

**Disposition**

**Plaintiff**

United States of America

represented by **Linda A Epperley**  
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**ATTORNEY TO BE NOTICED**

Date Filed	#	Page	Docket Text
10/27/2009	<u>1</u>		APPEAL OF MAGISTRATE JUDGE DECISION to District Court by Robert M Langford Appeal taken from case M-06-1415. (Attachments: # <u>1</u> Docket Sheet)(hm, ) (Entered: 10/27/2009)
10/28/2009	<u>2</u>		ORDER REASSIGNING CASE. Case reassigned to Honorable Vicki Miles-LaGrange for all further proceedings. Signed by Honorable Tim Leonard on 10/28/09. (jy, ) (Entered: 10/28/2009)
10/29/2009	<u>3</u>		ORDER setting briefing schedule (as more fully set out in the Order), as to Robert M Langford. Signed by Honorable Vicki Miles-LaGrange on 10/29/2009. (ks) (Entered: 10/29/2009)
11/25/2009	<u>4</u>		MOTION for Extension of Time to <i>File Appellate Brief</i> by Robert M Langford. (White, Daniel) (Entered: 11/25/2009)
11/30/2009	<u>5</u>		ORDER granting <u>4</u> defendant's Motion for Extension of Time to File Appellate Brief, as to Robert M Langford (1). Defendant shall file his opening brief by December 28, 2009. The government shall file a response brief by January 28, 2010. Signed by Honorable Vicki Miles-LaGrange on 11/30/2009. (ks) (Entered: 11/30/2009)
01/11/2010	<u>6</u>		MOTION for Order <i>Motrion to Adopt Appellate's Brief in Chief in Case Number CR 07-158-M</i> by Robert M Langford. (White, Daniel) (Entered: 01/11/2010)
01/28/2010	<u>7</u>		BRIEF re <u>6</u> MOTION for Order <i>Motrion to Adopt Appellate's Brief in Chief in Case Number CR 07-158-M</i> by United States of America (Epperley, Linda) (Entered: 01/28/2010)
03/10/2010	<u>8</u>	4	ORDER granting <u>6</u> defendant's Motion to Adopt Appellate's Brief in Chief in Case Number CR-07-158-M, as to Robert M Langford (1). Signed by Honorable Vicki Miles-LaGrange on 3/10/2010. (ks)

			(Entered: 03/10/2010)
03/10/2010	<u>9</u>	5	ORDER the Court Affirms dft's conviction and sentence as to Robert M Langford re <u>1</u> Appeal of Magistrate Judge Decision to District Court filed by Robert M Langford. Signed by Honorable Vicki Miles-LaGrange on 3/10/10. (hm, ) (Entered: 03/10/2010)
03/10/2010			DISMISS COUNTS as to Robert M Langford (1), Count(s) 1, The Court Affirms dft's conviction and sentence (hm, ) (Entered: 03/10/2010)
03/22/2010	<u>10</u>	10	NOTICE OF APPEAL by Robert M Langford re <u>9</u> Order (White, Daniel) (Entered: 03/22/2010)
03/22/2010	<u>11</u>		PRELIMINARY RECORD LETTER – Electronic Transmission of Notice of Appeal with Preliminary Record sent to Tenth Circuit Court of Appeals re <u>10</u> Notice of Appeal. (njr ) (Entered: 03/22/2010)
03/22/2010	<u>12</u>		Tenth Circuit USCA Case Number 10–6070 as to Robert M Langford for <u>10</u> Notice of Appeal filed by Robert M Langford. (njr ) (Entered: 03/22/2010)
04/07/2010	<u>13</u>		ENTRY OF ATTORNEY APPEARANCE: Susan M Otto appearing for Robert M Langford (Otto, Susan) (Entered: 04/07/2010)
04/12/2010	<u>14</u>		DESIGNATION OF RECORD ON APPEAL by Robert M Langford re <u>10</u> Notice of Appeal (Attachments: # <u>1</u> Attachment Docket Sheets)(Otto, Susan) (Entered: 04/12/2010)
04/12/2010	<u>15</u>		TRANSCRIPT Order Form re <u>10</u> Notice of Appeal that transcripts are already on file necessary. See order form for dates and proceedings. (Otto, Susan) (Entered: 04/12/2010)
04/12/2010	<u>16</u>		LETTER – Record Sent Electronically to USCA as to Robert M Langford re <u>10</u> Notice of Appeal. Two Volume(s). (njr ) (Entered: 04/12/2010)

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF OKLAHOMA**

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Case No. CR-09-327-M
	)	
ROBERT M. LANGFORD,	)	
	)	
Defendant.	)	

**ORDER**

Before the Court is defendant's Motion to Adopt Appellate's Brief in Chief in Case Number CR-07-158-M, filed January 11, 2010. Upon review of defendant's motion, the Court GRANTS defendant's Motion to Adopt Appellate's Brief in Chief in Case Number CR-07-158-M [docket no. 6].

**IT IS SO ORDERED this 10th day of March, 2010.**

  
VICKI MILES-LAGRANGE  
CHIEF UNITED STATES DISTRICT JUDGE



**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF OKLAHOMA**

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Case No. CR-09-327-M
	)	
ROBERT M. LANGFORD,	)	
	)	
Defendant.	)	

**ORDER**

Defendant Robert M. Langford appeals the judgment of conviction and sentence imposed by United States Magistrate Judge Shon T. Erwin in a misdemeanor case. Defendant's appeal is brought under Rule 58(g) of the Federal Rules of Criminal Procedure. This Court has jurisdiction of defendant's appeal pursuant to 18 U.S.C. § 3742(g).

**I. Background**

On August 2, 2006, a one count Information was filed charging defendant with being present as a spectator at a place where a cock fight was occurring in violation of 18 U.S.C. §§ 13, 1151, 1152.<sup>1</sup> On August 23, 2006, defendant was arraigned, at which time defendant entered a plea of not guilty, consented to trial before a magistrate judge, and demanded a jury trial.

On November 29, 2006, defendant filed a *pro se* Motion to Dismiss for Lack of Jurisdiction. On December 12, 2006, the government responded. A pretrial hearing was held on January 8, 2007, and at said hearing, the Magistrate Judge denied defendant's motion to dismiss.

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<sup>1</sup>There were approximately seventy-five (75) other individuals who were cited at the same time and location as defendant and had similar charges.

On January 23, 2007, the jury trial commenced for the consolidated cases of defendant and three other defendants. The trial concluded on January 25, 2007, with the jury finding defendant guilty on Count One. The Magistrate Judge ordered a presentence investigation, and the sentencing hearing was set for June 20, 2007. At the sentencing hearing, the Magistrate Judge sentenced defendant to a term of probation for twenty-four months, a fine of \$1,975.00, and a \$25.00 special assessment.

Counsel for defendant timely filed a notice of appeal on June 29, 2007. On appeal, this Court affirmed defendant's conviction, vacated defendant's sentence, and remanded the case to the magistrate court with directions to re-sentence defendant in accordance with the Court's order. Defendant attempted to appeal this Court's order, but the Tenth Circuit dismissed the Notice of Appeal for lack of appellate jurisdiction.

On June 25, 2009, the Magistrate Judge re-sentenced defendant to a term of probation for twelve months, with credit for time served since June 20, 2007, a fine of \$475.00, and a \$25.00 special assessment. Additionally, the Magistrate Judge entered a separate order directing the Court Clerk to mail a refund check for \$1,166.60 to defendant. Counsel for defendant once again timely filed a notice of appeal on July 8, 2009.<sup>2</sup>

## II. Discussion

In reviewing a judgment and sentence imposed by a United States Magistrate Judge, a district court functions as an appellate court:

Post-conviction review of a magistrate judge's judgment is governed by same standards as appeal from judgment of a federal district court

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<sup>2</sup>Defendant has elected to simply adopt the brief and appendix utilized during the 2007 appeal.

to the court of appeals. [The Court] review[s] the Magistrate Judge's conclusions of law *de novo*, applying the same standard used by the Magistrate Judge in making his initial ruling. [The Court] review[s] the Magistrate Judge's fact findings for clear error. A finding of fact is "clearly erroneous" if it is without factual support in the record or if the appellate court, after reviewing all the evidence, is left with a definite and firm conviction that a mistake has been made.

*United States v. Ellison*, 112 F. Supp. 2d 1234, 1236 (D. Colo. 2000) (internal quotations and citations omitted).

In his appeal, defendant contends that the court never had jurisdiction over his case and that defendant's arrest on Indian land by a state law enforcement officer was unauthorized and void.

A. Jurisdiction

In 1817, the United States Congress passed the Indian Country Crimes Act ("ICCA"), which made federal laws, known as enclave laws, applicable to crimes committed in areas "within the sole and exclusive jurisdiction of the United States," including Indian Country.<sup>3</sup> The ICCA provides:

Except as otherwise expressly provided by law, the general laws of the United States as to the punishment of offenses committed in any place within the sole and exclusive jurisdiction of the United States, except the District of Columbia, shall extend to the Indian country.

This section shall not extend to offenses committed by one Indian against the person or property of another Indian, nor to any Indian committing any offense in the Indian country who has been punished by the local law of the tribe, or to any case where, by treaty stipulations, the exclusive jurisdiction over such offenses is or may be secured to the Indian tribes respectively.

18 U.S.C. § 1152.<sup>4</sup> Additionally, the Assimilative Crimes Act ("ACA") provides, in pertinent part:

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<sup>3</sup>The parties do not dispute that the instant offense was committed in Indian Country.

<sup>4</sup>Because defendant in this case is not an Indian, the Court finds the second paragraph of the ICCA is not applicable. In his brief, defendant asserts that pursuant to the Indian Civil Rights Act, he is entitled to all rights afforded to tribal members. The Indian Civil Rights Act, however,

Whoever within or upon any of the places now existing or hereafter reserved or acquired as provided in section 7 of this title, or on, above, or below any portion of the territorial sea of the United States not within the jurisdiction of any States, Commonwealth, territory, possession, or district is guilty of any act or omission which, although not made punishable by any enactment of congress, would be punishable if committed or omitted within the jurisdiction of the State, Territory, Possession, or District in which such place is situated, by the laws thereof in force at the time of such act or omission, shall be guilty of a like offense and subject to a like punishment.

18 U.S.C. § 13(a).

The Tenth Circuit has recognized:

The purpose of the Assimilative Crimes Act is to provide a method of punishing a crime committed on government reservations in the way and to the extent that it would have been punishable if committed within the surrounding jurisdiction. *United States v. Dunn*, 545 F.2d 1281, 1282 (10<sup>th</sup> Cir. 1976). The Act fills in gaps in federal criminal law by providing a set of criminal laws for federal enclaves. *United States v. Mayberry*, 774 F.2d 1018, 1020 (10<sup>th</sup> Cir. 1985), *quoting United States v. Prejean*, 494 F.2d 495, 496 (5<sup>th</sup> Cir. 1974). The reason for adopting local laws is not that Congress passed on their merits after examining each individually, but that as a practical matter, Congress had to proceed on a wholesale basis to establish criminal laws for federal enclaves. *United States v. Sharpnack*, 355 U.S. 286, 293, 78 S. Ct. 291, 295, 2 L.Ed.2d 282 (1958).

*United States v. Sain*, 795 F.2d 888, 890 (10<sup>th</sup> Cir. 1986).

Because defendant is not an Indian, the Court, based upon the clear language of the ICCA and the ACA, finds that the court had jurisdiction in this case. Specifically, the Court finds that the ACA and ICCA allow federal enforcement of the Oklahoma criminal law against being present as

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undertakes to single out the more important civil rights contained in the United States Constitution and to make those applicable to tribal members. See *Martinez v. Santa Clara Pueblo*, 540 F.2d 1039, 1042 (10<sup>th</sup> Cir. 1976). Because defendant is not a tribal member, the Court finds the Indian Civil Rights Act is inapplicable in this case.

a spectator at a place where a cock fight was occurring, Okla. Stat. tit. 21, § 1692.6. *See Ross v. Neff*, 905 F.2d 1349, 1353 (10<sup>th</sup> Cir. 1990) (“There is no question but that 18 U.S.C. § 13 would allow *federal* enforcement of the local ordinance against public intoxication involved in this case.”) (emphasis in original). Further, the Court finds that assimilating the said Oklahoma law would not be inconsistent with federal policies. There are no treaty provisions protecting cockfighting, nor has the prohibition of and punishment for cockfighting been traditionally within the exclusive jurisdiction of the tribe.

Accordingly, the Court finds defendant’s conviction should not be reversed on this basis.

**B. Defendant’s Arrest**

Defendant contends his arrest on Indian land by a state law enforcement officer was unauthorized and void. The government contends that defendant was not arrested and willingly appeared to answer the court’s citation in Lawton, Oklahoma. Having carefully reviewed the transcript of the trial, the Court has found, and defendant has cited to, no evidence that defendant was arrested by a state law enforcement officer. In fact, Palmer S. Mosley, the chief of police for the BIA in Anadarko, Oklahoma, testified that only two individuals, Justin McHone and Shan Gauchet, were actually arrested. *See* Transcript of jury trial at 257-58.

Accordingly, the Court finds defendant’s conviction should not be reversed on this basis.

**III. Conclusion**

For the reasons set forth above, the Court AFFIRMS defendant’s conviction and sentence.

**IT IS SO ORDERED this 10th day of March, 2010.**

  
VICKI MILES-LAGRANGE  
CHIEF UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA	)	
	)	
Plaintiff(s)	)	
	)	
vs.	)	CASE NO. <u>CR-09-327-M</u>
	)	
ROBERT M. LANGFORD	)	
	)	
Defendant(s)	)	
	)	

**NOTICE OF APPEAL**

Notice is hereby given that ROBERT M. LANGFORD

Plaintiff(s) Defendant(s) in the above named case hereby appeal to the United States  
Court of Appeals for the Tenth Circuit from the final judgment entered in this action on  
March 10, 2010.

s/ Daniel L. White

Signature

Daniel L. White

Printed Name

P.O. Box 94551

Mailing Address

Oklahoma City, OK 73143

City, State, Zip

(405) 249-9162

Phone No.

Fax No.

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Email Address

Rvsd 10-09

*Certificate of Service*

☒ I hereby certify that on (date) March 22, 2010, I electronically transmitted the attached document to the Clerk of Court using the ECF System for filing. Based on the records currently on file, the Clerk of Court will transmit a Notice of Electronic Filing to the following ECF registrants: (insert names)  
Linda A Epperley

☐ I hereby certify that on (date) \_\_\_\_\_, I served the attached document by (service method) \_\_\_\_\_ on the following, who are not registered participants of the ECF System: (insert names and addresses)

s/ Daniel L. White

s/ Attorney Name

APPEAL, CLOSED

**U.S. District Court  
Western District of Oklahoma[LIVE] (Oklahoma City)  
CRIMINAL DOCKET FOR CASE #: 5:06-mj-01415-STE-1  
*Internal Use Only***

Case title: United States of America v. Langford

Date Filed: 08/02/2006

Date Terminated: 06/20/2007

Assigned to: Magistrate Judge  
Shon T. Erwin

**Defendant (1)**

**Robert M Langford**

*TERMINATED: 06/20/2007*

represented by **Robert M Langford**  
PRO SE

**Daniel L White**

Daniel L White Attorney at Law

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*ATTORNEY TO BE NOTICED*

**Armando G Mata**

Mata & Mata

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Fax: 580-357-6169

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*TERMINATED: 11/29/2006*

*ATTORNEY TO BE NOTICED*

*Designation: CJA Appointment*

**Pending Counts**

FEDERAL STATUTES, spectator  
at a cockfight 18:13,1151,1152  
(21OSA1692.6)  
(1)

**Disposition**

Sentence amended to 12 months probation and \$500.00  
in fines.

**Highest Offense Level (Opening)**

Misdemeanor

**Terminated Counts**

**Disposition**



None

**Highest Offense Level**  
**(Terminated)**

None

**Complaints****Disposition**

None

**Plaintiff****United States of America**

represented by **Linda A Epperley**  
 United States Attorney's Office  
 1200 W Okmulgee St  
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**ATTORNEY TO BE NOTICED**

Date Filed	#	Page	Docket Text
08/02/2006	<u>1</u>	7	INFORMATION as to Robert M Langford (1) count(s) 1. (ms, ) (Entered: 08/09/2006)
08/02/2006	<u>2</u>		MINUTE ENTRY for proceedings held before Judge Shon T. Erwin :Initial Appearance as to Robert M Langford held on 8/2/2006 Arraignment set for 8/23/2006 11:00 AM before Magistrate Judge Shon T. Erwin. (ms, ) (Entered: 08/09/2006)
08/23/2006	<u>3</u>		** SEALED DOCUMENT ** CJA 23 Financial Affidavit by Robert M Langford (mc, ) (Entered: 10/10/2006)
08/23/2006	<u>4</u>		ORDER APPOINTING COUNSEL as to Robert M Langford; Armando G Mata appointed. Signed by Judge Shon T. Erwin on 8/23/06. (mc, ) (Entered: 10/10/2006)
08/23/2006	<u>5</u>		MINUTE ENTRY for proceedings held before Judge Shon T. Erwin :Arraignment as to Robert M Langford (1) Count 1 held on 8/23/2006; defendant appeared with court appointed counsel Armando Mata; Defendant entered plea of not guilty; Consented to trial before magistrate judge; demands jury trial; trial to be set at a later date by notice. (mc, ) (Entered: 10/10/2006)
08/23/2006	<u>6</u>	9	CONSENT To Proceed Before US Magistrate Judge on a Misdemeanor by Robert M Langford . Signed by Judge Shon T. Erwin on 8/23/06. (mc, ) (Entered: 10/10/2006)
10/10/2006	<u>7</u>		NOTICE OF HEARING as to Robert M Langford; Pretrial Conference set for 10/25/2006 11:00 AM in Courtroom #228 before Magistrate Judge Shon T. Erwin. (mc, ) (Entered: 10/10/2006)

			10/10/2006)
10/25/2006	<u>9</u>		WAIVER of Speedy Trial by Robert M Langford. (mc, ) (Entered: 10/31/2006)
10/25/2006	<u>10</u>		ORDER as to Robert M Langford; all motions due November 24, 2006; responses due December 5, 2006; Motion Hearing date is January 8, 2007 at 9:00am. Signed by Judge Shon T. Erwin on 10/25/06. (mc, ) (Entered: 10/31/2006)
10/30/2006	<u>8</u>		FIRST MOTION to Consolidate Cases by Robert M Langford. (Mata, Armando) (Entered: 10/30/2006)
10/31/2006			Set/Reset Hearings as to Robert M Langford: Motion Hearing set for 1/8/2007 09:00 AM in Courtroom #228 before Magistrate Judge Shon T. Erwin. Jury Trial set for 1/16/2007 09:00 AM in Courtroom #228 before Magistrate Judge Shon T. Erwin. (mc, ) (Entered: 10/31/2006)
11/20/2006	<u>11</u>		FIRST MOTION to Continue <i>Briefing Deadlines</i> by United States of America as to Robert M Langford. (Epperley, Linda) (Entered: 11/20/2006)
11/20/2006	<u>12</u>		FIRST MOTION to Withdraw as Attorney <i>of Record</i> by Armando G. Mata. by Robert M Langford. (Mata, Armando) (Entered: 11/20/2006)
11/29/2006	<u>13</u>		ORDER granting <u>12</u> Motion to Withdraw as Attorney. Armando G Mata withdrawn from case. as to Robert M Langford (1). Signed by Judge Shon T. Erwin on 11/29/2006. (mc, ) (Entered: 11/29/2006)
11/29/2006	<u>14</u>	10	MOTION to Dismiss by Robert M Langford, pro-se defendant. (mc, ) (Entered: 11/29/2006)
12/04/2006	<u>15</u>		ORDER granting <u>11</u> Motion to Continue as to Robert M Langford (1); all motions due 12-4-06; all responses due 12-12-06; Motions heard 1-8-07 @ 9:00am. Signed by Judge Shon T. Erwin on 12/4/06. (mc, ) (Entered: 12/04/2006)
12/04/2006	<u>16</u>		MOTION to Consolidate Cases by United States of America as to Robert M Langford. (Epperley, Linda) (Entered: 12/04/2006)
12/06/2006	<u>17</u>		MOTION for Extension of Time to File <i>Brief in Support of Consolidation</i> by United States of America as to Robert M Langford. (Epperley, Linda) (Entered: 12/06/2006)
12/06/2006	<u>18</u>		BRIEF IN SUPPORT re <u>16</u> MOTION to Consolidate Cases by United States of America (Epperley, Linda) (Entered: 12/06/2006)
12/12/2006	<u>19</u>		RESPONSE in Opposition by United States of America as to Robert M Langford re <u>14</u> MOTION to Dismiss <i>for Lack of Jurisdiction</i> (Epperley, Linda) (Entered: 12/12/2006)
01/05/2007	<u>20</u>		Proposed Voir Dire by United States of America as to Robert M Langford (Epperley, Linda) (Entered: 01/05/2007)

01/05/2007	<u>21</u>		Proposed Jury Instructions by United States of America as to Robert M Langford (Epperley, Linda) (Entered: 01/05/2007)
01/05/2007	<u>22</u>		MEMORANDUM OF LAW <i>PROPOSED VERDICT FORMS</i> by United States of America as to Robert M Langford (Epperley, Linda) (Entered: 01/05/2007)
01/08/2007	<u>24</u>		WAIVER of Counsel by Robert M Langford. (mc, ) (Entered: 01/09/2007)
01/09/2007	<u>23</u>		ORDER APPOINTING STANDBY COUNSEL as to Robert M Langford. Signed by Judge Shon T. Erwin on 1/9/2007. (mc, ) (Entered: 01/09/2007)
01/10/2007	<u>25</u>		ORDER granting <u>8</u> Defendant's Motion to Consolidate Cases as to Robert M Langford (1); denying <u>14</u> Defendant's Motion to Dismiss as to Robert M Langford (1); granting <u>16</u> Plaintiff's Motion to Consolidate Cases as to Robert M Langford (1); terminating <u>17</u> Motion for Extension of Time to File as to Robert M Langford (1). Signed by Judge Shon T. Erwin on 1/8/2007. (mc, ) (Entered: 01/10/2007)
01/23/2007	<u>26</u>		Minute Entry for proceedings held before Judge Shon T. Erwin : Voir Dire begun on 1/23/2007 Robert M Langford (1) on Count 1, Jury Selection as to Robert M Langford held on 1/23/2007, Jury Trial held on 1/23/2007. Dfts appear in person, parties announce ready. Jury duly empaneled and admonished. Rule invoked on mtn of plf. Plf and dfts make opening statements. Plf presents case in chief with testimony of witnesses. Ct adjourns to 8:30 a.m. on Wednesday, January 24, 2007 (Court Reporter Tracy Washbourne.) (brs, ) (Entered: 01/29/2007)
01/24/2007	<u>27</u>		Minute Entry for proceedings held before Judge Shon T. Erwin : Further Jury Trial as to Robert M Langford held on 1/24/2007. Plf continues case in chief with testimony of witnesses. Plf rests. Parties rest. Ct adjourns to 9:15 a.m. on Thursday, January 25, 2007 (Court Reporter Tracy Washbourne.) (brs, ) (Entered: 01/29/2007)
01/25/2007	<u>28</u>		Minute Entry for proceedings held before Judge Shon T. Erwin : Jury Trial as to Robert M Langford held on 1/25/2007. Oral Mtn by Plf to dismiss Count 2 as to Mr. Bardsher only is Granted in open court. Closing arguments. Ct instructs the jury. Bailiff sworn. Jury retires to deliberate. Jury returns with verdict. Is polled. Is discharged. Dfts to stand on present bond awaiting sentencing. Clerk to prepare and file judgment on jury verdict. (Court Reporter Tracy Washbourne.) (brs, ) (Entered: 01/29/2007)
01/25/2007	<u>29</u>		** SEALED DOCUMENT ** Jury Notes as to Robert M Langford (brs, ) (Entered: 01/29/2007)
01/25/2007	<u>30</u>		** SEALED DOCUMENT ** Jury Notes as to Robert M Langford (brs, ) (Entered: 01/29/2007)
01/25/2007	<u>31</u>		

			** SEALED DOCUMENT ** Jury Notes as to Robert M Langford (brs, ) (Entered: 01/29/2007)
01/25/2007	<u>32</u>		** SEALED DOCUMENT ** Jury Notes as to Robert M Langford (brs, ) (Entered: 01/29/2007)
01/25/2007	<u>33</u>	32	JURY VERDICT as to Robert M Langford (1) Guilty on Count 1 Robert M Langford. (brs, ) (Entered: 01/29/2007)
01/25/2007	<u>34</u>		Jury Instructions as to Robert M Langford (mc, ) (Entered: 02/05/2007)
01/25/2007	<u>35</u>		ORDER Setting Conditions of Release as to Robert M Langford (1) 5,000.00 unsecured. Signed by Judge Shon T. Erwin on 1/25/07. (mc, ) (Entered: 02/05/2007)
01/25/2007	<u>36</u>		Unsecured Bond Entered as to Robert M Langford in amount of \$ \$5,000.00. (mc, ) (Entered: 02/05/2007)
01/25/2007	<u>37</u>		ORDER for Presentence Report as to Robert M Langford. Signed by Judge Shon T. Erwin on 1/25/2007. (mc, ) (Entered: 02/05/2007)
04/06/2007	<u>38</u>		NOTICE OF DISCLOSURE OF PRESENTENCE REPORT as to Robert M Langford by Mark E. Jacobs, USPO; April 23, 2007 is the final date to submit written objections (Goins, Anita) (Entered: 04/06/2007)
05/15/2007	<u>39</u>		NOTICE OF HEARING as to Robert M Langford; Sentencing set for 6/20/2007 09:30 AM in Courtroom #228 before Magistrate Judge Shon T. Erwin. (mc, ) (Entered: 05/15/2007)
06/20/2007	<u>40</u>		MINUTE ENTRY for proceedings held before Judge Shon T. Erwin :In Chambers Conference and Sentencing held on 6/20/2007 for Robert M Langford (1), Count(s) 1, Sentenced to 24 months probation and \$2000.00 in fines. (mc, ) (Entered: 06/27/2007)
06/20/2007	<u>41</u>	33	JUDGMENT & Commitment as to Robert M Langford (1), Count(s) 1, Sentenced to 24 months probation and \$2000.00 in fines. Signed by Judge Shon T. Erwin on 6/20/07. (mc, ) (Entered: 06/27/2007)
06/20/2007	<u>42</u>		ORDER APPOINTING COUNSEL as to Robert M Langford. Signed by Judge Shon T. Erwin on 6/20/07. (mc, ) (Entered: 07/09/2007)
08/06/2007			TRANSCRIPT of Proceedings as to Robert M Langford held on January 8, 2007 before Judge Erwin. Court Reporter: Tracy Washbourne. Transcript of: Motions Hearing (dl, ) (Entered: 08/06/2007)
08/06/2007			TRANSCRIPT of Proceedings as to Robert M Langford held on January 23, 2007 before Judge Erwin. Court Reporter: Tracy Washbourne. Transcript of: Jury Trial Volume: I of III (CR-07-18) (dl, ) (Entered: 08/06/2007)

08/06/2007			TRANSCRIPT of Proceedings as to Robert M Langford held on January 24, 2007 before Judge Erwin. Court Reporter: Tracy Washbourne. Transcript of: Jury Trial Volume: II of III (CR-07-18) (dl, ) (Entered: 08/06/2007)
08/06/2007			TRANSCRIPT of Proceedings as to Robert M Langford held on January 25, 2007 before Judge Erwin. Court Reporter: Tracy Washbourne. Transcript of: Jury Trial Volume: III of III (CR-07-18) (dl, ) (Entered: 08/06/2007)
09/04/2007	<u>43</u>		CJA 20 as to Robert M Langford: Authorization to Pay Emmit Tayloe. Voucher # 070809000045.. Signed by Judge Shon T. Erwin on 07/19/07. (bf, ) (Entered: 09/12/2007)
09/19/2007			TRANSCRIPT of Proceedings as to Robert M Langford held on June 20, 2007 before Judge Shawn T. Erwin. Court Reporter: Tracy Washbourne. Transcript of: Sentencing (dl, ) (Entered: 09/19/2007)
06/11/2009	<u>44</u>		ORDER as to Robert M Langford; re-sentence date 6-25-09 at 2:30pm. Signed by Magistrate Judge Shon T. Erwin on 6/11/09. (mc, ) (Entered: 06/11/2009)
06/22/2009	<u>45</u>		ENTRY OF ATTORNEY APPEARANCE: Daniel L White appearing for Robert M Langford (White, Daniel) (Entered: 06/22/2009)
06/25/2009	<u>46</u>	37	AMENDED JUDGMENT as to Robert M Langford (1), Count(s) 1, Sentence amended to 12 months probation and \$500.00 in fines. Signed by Magistrate Judge Shon T. Erwin on 6/25/09. (mc, ) (Entered: 07/07/2009)
06/25/2009	<u>47</u>		ORDER of refund as to Robert M Langford. Signed by Magistrate Judge Shon T. Erwin on 6/25/09. (mc, ) (Entered: 07/07/2009)
07/08/2009	<u>48</u>	41	NOTICE OF APPEAL by Robert M Langford (White, Daniel) (Entered: 07/08/2009)
10/27/2009			Docket Annotation: Pleading #48 filed on 7/8/09 filed in error. United States District Court Case Number for the Notice of Appeal is CR-09-327-L to be transferred to Miles-LaGrange. (hm, ) (Entered: 10/27/2009)

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF OKLAHOMA**

**UNITED STATE OF AMERICA**

**Plaintiff**

**VS.**

**ROBERT M LANGFORD**

**Defendant**

06M- 145 E

**Violation 18 U.S.C § 13,1151,1152  
21 OSA 1692.6**

INFORMATION  
COUNT 1

On or about July 22, 2006, in Caddo County, in the Western District of Oklahoma, on Indian Country, as defined by Title 18, U.S.C. §1151,

-----ROBERT M LANGFORD-----

the defendant herein, was knowingly present as a spectator at a place, building or site where a cockfight was occurring. The defendant was present during a cockfight at the TFC cockfighting facility, located on land held by the United States in trust for the heirs and/or successors of Kiowa Allottee 1245, when a federal search warrant was executed at the facility by law enforcement.

All of said act are in violation of Title 18, U.S.C. § 13,1151, 1152 (21 OSA 1692.6).

SHELDON J. SPERLING  
United States Attorney

LINDA A. EPPERLEY, OBA #12057,  
Assistant U.S. Attorney  
1200 W. Okmulgee  
Muskogee, OK 74401  
(918) 684-5100

STATE OF OKLAHOMA

)

SS

COUNTY OF OKLAHOMA

)

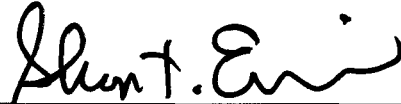
**VERIFICATION**

I, LINDA A. EPPERLEY, being first duly sworn, state that I have read and know the contents of the foregoing Information and, to the best of my knowledge and belief the statements therein are true and correct.



LINDA A. EPPERLEY  
Assistant U.S. Attorney - Eastern Oklahoma  
Special Assistant U.S. Attorney - Western Oklahoma

SUBSCRIBED AND SWORN to before me on August 2, 2006.



SHON T. ERWIN  
UNITED STATES MAGISTRATE JUDGE

UNITED STATES DISTRICT COURT

WESTERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA

V.

Robert Langford

CONSENT TO PROCEED BEFORE  
UNITED STATES MAGISTRATE  
IN A MISDEMEANOR CASE

Case Number: 06m-1415E

The United States magistrate judge has explained to me the nature of the offense(s) with which I am charged and the maximum possible penalties which might be imposed if I am found guilty. The magistrate judge has informed me of my right to the assistance of legal counsel. The magistrate judge has informed me of my right to trial, judgment, and sentencing before a United States district judge or a United States magistrate judge.

**I HEREBY: Waive (give up) my right to trial, judgment, and sentencing before a United States district judge, and I consent to trial, judgment and sentencing before a United States magistrate judge.**

X Robert Langford  
Defendant

WAIVER OF RIGHT TO TRIAL BY JURY

The magistrate judge has advised me of my right to trial by jury.

**I HEREBY: Waive (give up) my right to trial by**

X

Defendant

Consented to by United States

Signature

Name and Title

WAIVER OF RIGHT TO HAVE THIRTY DAYS TO PREPARE FOR TRIAL

The magistrate judge has also advised me of my right to have at least thirty days to prepare for trial before the magistrate judge.

**I HEREBY: Waive (give up) my right to have at least thirty days to prepare for trial.**

X

Defendant

[Signature]  
Defendant's Attorney (if any)

Approved By:

[Signature]  
U.S. Magistrate Judge

8-23-06  
Date



IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF OKLAHOMA

**FILED**

NOV 20 2006

ROBERT D. DENNIS, CLERK  
DIST. COURT, WESTERN DIST. OF OK.  
BY \_\_\_\_\_ DEPUTY

United States of America )

Plaintiff, )

v. )

Robert Langford )

Defendant. )

Case No. O6M-1415-E

MOTION TO DISMISS FOR LACK OF JURISDICTION

Come now, Defendant, Robert Langford, acting in good faith Pro Se, pursuant to The Applicable provisions of the Constitution of the United States of America, in Pursuit of Equitable Relief and Due Process, requests the Honorable Court to Dismiss Misdemeanor Charges for Lack of Jurisdiction to the foregoing to wit:

PERTINENT FACTS

Defendant was charged with a misdemeanor in violation of Oklahoma's anti-Cock Fighting Law, codified at 21 O.S. § 1692 pursuant to 18 U.S.C. § 13, (Assimilative Crimes Act), with out caution and forbearance of Supreme Federal Law, for being a Spectator at a Cock Fight on Kiowa Tribal Allotted Land, recognize and defined by 18 U.S.C. § 1151, (A), (B.), (C.), "Indian Country," see exhibit A, with in the continuous Geo-Political Reservation Boundary Lines, of the Kiowa, Comanche and Apache Tribes established by The 1867 Treaty of Medicine Lodge, Article 2, see Exhibit B, recognized pursuant to the Constitution of the United States of America.

Plaintiff infringed on the Kiowa Tribes Geo-Political Jurisdiction with out the Kiowa Indian Council's consent to Waiver of Sovereignty to the State of Oklahoma and The United States of America, Federal and State Courts to Civil and Criminal Jurisdiction in Violation of the Constitution of the United States and the Kiowa Tribes Ordinance established by Resolution CY-00-50, *see* Exhibit C, recognized by the Constitution and By Laws of the Kiowa Tribe and 25 Code of Federal Regulations, 25 C.F.R. § 11.100, (e) , *See* Exhibit D, Defendants protected constitutional rights to equal protection of Law and Due Process under the Indian Civil Rights Act of 1968, *see* Exhibit E, and in pursuit of Indian Commerce by applicable 25 Code of Federal Regulations, Economic Enterprise, 25 C.F.R. § 286, *see* Exhibit F, with Kiowa Tribal members who engage in Game Fowl activities within the continuous Geo-Political Reservation Boundary Lines which have never been terminated nor diminished, *see* exhibit G, Jerome Agreement of 1892.

#### CONCLUSION

Wherefore, by reasons of the foregoing, Defendant, Robert Langford requests the Honorable Court to dismiss Plaintiff's misdemeanor charges for Lack of Jurisdiction.




ROBERT LANGFORD, DEFENDANT

393 EASTLAND LANE

WICHITA FALLS, TEXAS 76305

*Cindy Moran*  
*Nov 20, 2006*



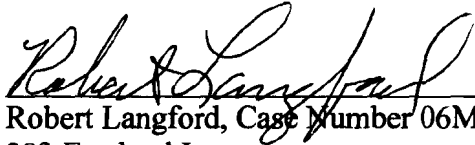
NOVEMBER 19, 2006

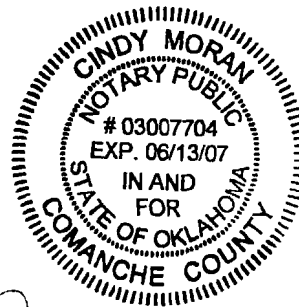
Mata and Mata  
609 S.W. E. Avenue  
Lawton, Oklahoma 73501


Re: Letter of notification

Mr. Mata

I Robert Langford hereby terminate your services as appointed legal counsel, for Matters concerning the position you and the courts have taken concerning the question of Jurisdiction, which I feel will jeopardize my Due-Process recognized by controlling Federal Law therefore it is requested you withdraw from my case for these reasons stated Above.

  
Robert Langford, Case Number 06M-1415-E  
393 Eastland Lane  
Wichita Falls, Texas 76305



  
Nov 20, 2006

**EXHIBIT** A

- The subject matter over which state or tribal jurisdiction extends in Indian country.
- The distinction between judicial jurisdiction and legislative jurisdiction.
- The distinction between subject matter jurisdiction and personal jurisdiction.
- The distinction between exclusive jurisdiction and concurrent jurisdiction.
- The extent to which Congress, in exercising its plenary power, has altered the original exclusive jurisdiction of the tribes and has transferred all or part of that jurisdiction to the federal government or state governments.

It will be valuable to articulate, in several different contexts, a characterization of Indian country. Is the tribe in question best described as a "state within a state"? As a "foreign nation"? As a "federal instrumentality"? As a "private association"? As will be seen, each of those characterizations, depending upon the specific facts and laws at issue, can fairly be applied to different reservations in different legal contexts.

But one broad point remains strikingly apparent. From *Worcester v. Georgia* over one and one-half centuries ago to the cases decided at the Court's last term, the central issue in Indian law has changed hardly a whit: who governs the land, the resources, and the people in Indian country?

Most of the remainder of this book will deal with jurisdiction in Indian country. Even the material covering hunting and fishing rights and water rights, which are premised in part on property rights, repeatedly turn on jurisdictional questions. This chapter treats three fundamental, recurring issues that lay a foundation for the subsequent chapters on jurisdiction.

## SECTION A. INDIAN COUNTRY

The term "Indian country" is the starting point for analysis of jurisdictional questions in Indian law, because it defines the geographic area in which tribal and federal laws normally apply and state laws normally do not apply. 18 U.S.C.A. § 1151, adopted in 1948, defines Indian country as follows:

- • • [T]he term 'Indian country', as used in this chapter, means (a) all land within the limits of any Indian reservation under the jurisdiction of the United States government, notwithstanding the issuance of any patent, and, including rights-of-way running through the reservation, (b) all dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a state, and (c) all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same.

IBIT B

TREATY WITH THE KIOWA AND COMANCHE, 1867.

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TREATY WITH THE KIOWA AND COMANCHE, 1867.

[NOTE BY THE DEPARTMENT OF STATE.—The words of this treaty which are put in brackets with an asterisk are written in the original with black pencil, the rest of the original treaty being written with black ink.]

Oct. 21, 1867  
15 Stats., 581.  
Ratified July 29,  
1868.  
Proclaimed Aug. 25,  
1868.

*Articles of a treaty and agreement made and entered into at the Council Camp, on Medicine Lodge Creek, seventy miles south of Fort Larned, in the State of Kansas, on the twenty-first day of October, one thousand eight hundred and sixty-seven, by and between the United States of America, represented by its commissioners duly appointed thereto, to wit, Nathaniel G. Taylor, William S. Harney, C. C. Augur, Alfred S. [H.] Terry, John B. Sanborn, Samuel F. Tappan, and J. B. Henderson, of the one part, and the confederated tribes of Kiowa and Comanche Indians, represented by their chiefs and head-men, duly authorized and empowered to act for the body of the people of said tribes, (the names of said chiefs and head-men being hereto subscribed,) of the other part, witness:*

**ARTICLE 1.** From this day forward all war between the parties to this agreement shall forever cease.

War to cease.

The Government of the United States desires peace, and its honor is here pledged to keep it. The Indians desire peace, and they now pledge their honor to maintain it. If bad men among the whites, or among other people subject to the authority of the United States, shall commit any wrong upon the person or property of the Indians, the United States will, upon proof made to the agent and forwarded to the Commissioner of Indian Affairs at Washington City, proceed at once to cause the offender to be arrested and punished according to the laws of the United States, and also re-imburse the injured person for the loss sustained.

Peace to be kept.

Offenders against the Indians to be arrested, etc.

If bad men among the Indians shall commit a wrong or depredation upon the person or property of any one, white, black, or Indians, subject to the authority of the United States and at peace therewith, the tribes herein named solemnly agree that they will, on proof made to their agent and notice by him, deliver up the wrong-doer to the United States, to be tried and punished according to its laws, and in case they wilfully refuse so to do, the person injured shall be re-imbursed for his loss from the annuities or other moneys due or to become due to them under this or other treaties made with the United States. And the President, on advising with the Commissioner of Indian Affairs shall prescribe such rules and regulations for ascertaining damages under the provisions of this article as, in his judgment, may be proper; but no such damages shall be adjusted and paid until thoroughly examined and passed upon by the Commissioner of Indian Affairs and the Secretary of the Interior; and no one sustaining loss, while violating or because of his violating, the provisions of this treaty or the laws of the United States, shall be re-imbursed therefor.

Wrongdoers against the whites to be punished.

Damages.

**ARTICLE 2.** The United States agrees that [the\*] following district of country, to wit: commencing at a point where the Washita River crosses the 98th meridian, west from Greenwich; thence up the Washita River, in the middle of the main channel thereof, to a point thirty miles, by river, west of Fort Cobb, as now established; thence, due west to the north fork of Red River, provided said line strikes said river east of the one hundredth meridian of west longitude; if not, then only to said meridian-line, and thence south, on said meridian-line, to the said north fork of Red River; thence down said north fork, in the middle of the main channel thereof, from the point where it may be first intersected by the lines above described, to the main Red

Reservation.  
Boundaries.

TREATY WITH THE KIOWA AND COMANCHE, 1867.

River; thence down said river, in the middle of the main channel thereof to its intersection with the ninety-eighth meridian of longitude west from Greenwich; thence north, on said meridian-line, to the place of beginning, shall be and the same is hereby set apart for the absolute and undisturbed use and occupation of the tribes herein named, and for such other friendly tribes or individual Indians as, from time to time, they may be willing [with the consent of the United States] to admit among them; and the United States now solemnly agrees that no persons except those herein authorized so to do and except such officers, agents, and employes of the Government as may be authorized to enter upon Indian reservation in discharge of duties enjoined by law, shall ever be permitted to pass over, settle upon, or reside in the territory described in this article, or in such territory as may be added to this reservation, for the use of said Indians.

Certain persons not to enter or reside thereon

Additional arable land to be added, if, etc.

ARTICLE 3. If it should appear from actual survey or other satisfactory examination of said tract of land, that it contains less than one hundred and sixty acres of tillable land, for each person, who at the time may be authorized to reside on it under the provisions of this treaty, and a very considerable number of such persons shall be disposed to commence cultivating the soil as farmers, the United States agrees to set apart for the use of said Indians, as herein provided, such additional quantity of arable land adjoining to said reservation, or as near the same as it can be obtained, as may be required to provide the necessary amount.

Buildings on reservation.

ARTICLE 4. The United States agrees at its own proper expense to construct at some place, near the centre of said reservation, where timber and water may be convenient, the following buildings, to wit: A warehouse or store-room for the use of the agent, in storing goods belonging to the Indians, to cost not exceeding fifteen hundred dollars; an agency-building for the residence of the agent, to cost not exceeding three thousand dollars; a residence for the physician, to cost not more than three thousand dollars; and five other buildings, for a carpenter, farmer, blacksmith, miller, and engineer, each to cost not exceeding two thousand dollars; also a school-house or mission-building, so soon as a sufficient number of children can be induced by the agent to attend school, which shall not cost exceeding five thousand dollars.

The United States agrees further to cause to be erected on said reservation, near the other buildings herein authorized, a good steam circular saw mill, with a grist-mill and shingle-machine attached; the same to cost not exceeding eight thousand dollars.

Agent's residence, office, and duties.

ARTICLE 5. The United States agrees that the agent for the said Indians in the future shall make his home at the agency-building; that he shall reside among them, and keep an office open at all times, for the purpose of prompt and diligent inquiry into such matters of complaint by and against the Indians as may be presented for investigation under the provisions of their treaty stipulations, as also for the faithful discharge of other duties enjoined on him by law. In all cases of depredation on person or property, he shall cause the evidence to be taken in writing and forwarded, together with his findings to the Commissioner of Indian Affairs, whose decision, subject to the revision of the Secretary of the Interior, shall be binding on the parties to this treaty.

Head of family may select lands for farming.

ARTICLE 6. If any individual belonging to said tribes of Indians, or legally incorporated with them, being the head of a family, shall desire to commence farming, he shall have the privilege to select, in the presence and with the assistance of the agent then in charge, a tract of land within said reservation, not exceeding three hundred and twenty acres in extent, which tract, when so selected, certified, and recorded in the "land book" as herein directed, shall cease to be held in common.

CHARTER OF  
INCORPORATION  
SUBSIDIARY FARMERS



TREATY WITH THE KIOWA AND COMANCHE, 1867.

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but the same may be occupied and held in the exclusive possession of the person selecting it, and of his family so long as he or they may continue to cultivate it. Any person over eighteen years of age, not being the head of a family, may in like manner select and cause to be certified to him or her, for purposes of cultivation, a quantity of land not exceeding eighty acres in extent, and thereupon, be entitled to the exclusive possession of the same as above directed. For each tract of land so selected, a certificate, containing a description thereof and the name of the person selecting it, with a certificate indorsed thereon that the same has been recorded, shall be delivered to the party entitled to it, by the agent, after the same shall have been recorded by him in a book to be kept in his office, subject to inspection, which said book shall be known as the "Kiowa and Comanche land book." The President may, at any time, order a survey of the reservation, and, when so surveyed, Congress shall provide for protecting the rights of settlers, in their improvements, and may fix the character of the title held by each. The United States may pass such laws, on the subject of alienation and descent of property and on all subjects connected with the government of the said Indians on said reservations, and the internal police thereof, as may be thought proper.

ARTICLE 7. In order to insure the civilization of the tribes, entering into this treaty, the necessity of education is admitted, especially by such of them as are or may be settled on said agricultural reservations; and they therefore pledge themselves to compel their children, male and female, between the ages of six and sixteen years, to attend school; and it is hereby made the duty of the agent for said Indians to see that this stipulation is strictly complied with; and the United States agrees that for every thirty children between said ages, who can be induced or compelled to attend school, a house shall be provided, and a teacher competent to teach the elementary branches of an English education, shall be furnished, who will reside among said Indians, and faithfully discharge his or her duties as a teacher. The provisions of this article to continue for not less than twenty years.

ARTICLE 8. When the head of a family or lodge shall have selected lands and received his certificate as above directed, and the agent shall be satisfied that he intends in good faith to commence cultivating the soil for a living, he shall be entitled to receive seeds and agricultural implements for the first year not exceeding in value one hundred dollars, and for each succeeding year he shall continue to farm for a period of three years more, he shall be entitled to receive seeds and implements as aforesaid not exceeding in value twenty-five dollars. And it is further stipulated that such persons as commence farming shall receive instruction from the farmer herein provided for, and whenever more than one hundred persons shall enter upon the cultivation of the soil a second blacksmith shall be provided, together with such iron, steel, and other material as may be needed.

ARTICLE 9. At any time after ten years from the making of this treaty the United States shall have the privilege of withdrawing the physician, farmer, blacksmiths, carpenter, engineer, and miller herein provided for; but, in case of such withdrawal, an additional sum thereafter of ten thousand dollars per annum shall be devoted to the education of said Indians, and the Commissioner of Indian Affairs shall, upon careful inquiry into the condition of said Indians, make such rules and regulations for the expenditure of said sum as will best promote the educational and moral improvement of said tribes.

ARTICLE 10. In lieu of all sums of money or other annuities provided to be paid to the Indians, herein named, under the treaty of October eighteenth, one thousand eight hundred and sixty-five, made at the mouth of the "Little Arkansas," and under all treaties made

Others may select land for cultivation.

Surveys.

Alienation and descent of property.

Education.

Children to attend school.

Schoolhouses and teachers.

Seeds and agricultural implements to be furnished to whom.

Instructions in farming.

Blacksmith.

Physician, farmer, etc., may be withdrawn.

Additional appropriation in such cases.

Delivery of goods in lieu of annuities.

President can order surveys

1867  
20 yr  
1887

FARMERS

1867  
10 yr  
1877 yr

980

TREATY WITH THE KIOWA AND COMANCHE, 1867.

1867  
30 Apr  
1897

previous thereto, the United States agrees to deliver at the agency, house on the reservation herein named, on the fifteenth day of October of each year, for thirty years, the following articles, to wit:

**Clothing.** For each male person over fourteen years of age, a suit of good substantial woollen clothing, consisting of coat, pantaloons, flannel shirt, hat, and a pair of home-made socks. For each female over twelve years of age, a flannel skirt, or the goods necessary to make it, a pair of woollen hose, and twelve yards of calico, and twelve yards of "domestic."

For the boys and girls under the ages named, such flannel and cotton goods as may be needed, to make each a suit as aforesaid, together with a pair of woollen hose for each; and in order that the Commissioner of Indian Affairs may be able to estimate properly for the articles herein named, it shall be the duty of the agent, each year, to forward him a full and exact census of the Indians on which the estimates from year to year can be based; and, in addition to the clothing herein named, the sum of twenty-five thousand dollars shall be annually appropriated for a period of thirty years, to be used by the Secretary of the Interior in the purchase of such articles, upon the recommendation of the Commissioner of Indian Affairs, as from time to time the condition and necessities of the Indians may indicate to be proper; and if at any time within the thirty years it shall appear that the amount of money needed for clothing under this article can be appropriated to better uses for the tribes herein named, Congress may by law change the appropriation to other purposes, but in no event shall the amount of this appropriation be withdrawn or discontinued for the period named; and the President shall, annually, detail an officer of the Army to be present and attest the delivery of all the goods herein named to the Indians, and he shall inspect and report on the quantity and quality of the goods and the manner of their delivery.

**Census.**

**Other necessary articles.**

**Army officer to attest the delivery.**

**Right to occupy territory outside of reservation surrendered.**

**Right to hunt reserved.**

**Agreements as to railroads.**

**Emigrants and emigrant travelers.**

**Women and children.**

**Pacific rail road, wagon roads, etc.**

ARTICLE 11. In consideration of the advantages and benefits conferred by this treaty and the many pledges of friendship by the United States, the tribes who are parties to this agreement hereby stipulate that they will relinquish all right to occupy permanently the territory outside of their reservation, as herein defined, but they yet reserve the right to hunt on any lands south of the Arkansas [River,\*] so long as the buffalo may range thereon in such numbers as to justify the chase, [and no white settlements shall be permitted on any part of the lands contained in the old reservation as defined by the treaty made between the United States and the Cheyenne, Arapahoe, and Apache tribes of Indians at the mouth of the Little Arkansas, under date of October fourteenth, one thousand eight hundred and sixty-five, within three years from this date;] and they, [the said tribes,\*] further expressly agree—

1st. That they will withdraw all opposition to the construction of the railroad now being built on the Smoky Hill River, whether it be built to Colorado or New Mexico.

2d. That they will permit the peaceable construction of any railroad not passing over their reservation as herein defined.

3d. That they will not attack any persons at home, nor travelling, nor molest or disturb any wagon-trains, coaches, mules, or cattle belonging to the people of the United States, or to persons friendly therewith.

4th. They will never capture or carry off from the settlements white women or children.

5th. They will never kill nor scalp white men nor attempt to do them harm.

6th. They withdraw all pretence of opposition to the construction of the railroad now being built along the Platte River and westward



TREATY WITH THE KIOWA AND COMANCHE, 1867.

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to the Pacific Ocean; and they will not, in future, object to the construction of railroads, wagon-roads, mail-stations, or other works of utility or necessity which may be ordered or permitted by the laws of the United States. But should such roads or other works be constructed on the lands of their reservation, the Government will pay the tribes whatever amount of damage may be assessed by three disinterested commissioners, to be appointed by the President for that purpose; one of said commissioners to be a chief or head-man of the tribes.

Damages for crossing these reservations.

7th. They agree to withdraw all opposition to the military posts now established in the western Territories.

Military posts.

ARTICLE 12. No treaty for the cession of any portion or part of the reservation herein described, which may be held in common, shall be of any validity or force as against the said Indians, unless executed and signed by at least three-fourths of all the adult male Indians occupying the same, and no cession by the tribe shall be understood or construed in such manner as to deprive, without his consent, any individual member of the tribe of his rights to any tract of land selected by him as provided in Article VII (VI) of this treaty.

No treaty for cession of reservation to be valid unless, etc.

ARTICLE 13. The Indian agent, in employing a farmer, blacksmith, miller, and other employes herein provided for, qualifications being equal, shall give the preference to Indians.

In employing farmers, etc., preference to be given to the Indians, if, etc.

ARTICLE 14. The United States hereby agrees to furnish annually to the Indians the physician, teachers, carpenter, miller, engineer, farmer, and blacksmiths, as herein contemplated, and that such appropriations shall be made from time to time, on the estimates of the Secretary of the Interior, as will be sufficient to employ such persons.

United States to furnish physicians, teachers, etc.

ARTICLE 15. It is agreed that the sum of seven hundred and fifty dollars be appropriated for the purpose of building a dwelling-house on the reservation for "Tosh-e-wa," (or the Silver Brooch,) the Comanche chief who has already commenced farming on the said reservation. And the sum of five hundred dollars annually, for three years from date, shall be expended in presents to the ten persons of said tribes who in the judgment of the agent may grow the most valuable crops for the period named.

House for Tosh-e-wa.

Presents for best crops.

ARTICLE 16. The tribes herein named agree, when the agency-house and other buildings shall be constructed on the reservation named, they will make said reservation their permanent home and they will make no permanent settlement elsewhere, but they shall have the right to hunt on the lands south of the Arkansas River, formerly called theirs, in the same manner, subject to the modifications named in this treaty, as agreed on by the treaty of the Little Arkansas, concluded the eighteenth day of October, one thousand eight hundred and sixty-five.

Reservation to be permanent home of tribes.

In testimony of which, we have hereunto set our hands and seals on the day and year aforesaid.

N. G. Taylor, [SEAL.]  
President of Indian Commission.  
Wm. S. Harney, [SEAL.]  
Brevet Major-General.  
C. C. Angur, [SEAL.]  
Brevet Major-General.  
Alfred H. Terry, [SEAL.]  
Brigadier and Brevet Major-General.  
John B. Sanborn, [SEAL.]  
Samuel F. Tappan, [SEAL.]  
J. B. Henderson, [SEAL.]

Attest: Ashton S. H. White, secretary.

*Indian Preference*

*CORP OF ENGINEERS*



# Kiowa Tribe of Oklahoma

POSTAL BOX 369, CARNEGIE, OKLAHOMA 73015 : (580) 654-2300 ext. 258

## Kiowa Business Office

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### KIOWA RESOLUTION NO. CY-00-050

#### RESOLUTION

**A RESOLUTION OF THE KIOWA BUSINESS COMMITTEE APPROVING RATIFICATION OF ISSUE: 00-A-7: SHALL THE KIOWA INDIAN COUNCIL PRESERVE OUR RIGHTS FOR CULTURAL AND RURAL LIFE STYLES OF KIOWA TRIBAL JURISDICTION BY (A) PROTECTION AGAINST INFRINGEMENT OF STATE LAWS AND FEDERAL LAWS (B) PROTECTION OF KIOWA TRIBAL RIGHTS IN PURSUIT OF CULTURAL AND RURAL ACTIVITIES.**

**WHEREAS,** the Kiowa Tribe of Oklahoma is a federally recognized Indian Tribe having inherent right to self government, and

**WHEREAS,** the constitution of the Kiowa Tribe of Oklahoma was written and adopted by the Kiowa Indian Council and approved in 1971, and

**WHEREAS,** the Kiowa Business Committee is authorized pursuant to Article V-Powers, Section 2. (g), of the constitution to engage in business matters on behalf of the tribe, and

**WHEREAS,** the Kiowa electorate approved Issue: 00-A-7 during an election held on June 3, 2000 by a vote of , 438 yes and 102 no, and

**WHEREAS,** individual Kiowa's, Kiowa families and a peoples commitment to a strong sense of community desires to protect Kiowa cultural and rural activities, against the infringement of state and federal laws, and

**NOW THEREFORE BE IT RESOLVED,** that the Kiowa Tribe of Oklahoma, the Kiowa Business Committee desires to preserve tribal rights for cultural and rural life styles of Kiowa Tribal Jurisdiction.

**NOW THEREFORE BE IT FURTHER RESOLVED,** that the Kiowa Business Committee accepts and approves ratification of Issue: 00-A-7, Preservation of Culture and Rural Life Styles of Kiowa Jurisdiction.

**EXHIBIT** C

**RESOLUTION CY-00-050**

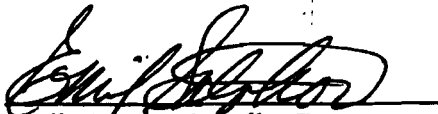
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**CERTIFICATION**

The foregoing Kiowa Resolution CY-00-050 was adopted on August 5, 2000 at the AOA Building at the Kiowa Complex, Carnegie, Oklahoma during the monthly meeting of the Kiowa Business Committee with a majority vote of 7 for, 0 against, 0 abstentions, with a quorum present.

**ATTEST:**

**WITNESS:**

  
Emily Satepauhoodle, Secretary

  
Billy Evans Horse, Chairman

**Bureau of Indian Affairs, Interior**

**\$11.100**

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- 11.603 Invalid or prohibited marriages.
- 11.604 Declaration of invalidity.
- 11.605 Dissolution.
- 11.606 Dissolution proceedings.
- 11.607 Temporary orders and temporary injunctions.
- 11.608 Final decree; Disposition of property; Maintenance; Child support; Custody.
- 11.609 Determination of paternity and support.
- 11.610 Appointment of guardians.
- 11.611 Change of name.

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- 11.700 Probate jurisdiction.
- 11.701 Duty to present will for probate.
- 11.702 Proving and admitting will.
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- 11.704 Appointment and duties of executor or administrator.
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- 11.710 Determination of the court.
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- 11.801 Procedure on appeal.
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- 11.905 Jurisdiction.
- 11.906 Rights of parties.
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- 11.909 Law enforcement records.
- 11.910 Expungement.
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- 11.1005 Preliminary inquiry.

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- 11.1009 Summons.
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- 11.1112 Dispositional alternatives.
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- 11.1114 Termination.
- 11.1115 Information collection.

AUTHORITY: 5 U.S.C. 301; R.S. 463, 25 U.S.C. 2; R.S. 465, 25 U.S.C. 9; 42 Stat. 206, 25 U.S.C. 13; 38 Stat. 586, 25 U.S.C. 200.

SOURCE: 58 FR 54411, Oct. 21, 1993, unless otherwise noted.

**Subpart A—Application; Jurisdiction**

**§ 11.100 Listing of Courts of Indian Offenses.**

(a) Except as otherwise provided in this title, the regulations under this part are applicable to the Indian country (as defined in 18 U.S.C. 1151) occupied by the following tribes:

- (1) Flandreau Santee Sioux Tribe (South Dakota).
- (2) Yankton Sioux Tribe (South Dakota).
- (3) Shoshone and Arapahoe Tribes of the Wind River Reservation (Wyoming).
- (4) Bois Forte Band of the Minnesota Chippewa Tribe (Minnesota).
- (5) Red Lake Band of Chippewa Indians (Minnesota).
- (6) Cocopah Tribe (Arizona).
- (7) Kaibab Band of Paiute Indians (Arizona).

*17*  
*EXHIBIT D*





## EXHIBIT E

### Tribal Court Clearinghouse

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### Indian Civil Rights Act of 1968 (25 U.S.C. §§ 1301-03)

#### § 1301. Definitions

For purposes of this subchapter, the term -

1. "Indian tribe" means any tribe, band, or other group of Indians subject to the jurisdiction of the United States and recognized as possessing powers of self-government;
2. "powers of self-government" means and includes all governmental powers possessed by an Indian tribe, executive, legislative, and judicial, and all offices, bodies, and tribunals by and through which they are executed, including courts of Indian offenses; and means the inherent power of Indian tribes, hereby recognized and affirmed, to exercise criminal jurisdiction over all Indians;
3. "Indian court" means any Indian tribal court or court of Indian offense.

#### § 1302. Constitutional rights

No Indian tribe in exercising powers of self-government shall -

1. make or enforce any law prohibiting the free exercise of religion, or abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble and to petition for a redress of grievances;
2. violate the right of the people to be secure in their persons, houses, papers, and effects against unreasonable search and seizures, nor issue warrants, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the person or thing to be seized;
3. subject any person for the same offense to be twice put in jeopardy;
4. compel any person in any criminal case to be a witness against himself;
5. take any private property for a public use without just compensation;
6. deny to any person in a criminal proceeding the right to a speedy and public trial, 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, and at his own expense to have the assistance of counsel for his defense;
7. require excessive bail, impose excessive fines, inflict cruel and unusual punishments, and in no event impose for conviction of any one offense any penalty or punishment greater than imprisonment for a term of one year and [1] a fine of \$5,000, or both;
8. deny to any person within its jurisdiction the equal protection of its laws or deprive any person of liberty or property without due



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#### Native Organizations

[Native American Rights Fund \(NARF\)](#)  
[National Congress of American Indians \(NCAI\)](#)  
[National American Indian Court Judges Association \(NAICJA\)](#)  
[National Tribal Justice Resource Center](#)  
[National Indian Child Welfare Association \(NICWA\)](#)  
[Native American Children's Alliance \(NACA\)](#)

- process of law; }  
9. pass any bill of attainder or ex post facto law; or  
10. deny to any person accused of an offense punishable by imprisonment the right, upon request, to a trial by jury of not less than six persons.

**§ 1303. Habeas corpus**

The 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.

[National American Indian Housing Council \(NAIHC\)](#)

[Navajo Nation Bar Association](#)

[California Indian Legal Services](#)

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**Resources**

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**The Jerome Agreement (1892) Senate Executive Doc. No. 17, 52nd Cong., 2nd Sess., Serial Set No. 3055, Vol. 1, 4 January 1893.**

**Article I.**

Articles of agreement of land in severalty to the individual members of the Comanche, Kiowa, and Apache tribes of Indians in the Indian Territory, as hereinafter provided for, and subject to the conditions hereinafter imposed, and for the considerations hereinafter mentioned the said Comanche, Kiowa, and Apache Indians hereby cede, convey, transfer, relinquish, and surrender, forever and absolutely, without any reservation whatever, express or implied, all their claim, title, and intrest, of every kind and character, in and to the lands embraced in the following described tract of country in the Indian Territory, to wit: Commencing at a point where the Washita River, in the middle of the main channel thereof, to a point thirty miles, by river, west of Fort Cobb, as now established; thence due south, on said meridian line, to the said north fork of Red River; thence down said Red River, in the middle of the main channel thereof, to its intersection with the ninety-eighth meridian of longitude west from Greenwich; thence north, on said meridian line, to the place of beginning.

**Article II.**

Out of the lands ceded, conveyed, transferred, relinquished and surrendered by Article I hereof, and in part consideration for the cession thereof, it is agreeg by the United States the each member of said Comanche, Kiowa, and Apache tribes of Indians over the age of eighteen (18) years shall have the right to select for himself or herself on hundred and sixty (160) acres of land to be held and owned in severalty, to conform to the legal surveys in boundry; and that the father, or, if he be dead, the mother, if members of either said tribes of Indians, shall have the right to select a like amount of land for each of his or her children under the age of eighteen (19) years; and that the Commissioner of Indian Affairs, or someone by him appointed for the purpose, shall select a like amount of land for each orphan-child belonging to either of said tribes under the age



EXHIBIT E

Bureau of Indian Affairs, Interior

§ 286.1

## SUBCHAPTER N—ECONOMIC ENTERPRISES

### PART 286—INDIAN BUSINESS DEVELOPMENT PROGRAM

- Sec.
- 286.1 Definitions.
  - 286.2 Purpose.
  - 286.3 Eligible applicants.
  - 286.4 Eligible economic enterprises.
  - 286.5 Information collection.
  - 286.6 [Reserved]
  - 286.7 Location of enterprise.
  - 286.8 Priority criteria.
  - 286.9 Environmental and flood disaster protection.
  - 286.10 Preservation of historical and archeological data.
  - 286.11 Management and technical assistance.
  - 286.12 Content of application.
  - 286.13—286.14 [Reserved]
  - 286.15 Application procedures.
  - 286.16 Grant approval authority.
  - 286.17 Grant limitations and requirements.
  - 286.18 Written notice.
  - 286.19 [Reserved]
  - 286.20 Disbursement of grant funds.
  - 286.21 Return of unused funds.
  - 286.22 Reports.

AUTHORITY: 25 U.S.C. 1524.

SOURCE: 39 FR 44748, Dec. 27, 1974, unless otherwise noted. Redesignated at 47 FR 13328, Mar. 30, 1982.

EDITORIAL NOTE: Nomenclature changes to art 286 appear at 55 FR 36273, Sept. 5, 1990.

#### 286.1 Definitions.

As used in this part 286:

*Area Director* means the Bureau of Indian Affairs official in charge of an area office or his authorized representative.

*Assistant Secretary* means the Assistant Secretary—Indian Affairs of the United States Department of the Interior or the official in the Bureau of Indian Affairs to whom the Assistant Secretary has delegated authority to act on behalf of the Assistant Secretary.

*Cooperative Association* means an association of individuals organized pursuant to state, Federal, or tribal law, the purpose of owning and operating an economic enterprise for profit with the profits distributed or allocated to members who are members of the organization.

*Corporation* means an entity organized pursuant to state, Federal, or tribal law, with or without stock, for the purpose of owning and operating an economic enterprise.

*Economic enterprise* means any Indian-owned, commercial, industrial, agricultural, or business activity established or organized for the purpose of profit, provided that eligible Indian ownership constitutes not less than 51 per centum of the enterprise.

*Grantee(s)* means the recipient(s) of a nonreimbursable grant under this part.

*Indian* means a person who is a member of an Indian tribe or a person of Alaska Native descent who is a shareholder in a corporation organized under the Alaska Native Claims Settlement Act (85 Stat. 688), as amended.

*Partnership* means a form of business organization in which two or more legal persons are associated as co-owners for the purposes of business or professional activities for private pecuniary gain.

*Profits* means the net income earned after deducting operating expenses from operating revenues.

*Reservation* means Indian reservation, California rancharia, public domain Indian allotment, former Indian reservation in Oklahoma, and land held by Alaska Native groups incorporated under the provisions of the Alaska Native Claims Settlement Act (85 Stat. 688), as amended.

*Secretary* means the Secretary of the Interior.

*Superintendent* means the Bureau official in charge of a Bureau agency office or other local office reporting to an Area Director.

*Tribe* means any Indian tribe, band, nation, rancharia, pueblo, colony or community, including any Alaska Native village or any regional, village, urban or group corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688) as amended, which is recognized by the Federal Government as el-

**§286.2**

eligible for services from the Bureau of Indian Affairs.

[55 FR 36273, Sept. 5, 1990]

**§286.2 Purpose.**

The purpose of this part 286 is to prescribe the regulations and procedures under which non-reimbursable grants may be made to eligible applicants to stimulate and increase Indian entrepreneurship and employment through establishment, acquisition or expansion of profit-making Indian-owned economic enterprises which will contribute to the economy of a reservation.

**§286.3 Eligible applicants.**

Applications for grants may be accepted only from individual Indians, Indian tribes, Indian partnerships, corporations or cooperative associations authorized to do business under State, Federal, or Tribal law. These applicants must have a form of organization acceptable to the Assistant Secretary and unable to meet their total financing needs from their own resources and by loans from other sources such as banks, Farmers Home Administration, Small Business Administration, Production Credit Associations, and Federal Land Banks. Associations, corporations or partnerships shall be at least fifty-one percent owned by eligible Indians or an eligible Indian tribe. This Indian ownership must actively participate in the management and operation of the economic enterprise by representation on the board of directors of a corporation or cooperative association proportionate to the Indian ownership which will enable the Indian owner(s) to control management decisions. The legal organization documents will provide for the number of Indians which are to be on the board of directors, how they along with other directors will be elected or appointed and qualifications required as a condition for becoming a member of the board of directors. The legal organization documents shall provide safeguards which will prevent Indian ownership and control from decreasing below fifty-one percent. Evidence of Indian ownership in a cooperative association or corporation will be evidenced by stock ownership, if stock is or has been issued, or by other evidence

**25 CFR Ch. I (4-1-94 Edition)**

satisfactory to the Assistant Secretary. Partnerships will be evidenced by written partnership agreements which show the percentage of Indian ownership, role and authority in making management decisions in controlling the operation of the economic enterprise.

**§286.4 Eligible economic enterprises.**

An economic enterprise as defined in §286.1(k) is eligible to receive equity capital through non-reimbursable grants if it is or will be self-sustaining and profit-oriented and will create employment for Indians. In the case of Indian-owned cooperative associations, they must distribute or allocate profits for later distribution, to members who are patrons, unless prohibited from doing so by law.

**§286.5 Information collection.**

(a) The collections of information contained in §§286.12 and 286.23 have been approved by the Office of Management and Budget under 44 U.S.C. 3501 seq. and assigned clearance number 1076-0093. The information will be made available to rate applicants in accordance with the priority criteria listed at §286.8. Response to this request is required to obtain a benefit in accordance with 25 U.S.C. 1521.

(b) Public reporting for this collection is estimated to average 45 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments on this burden estimate or any aspect of this collection of information, including suggestions for reducing the burden, to the Information Collection Clearance Officer, Bureau of Indian Affairs, Mailstop 337-SIB, 18th Street, NW., Washington, DC 20547, and the Office of Management and Budget, Paperwork Reduction Project (1076-0093), Washington, DC 20503.

[55 FR 36273, Sept. 5, 1990]

**§286.6 [Reserved]**

**§286.7 Location of enterprise.**

To be eligible for an economic enterprise must be

**Bureau of Indian Affairs, Interior**

Indian reservation or located where it makes or will make an economic contribution to a nearby reservation by providing employment to tribal members residing thereon or by expending a portion of its income for materials or services on the reservation. Economic enterprises which are or will be operated on a reservation must comply with the requirements of applicable rules, resolutions or ordinances adopted by the governing body of the tribe, if applicable.

**§286.8 Priority criteria.**

The following priority will be used in selecting economic enterprises for grant funding:

(a) *First priority.* First priority will be given to economic enterprises located on a reservation that will:

(1) Utilize Indian resources, both natural and human.

(2) Create the highest ratio of Indian jobs to the total amount of dollars to be invested, including market value of materials and equipment contributed to the project.

(3) Create the highest ratio of income for the tribe or its members in relation to the total amount of dollars to be invested, including market value of materials or equipment contributed to the project.

(4) Generate the most non-Bureau financing.

(b) *Second priority.* Second priority will be given to projects located in the immediate vicinity of a reservation that will:

(1) Utilize Indian resources, both natural and human.

(2) Create the highest ratio of Indian jobs to the total amount of dollars to be invested, including market value of materials and equipment contributed to the project.

(3) Generate the most non-Bureau financing.

(c) *Environmental and flood disaster protection.*

Funds will not be advanced where there is assurance of compliance with applicable provisions of the Disaster Protection Act of 1973 (Pub. L. 93-234), the National Environmental Policy Act (Pub. L. 91-190), 42 U.S.C. 4321-4347, and Executive Order 11514.

## EXHIBIT G

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**The Jerome Agreement (1892) Senate Executive Doc. No. 17, 52nd Cong., 2nd Sess., Serial Set No. 3055, Vol. 1, 4 January 1893.**

### Article I.

**Articles of agreement of land in severalty to the individual members of the Comanche, Kiowa, and Apache tribes of Indians in the Indian Territory, as hereinafter provided for, and subject to the conditions hereinafter imposed, and for the considerations hereinafter mentioned the said Comanche, Kiowa, and Apache Indians hereby cede, convey, transfer, relinquish, and surrender, forever and absolutely, without any reservation whatever, express or implied, all their claim, title, and intrest, of every kind and character, in and to the lands embraced in the following described tract of country in the Indian Territory, to wit: Commencing at a point where the Washita River, in the middle of the main channel thereof, to a point thirty miles, by river, west of Fort Cobb, as now established; thence due south, on said meridian line, to the said north fork of Red River; thence down said Red River, in the middle of the main channel thereof, to its intersection with the ninety-eighth meridian of longitude west from Greenwich; thence north, on said meridian line, to the place of beginning.**

### Article II.

**Out of the lands ceded, conveyed, transferred, relinquished and surrendered by Article I hereof, and in part consideration for the cession thereof, it is agreed by the United States the each member of said Comanche, Kiowa, and Apache tribes of Indians over the age of eighteen (18) years shall have the right to select for himself or herself on hundred and sixty (160) acres of land to be held and owned in severalty, to conform to the legal surveys in boundry; and that the father, or, if he be dead, the mother, if members of either said tribes of Indians, shall have the right to select a like amount of land for each of his or her children under the age of eighteen (19) years; and that the Commissioner of Indian Affairs, or someone by him appointed for the purpose, shall select a like amount of land for each orphan-child belonging to either of said tribes under the age**

of eighteen (18) years.

### Article III.

It is further agreed that the land in said reservation shall be classed as grain growing and grazing land; and in making selection of lands to be allotted in severalty as aforesaid, each and every Indian, herein provided for, shall be required to take at least one-half in area, of his or her allotments, of grazing land. It is hereby further expressly agreed that no person shall have the right to make his or her selection of land in any part of said reservation that is now used or occupied for military, agency, school, school farm, religious or other public uses, or in sections sixteen (16) and thirty-six (36) in each Congressional Township; except in cases where any Comanche, Kiowa or Apache Indian has heretofore made improvements upon, and now uses and occupies a part of said sections sixteen (16) and thirty-six (36), such Indian may make his or her selection within the boundaries so prescribed so as to include his or her improvements; it is further agreed that wherever in said reservation any Indian, entitled to take lands in severalty hereunder, has made improvements, such Indian shall have the undisputed right to make his or her selection within the area above provided for allotments, so as to include his or her said improvements.

It is further agreed that said section sixteen (16) and thirty-six (36) in each Congressional Township in said reservation, shall not become subject to homestead entry, but shall be held by the United States and finally sold for public-school purposes. It is hereby further agreed that wherever in said reservation any religious society or other organization is now occupying any portion of said reservation for religious or educational work among the Indians, the land so occupied may be allotted and confirmed to such society or organization, not, however to exceed one hundred and sixty (160) acres of land to any one society or organization, so long as the same shall be so occupied and used, and such land shall not be subject to homestead entry.

### Article IV.

All allotments hereunder shall be selected within ninety days from the ratification of this agreement by the Congress of the United States, provided the Secretary of the Interior, in his discretion, may extend the time for making such selection; and should any Indian entitled to allotments hereunder fail or refuse to make his or her selection of land in that time, then the allotting agent in charge of the work of making such allotments to such Indians, which shall have the same force and effect as if the selection were made by the Indian.

### Article V.

When said allotments of land shall have been selected and taken as aforesaid, and approved by the Secretary of the Interior, the titles thereto shall be held in trust for the allottees, respectively for the period of twenty-five (25) years, and in the time and manner and to the extent provided for in the act of Congress, entitled "An act to provide for the allotment of land in severalty to Indians on the various reservations, and to extend the protection of the laws of the United States and Territories over the Indians, and for other purposes." Approved February 8, 1887. And an act amendatory thereof, approved February 28, 1891. And at the expiration of the said period of twenty-five (25) years the titles thereto shall be conveyed in fee simple to the allottees, or their heirs, free from all incumbrances.

### Article VI.

As a further and only additional consideration for the cession of territory and relinquishment of title, claim, and interest in and to the lands as aforesaid, the United States agrees to pay to the Comanche, Kiowa and Apache tribes of Indians, in the Indian Territory, the sum of two million (\$2,000,000) dollars, as follows: Two hundred thousand (\$200,000) dollars in cash, to be distributed per capita, among the members of said tribes within one hundred and twenty (120) days after this agreement shall be ratified by the Congress of the United States; two hundred thousand (\$200,000) dollars to be paid out to said Indian under the direction of the Secretary of the Interior in one year after said first payment, and one hundred thousand (\$100,000) dollars in the same manner in one year from the date of the second payment, and the remaining one million and five hundred thousand (\$1,500,000) dollars to be retained in the Treasury of the United States, placed to the credit of said Indians, and while so retained, to draw interest at the rate of five per centum per annum, to be paid to the said Indians per capita annually.

#### Article VII.

Nothing herein contained shall be held to affect in anyway any annuities due said Indians under existing laws, agreements, or treaties.

#### Article VIII.

It is further agreed that wherever in said reservation of any of the tribes of said Indians has, in pursuance of any laws or under any rules or regulation of the Interior Department taken an allotment, such allotment, at the option of the allottee, shall be confirmed and governed by all the conditions attached to allotments taken under this agreement.

#### Article IX.

It is further agreed that any and all leases, made in pursuance of the laws of the United States, of any part of said reservation, which may be in force at the time of the ratification, by Congress, of this agreement, shall remain in force the same as if this agreement had not been made.

#### Article X.

It is further agreed that the following-named persons, not members by blood of either of said tribes, but who have married into one of the tribes, to wit, Mabel R. Given, Thomas F. Woodward, William Wyatt, Kiowa Dutch, John Nestill, James N. Jones, Christian Ke-oh-tah, Edward L. Clark, George Conover, William Dietrick, Ben Roach, Lewis Bentz, Abilene, James Gardloupe, John Sanchez, the wife of Boone Chandler (whose given name is unknown), Emmitt Cox, and Horace P. Jones, shall be entitled to all the benefits of land and money conferred by this agreement, the same as if members by blood of one of said tribes; and that Emsy S. Smith, David Grantham, Zonce Adams, John T. Hill, J.J. Methvin, H.L. Scott, and George D. Day, friends of said Indians, who have rendered to said Indians valuable services, shall each be entitled to all the benefits, in land only, conferred under this agreement the same as if members of said tribes.

#### Article XI.

This agreement shall be effective only when ratified by the Congress of the United States.

In witness whereof, we have hereunto set out hands, this sixth day of October, A.D. 1892.



**David H. Jerome,  
Alfred M. Wilson,  
Warren G. Sayre  
Commissioners on the part of the United States.**

**(Editors Note: There are 456 signatures on this document only the first 10 shall be listed.)**

- 1. Quasah Parker, his mark**
- 2. White Man, his mark**
- 3. Lone Wolf, his mark**
- 4. Tabenanica, his mark**
- 5. Tan-han, his mark**
- 6. Tabby yetchy, his mark**
- 7. Kom-alty, his mark**
- 8. Cheevers, his mark**
- 9. Big Tree, his mark**
- 10. White Wolf, his mark.**

**BACK**

IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF OKLAHOMA

**FILED**

JAN 25 2007

ROBERT D. DENNIS, CLERK  
U.S. DIST. COURT, WESTERN DIST. OF OKLA.  
BY BS DEPUTY

UNITED STATES OF AMERICA, )  
 )  
Plaintiff, )  
 )  
-vs- )  
 )  
ROBERT W. LANGFORD, )  
 )  
Defendant. )

Case No. 06M-1415E

**VERDICT FORM - ROBERT W. LANGFORD**

We, the jury, duly empaneled in the above-entitled case, as to **Count One** of the Information (Being a Spectator at a Cockfight in Indian Country) hereby find the defendant **ROBERT W. LANGFORD** (check only one)

☐ Not Guilty

☒ Guilty

DATED this 25 day of January, 2007.

Jerry Nottingham  
FOREPERSON

# UNITED STATES DISTRICT COURT

WESTERN

District of

OKLAHOMA

UNITED STATES OF AMERICA

JUDGMENT IN A CRIMINAL CASE

V.

ROBERT LANGFORD

Case Number: 06M-1415E

USM Number:

Pro-Se

Defendant's Attorney

## THE DEFENDANT:

- ☐ pleaded guilty to count(s) \_\_\_\_\_
- ☐ pleaded nolo contendere to count(s) \_\_\_\_\_  
which was accepted by the court.
- ☒ was found guilty on count(s) (1) \_\_\_\_\_  
after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

Title & Section	Nature of Offense	Offense Ended	Count
18 USC§13,1151,1152 (21 OSA 1692.6)	Spectator at place where a cockfight was occurring	7/22/2006	1

The defendant is sentenced as provided in pages 2 through 4 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

- ☐ The defendant has been found not guilty on count(s) \_\_\_\_\_
- ☐ Count(s) \_\_\_\_\_ ☐ is ☐ are dismissed on the motion of the United States.

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

6/20/2007

Date of Imposition of Judgment

*Shon T. Erwin*

Signature of Judge

Shon T. Erwin

Name of Judge

US Magistrate Judge

Title of Judge

6/20/2007

Date



DEFENDANT: ROBERT LANGFORD  
CASE NUMBER: 06M-1415E

## PROBATION

The defendant is hereby sentenced to probation for a term of :

24 months

The defendant shall not commit another federal, state or local crime.

The defendant shall not unlawfully possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of placement on probation and at least two periodic drug tests thereafter, as determined by the court.

- ☒ The above drug testing condition is suspended, based on the court's determination that the defendant poses a low risk of future substance abuse. (Check, if applicable.)
- ☒ The defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon. (Check, if applicable.)
- ☒ The defendant shall cooperate in the collection of DNA as directed by the probation officer. (Check, if applicable.)
- ☐ The defendant shall register with the state sex offender registration agency in the state where the defendant resides, works, or is a student, as directed by the probation officer. (Check, if applicable.)
- ☐ The defendant shall participate in an approved program for domestic violence. (Check, if applicable.)

If this judgment imposes a fine or restitution, it is a condition of probation that the defendant pay in accordance with the Schedule of Payments sheet of this judgment.

The defendant must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page.

## STANDARD CONDITIONS OF SUPERVISION

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court; and
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

DEFENDANT: ROBERT LANGFORD  
CASE NUMBER: 06M-1415E

### CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties under the schedule of payments on Sheet 6.

	<u>Assessment</u>	<u>Fine</u>	<u>Restitution</u>
TOTALS	\$ 25.00	\$ 1,975.00	\$

☐ The determination of restitution is deferred until \_\_\_\_\_. An *Amended Judgment in a Criminal Case* (AO 245C) will be entered after such determination.

☐ The defendant must make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

<u>Name of Payee</u>	<u>Total Loss*</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>
----------------------	--------------------	----------------------------	-------------------------------

TOTALS	\$ _____ 0.00	\$ _____ 0.00	
--------	---------------	---------------	--

☐ Restitution amount ordered pursuant to plea agreement \$ \_\_\_\_\_

☐ The defendant must pay interest on restitution and a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).

☐ The court determined that the defendant does not have the ability to pay interest and it is ordered that:

☐ the interest requirement is waived for the ☐ fine ☐ restitution.

☐ the interest requirement for the ☐ fine ☐ restitution is modified as follows:

\* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

DEFENDANT: ROBERT LANGFORD  
CASE NUMBER: 06M-1415E

### SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties are due as follows:

- A ☐ Lump sum payment of \$ \_\_\_\_\_ due immediately, balance due
- ☐ not later than \_\_\_\_\_, or  
☐ in accordance ☐ C, ☐ D, ☐ E, or ☐ F below; or
- B ☐ Payment to begin immediately (may be combined with ☐ C, ☐ D, or ☐ F below); or
- C ☐ Payment in equal \_\_\_\_\_ (e.g., weekly, monthly, quarterly) installments of \$ \_\_\_\_\_ over a period of \_\_\_\_\_ (e.g., months or years), to commence \_\_\_\_\_ (e.g., 30 or 60 days) after the date of this judgment; or
- D ☐ Payment in equal \_\_\_\_\_ (e.g., weekly, monthly, quarterly) installments of \$ \_\_\_\_\_ over a period of \_\_\_\_\_ (e.g., months or years), to commence \_\_\_\_\_ (e.g., 30 or 60 days) after release from imprisonment to a term of supervision; or
- E ☐ Payment during the term of supervised release will commence within \_\_\_\_\_ (e.g., 30 or 60 days) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or
- F ☒ Special instructions regarding the payment of criminal monetary penalties:  
Monthly payments of \$83.33 beginning July 15, 2007, until paid in full.

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

☐ Joint and Several

Defendant and Co-Defendant Names and Case Numbers (including defendant number), Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.

- ☐ The defendant shall pay the cost of prosecution.
- ☐ The defendant shall pay the following court cost(s):
- ☐ The defendant shall forfeit the defendant's interest in the following property to the United States:

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) fine interest, (6) community restitution, (7) penalties, and (8) costs, including cost of prosecution and court costs.

# UNITED STATES DISTRICT COURT

District of

UNITED STATES OF AMERICA

V.

Robert Langford

Date of Original Judgment: 6/20/2007  
(Or Date of Last Amended Judgment)

## Reason for Amendment:

- ☒ Correction of Sentence on Remand (18 U.S.C. 3742(f)(1) and (2))  
☐ Reduction of Sentence for Changed Circumstances (Fed. R. Crim. P. 35(b))  
☐ Correction of Sentence by Sentencing Court (Fed. R. Crim. P. 35(a))  
☐ Correction of Sentence for Clerical Mistake (Fed. R. Crim. P. 36)

## AMENDED JUDGMENT IN A CRIMINAL CASE

Case Number: 06M-1415E

USM Number:

Daniel White

Defendant's Attorney

- ☐ Modification of Supervision Conditions (18 U.S.C. §§ 3563(c) or 3583(e))  
☐ Modification of Imposed Term of Imprisonment for Extraordinary and Compelling Reasons (18 U.S.C. § 3582(c)(1))  
☐ Modification of Imposed Term of Imprisonment for Retroactive Amendment(s) to the Sentencing Guidelines (18 U.S.C. § 3582(e)(2))  
☐ Direct Motion to District Court Pursuant ☐ 28 U.S.C. § 2255 or ☐ 18 U.S.C. § 3559(c)(7)  
☐ Modification of Restitution Order (18 U.S.C. § 3664)

## THE DEFENDANT:

- ☐ pleaded guilty to count(s) \_\_\_\_\_  
☐ pleaded nolo contendere to count(s) \_\_\_\_\_  
which was accepted by the court.  
☒ was found guilty on count(s) (1)  
after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

Title & Section	Nature of Offense	Offense Ended	Count
18USC§13,1151,1152 (21OSA1692.6)	Spectator at place where a cockfight was occurring	7/22/2006	1

The defendant is sentenced as provided in pages 2 through 3 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

- ☐ The defendant has been found not guilty on count(s) \_\_\_\_\_  
☐ Count(s) \_\_\_\_\_ ☐ is ☐ are dismissed on the motion of the United States.

It is ordered that the defendant must notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

6/25/2009

Date of Imposition of Judgment

Signature of Judge

Shon T. Erwin

US Magistrate Judge

Name of Judge

Title of Judge

5/6/2009

Date

DEFENDANT: Robert Langford  
CASE NUMBER: 06M-1415E

Judgment—Page 2 of 3

## PROBATION

The defendant is hereby sentenced to probation for a term of:

TWELVE (12) MONTHS with credit for time served since 6/20/2007.

The defendant shall not commit another federal, state, or local crime.

The defendant shall not unlawfully possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of placement on probation and at least two periodic drug tests thereafter as determined by the court.

- ☒ The above drug testing condition is suspended, based on the court's determination that the defendant poses a low risk of future substance abuse. (Check, if applicable.)
- ☒ The defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon. (Check, if applicable.)
- ☒ The defendant shall cooperate in the collection of DNA as directed by the probation officer. (Check, if applicable.)
- ☐ The defendant shall register with the state sex offender registration agency in the state where the defendant resides, works, or is a student, as directed by the probation officer. (Check, if applicable.)
- ☐ The defendant shall participate in an approved program for domestic violence. (Check, if applicable.)

If this judgment imposes a fine or restitution, it is a condition of probation that the defendant pay in accordance with the Schedule of Payments sheet of this judgment.

The defendant shall comply with the standard conditions that have been adopted by this court as well as with the additional conditions on the attached page.

## STANDARD CONDITIONS OF SUPERVISION

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court; and
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record, personal history, or characteristics and shall permit the probation officer to make such notifications and confirm the defendant's compliance with such notification requirement.





DEFENDANT: Robert Langford  
CASE NUMBER: 06M-1415E

Judgment — Page 3 of 3

### SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties shall be due as follows:

- A ☐ Lump sum payment of \$ \_\_\_\_\_ due immediately, balance due
- ☐ not later than \_\_\_\_\_, or  
☐ in accordance with ☐ C, ☐ D, ☐ E, or ☐ F below; or
- B ☐ Payment to begin immediately (may be combined with ☐ C, ☐ D, or ☐ F below); or
- C ☐ Payment in equal \_\_\_\_\_ (e.g., weekly, monthly, quarterly) installments of \$ \_\_\_\_\_ over a period of \_\_\_\_\_ (e.g., months or years), to commence \_\_\_\_\_ (e.g., 30 or 60 days) after the date of this judgment; or
- D ☐ Payment in equal \_\_\_\_\_ (e.g., weekly, monthly, quarterly) installments of \$ \_\_\_\_\_ over a period of \_\_\_\_\_ (e.g., months or years), to commence \_\_\_\_\_ (e.g., 30 or 60 days) after release from imprisonment to a term of supervision; or
- E ☐ Payment during the term of supervised release will commence within \_\_\_\_\_ (e.g., 30 or 60 days) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or
- F ☒ Special instructions regarding the payment of criminal monetary penalties:  
(\*) fines paid in full

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during the period of imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

☐ Joint and Several

Defendant and Co-Defendant Names and Case Numbers (including defendant number), Joint and Several Amount, and corresponding payee, if appropriate.

- ☐ The defendant shall pay the cost of prosecution.
- ☐ The defendant shall pay the following court cost(s):
- ☐ The defendant shall forfeit the defendant's interest in the following property to the United States:

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) fine interest, (6) community restitution, (7) penalties, and (8) costs, including cost of prosecution and court costs.

**IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF OKLAHOMA**

**UNITED STATES OF AMERICA, )**

**)**

**Plaintiff, )**

**)**

**-vs-**

**)**

**Case No. M-06-1415-STE**

**)**

**ROBERT M. LANGFORD, )**

**)**

**Defendant. )**

**NOTICE OF INTENT TO APPEAL**

Robert M. Langford, Defendant, through counsel Daniel L. White, hereby states his intention to appeal the judgment of conviction and sentence imposed by the Magistrate Court in a misdemeanor case on July 7, 2009.

Respectfully submitted,

s/Daniel L. White

DANIEL L. WHITE, OBA #16969

3955 N. W. 23<sup>rd</sup> Street

Oklahoma City, OK 73107

Phone: 405-942-8801

Fax: 405-947-1937

E-mail: danielwhite@for-the-defense.com

Attorney for Defendant,

Robert M. Langford



**CERTIFICATE OF MAILING**

I hereby certify that on the 8th day of July, 2009, I electronically transmitted the attached document to the Clerk of the Court using the ECF System for filing and transmittal of a Notice of Electronic Filing to the following ECF registrants:

Linda Epperley  
Assistant U. S. Attorney

s/Daniel L. White

\_\_\_\_\_  
DANIEL L. WHITE, OBA 16969

CLOSED, \_LDF

**U.S. District Court  
Western District of Oklahoma[LIVE] (Oklahoma City)  
CRIMINAL DOCKET FOR CASE #: 5:07-cr-00158-M-1  
*Internal Use Only***

Case title: United States of America v. Langford  
Other court case number: 09-6045 Tenth Circuit

Date Filed: 06/29/2007  
Date Terminated: 02/27/2009

Assigned to: Honorable Vicki  
Miles-LaGrange

**Defendant (1)**

**Robert M Langford**  
*TERMINATED: 02/27/2009*

represented by **Armando G Mata**  
Mata & Mata  
609 SW E Ave  
Lawton , OK 73502  
580-357-4460  
Fax: 580-357-6169  
Email: [mata\\_mata@sbcglobal.net](mailto:mata_mata@sbcglobal.net)  
*TERMINATED: 06/29/2007*  
*Designation: CJA Appointment*

**Daniel L White**  
Daniel L White Attorney at Law  
P O Box 94551  
Oklahoma City , OK 73143  
405-249-9162  
Email: [danielwhite@for-the-defense.com](mailto:danielwhite@for-the-defense.com)  
*ATTORNEY TO BE NOTICED*  
*Designation: CJA Appointment*

**Donald Emmit Tayloe**  
Tayloe Zwaan & Johnson  
716 SW A Ave  
Lawton , OK 73501  
580-248-8004  
Fax: 580-248-8292  
Email: [tayloe7852@yahoo.com](mailto:tayloe7852@yahoo.com)  
*TERMINATED: 07/16/2007*  
*Designation: CJA Appointment*

**Pending Counts**

18:13,1151,1152 SPECTATOR  
AT A COCKFIGHT  
(1)

**Disposition**

**Highest Offense Level (Opening)**

Misdemeanor

**Terminated Counts**

None

**Disposition**

**Highest Offense Level  
(Terminated)**

None

**Complaints**

None

**Disposition**

**Plaintiff**

**United States of America**

represented by **Linda A Epperley**  
 United States Attorney's Office  
 1200 W Okmulgee St  
 Muskogee , OK 74401  
 918-684-5156  
 Fax: 918-684-5150  
 Email: [linda.epperley@usdoj.gov](mailto:linda.epperley@usdoj.gov)  
**ATTORNEY TO BE NOTICED**

Date Filed	#	Page	Docket Text
06/29/2007	<u>1</u>		APPEAL OF MAGISTRATE JUDGE DECISION to District Court by Robert M Langford Appeal taken from case M-06-1415-E. (Attachments: # <u>1</u> J) (Entered: 07/05/2007)
07/06/2007	<u>2</u>		APPLICATION to proceed in forma pauperis, supporting documentation by Robert M Langford. (hm, ) (Entered: 07/06/2007)
07/12/2007	<u>3</u>		ORDER directing the Federal Public Defender to forthwith furnish the name of a CJA Panel Attorney for appointment to represent the defendant for purposes of the instant appeal, as to Robert M Langford. Signed by Judge Vicki Miles-LaGrange on 7/12/2007. (ks) (Entered: 07/12/2007)
07/12/2007			Docket Annotation: Mailed copy of Order (doc. no. 3) to Robert M. Langford on 7/12/2007. (ks) (Entered: 07/12/2007)
07/13/2007	<u>4</u>		ORDER granting <u>2</u> defendant's Application to Proceed in Forma Pauperis, as to Robert M Langford (1). Defendant shall proceed without prepayment of cost or fees or the necessity of giving security therefor. Signed by Judge Vicki Miles-LaGrange on 7/13/2007. (ks) (Entered: 07/13/2007)

07/13/2007			Docket Annotation: Mailed copy of Order (doc. no. 4) to Robert M. Langford on 7/13/2007. (ks) (Entered: 07/13/2007)
07/16/2007	<u>5</u>		ORDER APPOINTING COUNSEL Daniel L. White for Dft Robert M Langford. Signed by Judge Vicki Miles-LaGrange on 7/16/07. (hm, ) (Entered: 07/16/2007)
08/06/2007			TRANSCRIPT of Proceedings as to Robert M Langford held on January 8, 2007 before Judge Shawn T. Erwin. Court Reporter: Tracy Washbourne. Transcript of: Motions Hearing (hm, ) (Entered: 08/30/2007)
08/06/2007			TRANSCRIPT of Proceedings as to Robert M Langford held on January 23, 2007 before Judge Shawn T. Erwin. Court Reporter: Tracy Washbourne. Transcript of: Jury Trial Volume: I of III (hm, ) (Entered: 08/30/2007)
08/06/2007			TRANSCRIPT of Proceedings as to Robert M Langford held on January 24, 2007 before Judge Shawn T. Erwin. Court Reporter: Tracy Washbourne. Transcript of: Jury Trial Volume: II of III (hm, ) (Entered: 08/30/2007)
08/06/2007			TRANSCRIPT of Proceedings as to Robert M Langford held on January 25, 2007 before Judge Shawn T. Erwin. Court Reporter: Tracy Washbourne. Transcript of: Jury Trial Volume: III of III (hm, ) (Entered: 08/30/2007)
08/10/2007	<u>6</u>		NOTICE of Change of Address by Daniel L White (White, Daniel) (Entered: 08/10/2007)
08/24/2007	<u>7</u>		TRANSCRIPT Order Form that transcripts are necessary. See order form for dates and proceedings. Estimated completion date September 24, 2007. (dl, ) (Entered: 08/24/2007)
09/19/2007	8		TRANSCRIPT of Proceedings as to Robert M Langford held on June 20, 2007 before Judge Magistrate Judge Shawn T. Erwin. Court Reporter: Tracy Washbourne. Transcript of: Sentencing (hm, ) (Entered: 10/17/2007)
10/18/2007	<u>9</u>		ORDER setting briefing schedule: (1) Defendant shall file his opening brief by 11/19/2007, and (2) Plaintiff shall file its response brief by 12/19/2007, as to Robert M Langford. Signed by Judge Vicki Miles-LaGrange on 10/18/2007. (ks) (Entered: 10/18/2007)
11/19/2007	<u>10</u>		FIRST MOTION for Extension of Time to <i>File Brief in Chief</i> by Robert M Langford. (White, Daniel) (Entered: 11/19/2007)
11/20/2007	<u>11</u>		ORDER granting <u>10</u> defendant's Motion for Extension of Time to File Brief in Chief, as to Robert M Langford (1). Defendant shall file his response brief by 2/18/2008. Signed by Judge Vicki Miles-LaGrange on 11/20/2007. (ks) (Entered: 11/20/2007)
11/20/2007			Docket Annotation: Docket entry at doc. no. 11 is corrected to read: Defendant shall file his brief in chief by 1/18/2008; the government shall file its response brief by 2/18/2008. (ks) (Entered: 11/20/2007)

01/18/2008	<u>12</u>		SECOND MOTION for Extension of Time <i>to File Brief in Chief</i> by Robert M Langford. (White, Daniel) (Entered: 01/18/2008)
01/18/2008	<u>13</u>		ORDER granting <u>12</u> Dft's Second Motion for Extension of Time to file brief in chief by February 22, 2008 as to Robert M Langford (1); the govt shall file its reponse brief by March 22, 2008.. Signed by Honorable Vicki Miles–LaGrange on 1/18/08. (hm, ) (Entered: 01/18/2008)
02/22/2008	<u>14</u>		THIRD MOTION for Extension of Time <i>to File Brief in Chief</i> by Robert M Langford. (White, Daniel) (Entered: 02/22/2008)
02/25/2008	<u>15</u>		ORDER granting <u>14</u> defendant's Third Motion for Extension of Time to File Brief in Chief, as to Robert M Langford (1). Defendant shall file his brief in chief by 3/21/2008; the government shall file its response brief by 4/21/2008. Signed by Honorable Vicki Miles–LaGrange on 2/25/2008. (ks) (Entered: 02/25/2008)
03/27/2008	<u>16</u>	6	BRIEF IN SUPPORT of <i>Defendant's Appeal from a Judgment of Conviction and Sentence of a Magistrate Judge in a Misdemeanor Case</i> (White, Daniel) (Entered: 03/27/2008)
04/21/2008	<u>17</u>		BRIEF re <u>16</u> Brief in Support of <i>Affirming Conviction in Magistrate Court</i> by United States of America (Attachments: # <u>1</u> Appendix Appendix to Government's Brief)(Epperley, Linda) (Entered: 04/21/2008)
02/27/2009	<u>18</u>	18	ORDER as to Robert M Langford: The Court affirms dft's conviction but vacates dft's sentence and remands this case to the maistrate court with directions to re–sentence dft in accordance with this Order re <u>1</u> Appeal of Magistrate Judge Decision to District Court filed by Robert M Langford. Signed by Honorable Vicki Miles–LaGrange on 2/27/09. (hm, ) (Entered: 02/27/2009)
03/03/2009	<u>19</u>	25	NOTICE OF APPEAL by Robert M Langford (White, Daniel) (Entered: 03/03/2009)
03/04/2009	<u>20</u>		LETTER – Electronic Transmission of Notice of Appeal with Preliminary Record to US Court of Appeals as to Robert M Langford to US Court of Appeals re <u>19</u> Notice of Appeal (fp, ) (Entered: 03/04/2009)
03/04/2009	<u>21</u>		USCA – LETTER re: 09–6045–M–1 as to Robert M Langford, re <u>19</u> Notice of Appeal (fp, ) (Entered: 03/05/2009)
05/27/2009	<u>22</u>		DESIGNATION OF RECORD ON APPEAL by Robert M Langford re <u>19</u> Notice of Appeal (White, Daniel) (Entered: 05/27/2009)
05/27/2009	<u>23</u>		TRANSCRIPT Order Form that transcripts are not necessary. See order form for dates and proceedings. (White, Daniel) (Entered: 05/27/2009)
05/28/2009	<u>24</u>	27	ORDER of USCA as to Robert M Langford re <u>19</u> Notice of Appeal is hereby dismissed for lack of appellate jurisdiction (as more fully set out). (Attachments: # <u>1</u> Attachment Cover Letter)(fp, ) (Entered: 05/28/2009)

			05/28/2009)
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**IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF OKLAHOMA**

<b>UNITED STATES OF AMERICA,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>-vs-</b>	)	<b>Case No. CR-07-158-M</b>
	)	
<b>ROBERT M. LANGFORD,</b>	)	
	)	
<b>Defendant.</b>	)	

**BRIEF IN SUPPORT OF DEFENDANT'S  
APPEAL FROM A JUDGMENT OF CONVICTION  
AND SENTENCE OF A MAGISTRATE JUDGE  
IN A MISDEMEANOR CASE**

Robert M. Langford, through counsel, Daniel L. White, has appealed the judgment of conviction and sentence imposed by the Magistrate Court in a misdemeanor case on June 20, 2007.

**STATEMENT OF ISSUES PRESENTED FOR REVIEW**

1. THE COURT NEVER HAD JURISDICTION
  - a. The Federal government does not have jurisdiction on Kiowa Tribal land.
  - b. The state retains exclusive jurisdiction over crimes committed by non-Indians against non-Indians in Indian Country.
2. MR. LANGFORD'S ARREST ON INDIAN LAND BY A STATE LAW ENFORCEMENT OFFICER WAS UNAUTHORIZED AND VOID.



3. THE MAGISTRATE ERRED IN SENTENCING MR. LANGFORD TO PAY A \$1,975 FINE.

- a. Pursuant to Title 18 U.S.C. § 13, the maximum fine which could be imposed was \$500.
- b. The amount of the fine is unreasonable.

I. *Nature of the Case, the Course of the Proceedings, and the Determination of the Court below.*

Mr. Langford initially appeared before the Magistrate Court for an arraignment on an Information filed August 2, 2006. The Information charged a violation of Title 18 U.S.C. § 13, 1151, and 1152, assimilating Title 21 OS § 1692.6 (Spectator at a Cockfight). Mr. Langford consented to proceed before the Magistrate.

On November 29, 2006, Mr. Langford filed a *pro se* Motion to Dismiss For Lack of Jurisdiction. The government responded to this motion on December 12, 2006. On January 10, 2007, the Court denied the Motion to Dismiss. Mr. Langford proceeded to trial *pro se* January 23-25, 2007. The jury found Mr. Langford guilty of the one count Information.

The Magistrate Court sentenced Mr. Langford to 24 months probation and a \$1,975.00 fine on June 20, 2007. The Notice of Appeal was timely filed on June 29, 2007.

II. *Statement Regarding Jurisdiction.*

This is an appeal as of right pursuant to Rule 58(g) of the FEDERAL RULES OF CRIMINAL PROCEDURE from the Judgment in a Criminal Case entered on the docket sheet June 27, 2007. The Notice of Appeal was filed June 29, 2007.

III. *Statement of Facts.*

Mr. Langford is a non-Indian. He was one of many people found at a cockfight on Indian Trust Land on July 22, 2006. Upon finding Mr. Langford present at the cockfight, he was arrested by an Oklahoma Highway Patrol trooper.

Mr. Langford and three other people proceeded to trial in Magistrate Court in Lawton, Oklahoma. All four were found guilty of being spectators at the cockfight.

Section 1692.6 of Title 21 of the Oklahoma Statutes provides that every person who is knowingly present as a spectator at any place, building, or other site where preparations are being made for a cockfight with the intent to be present at such preparation or cockfight, or is knowingly present at such cockfight, upon conviction shall be guilty of a misdemeanor subject to imprisonment in the county jail for not more than one year and/or fined not more than five hundred dollars.

The thrust of the defendants' motions to dismiss for lack of jurisdiction was premised on the fact the cockfight occurred on tribal trust land, also known as Indian Country, and that the federal court had no jurisdiction to enforce the laws of the State

of Oklahoma in Indian Country. The full argument is set out in the Motion to Dismiss filed in *U.S. v. Shan Gachot*, Western District of Oklahoma, CR 06-178-RAW, *Doc. 52 therein*. That motion was also overruled. This decision was appealed to the Tenth Circuit Court of Appeals in Case No. 07-6061. The Tenth Circuit affirmed the conviction on other grounds.

After being found guilty, a Presentence Investigation Report (PSR) was prepared. Based on the information presented in the PSR, it appeared Mr. Langford could not afford to pay a fine. Neither party objected to this conclusion. Without explanation, the Court found the PSR was incorrect regarding Mr. Langford's ability to pay a fine and fined Mr. Langford \$1,975.00.

### **ARGUMENTS**

#### **Proposition I The Court Never Had Jurisdiction**

#### **Proposition Ia The Federal Government Does Not Have Jurisdiction on Kiowa Tribal Land**

Mr. Langford adopts the Motion to Dismiss filed by Defendant Gachot in United States v. Shan Gachot, Western District of Oklahoma, Case No. CR 06-178-RAW and the appellate brief filed in Tenth Circuit Court of Appeals Case No. 07-6061. The facts in Gachot mirror the facts in Mr. Langford's case, with the exception of the defendant in Gachot is an Indian and Mr. Langford is not. However, pursuant

to the Indian Civil Rights Act, Mr. Langford is entitled to all rights afforded to tribal members. Specifically Title 25 U.S.C. § 1302(8) provides:

No Indian tribe in exercising powers of self government shall - deny to any person within its jurisdiction the equal protection of its laws or deprive any person of liberty or property without due process of law.

Because of this, Mr. Langford is also not subject to the jurisdiction of the federal court. As such, the prosecution of Mr. Langford in federal court is barred.

Proposition Ib  
The State Retains Exclusive  
Jurisdiction Over Crimes  
Committed by Non-Indians  
Against Non-Indians in  
Indian Country

The undisputed facts in this case are that Mr. Langford is not an Indian and the location he was at while watching the cockfight was Indian land. The Information states, among other things,

The defendant was present during a cockfight at the TFC cockfighting facility, located on land held by the United States in trust for the heirs and/or successors of Kiowa Allottee 1245 ....

The facts also show there was not an Indian victim of this crime which could arguably be used to justify federal jurisdiction. The crime at issue involved Mr. Langford being present at a cockfight which happened to be on Indian land.

The U. S. Supreme Court has addressed federal jurisdiction in cases such as this. In *U.S. v. Antelope*, 97 S.Ct. 1395 (1977), the Court held the following:

Except for the offenses enumerated in § 1153 of this title, all crimes committed by enrolled Indians against other Indians within Indian Country are subject to the jurisdiction of tribal courts, but a non-Indian charged with committing crimes against other non-Indians in Indian Country is subject to prosecution under state law.

The following year in *U.S. v. Wheeler*, 98 S.Ct. 1079 (1978), the Court held as follows:

Despite broad language of General Crimes Act making federal enclave criminal law generally applicable to crimes in Indian Country, statute does not apply to crimes committed by non-Indians against non-Indians which are subject to state jurisdiction.

Again, the facts of this case clearly show that Mr. Langford, a non-Indian, committed the crime of being a spectator at a cockfight on Indian land. Nothing related to these facts give rise to overcome the Supreme Court's holdings in *Antelope* or *Wheeler*. As such, Mr. Langford should have been prosecuted in state court, as the federal court has no jurisdiction over him for his actions.

Proposition II  
Mr. Langford's arrest on Indian  
Land by a State Law enforcement officer  
was unauthorized and void.

The undisputed facts show that on July 22, 2006, a raid was conducted on the TFC cockfighting facility which was located on Indian land. This raid was carried

out by various state and federal law enforcement agencies. Mr. Langford was arrested by an Oklahoma Highway Patrol trooper. He was issued a citation and appeared in federal court.

The jurisdiction of state law enforcement officials to arrest individuals on Indian land was addressed by the Tenth Circuit Court of Appeals in *Ross v. Neff*, 905 F2d 1349 (10<sup>th</sup> Cir. 1990). In *Ross*, the Tenth Circuit held the following:

If there has been no express delegation to the state, *a fortiori*, there has been no grant of local jurisdiction. Because the State of Oklahoma has neither received by express grant nor acted pursuant to congressional authority to assume criminal jurisdiction over this Indian Country, .... police officers had no jurisdiction to arrest Ross at the ballpark.

Here, there is no showing the State had authority to enter this Indian land for the purpose of making arrests. The record is bare of any showing of the express grant of authority or congressional authority which would authorize the acts which occurred. As such, the arrest of Mr. Langford was invalid and any resulting prosecution of him was void.

Proposition IIIa  
Pursuant to Title 18 U.S.C. § 13,  
the Maximum Fine Which  
Could Be Imposed Was \$500.00

Defendant's Presentence Investigation Report (PSR) incorrectly states in paragraph 54 that, pursuant to Title 18 U.S.C. § 3571, the maximum fine is \$100,000. Specifically, § 3571 (b)(5) states the fine for a class A misdemeanor that does not

result in death is not more than \$100,000. The PSR is incorrect because the government pursued this case by way of Title 18 U.S.C. § 13, The Assimilative Crimes Act (ACA). Section 13(a) states:

Whoever, within or upon any of the places now existing ... as provided in section 7 of this title, ... is guilty of any act ..., which, although not made punishable by any enactment of Congress, would be punishable if committed ... within the jurisdiction of the State ... in which such place is situated, by the laws thereof in force at the time of such act ..., shall be guilty of a like offense **and subject to a like punishment.** (Emphasis added)

As previously pointed out, the maximum fine allowed by § 1692.6 is \$500. As such, this is the maximum amount the trial court was able to consider in sentencing Defendant.

This point is supported by two Tenth Circuit opinions. In U.S. v. Dunn, 545 F 2d 1281 (10<sup>th</sup> Cir. 1976), the Court held the following:

This section is method of punishing crime committed on government reservation only in way and to extent that it would have been punishable if territory embraced by reservation remained subject to jurisdiction of the state.

When addressing this issue again, the Court held in U.S. v. Sain, 795 F2d 888 (10<sup>th</sup> Cir. 1986):

Purpose of Assimilative Crimes Act is to provide method of punishing crime committed on government reservations in way and to extent that it would have been punishable within a surrounding jurisdiction.



Clearly, the PSR was incorrect in stating the Court had jurisdiction or authority to impose a \$100,000 fine. The assimilated state crime allows for only a maximum \$500 fine and the Court was limited to this amount in its consideration.

Proposition IIIb  
The Magistrate Court Erred  
in Sentencing Mr. Langford  
to Pay a \$1,975.00 Fine.

Mr. Langford challenges the sentence of the Magistrate Court regarding payment of a \$1,975 fine. The imposition of the \$1,975 fine is neither “reasoned or reasonable.” *See United States v. Lee*, 957 F.2d 770, 774 (10<sup>th</sup> Cir. 1992).

The presentence Investigation Report prepared by the probation officer does not provide any basis for imposing a fine of \$1,975. To the contrary, it suggests Mr. Langford does not have the ability to pay a fine. Neither Mr. Langford nor the Government objected to the Presentence Investigation Report. The Tenth Circuit has held, “[f]ailure to object to a fact in a presentence report, or failure to object at the [sentencing] hearing, acts as an admission of fact.” *United States v. Deninno*, 29 F.3d 572, 580 (10<sup>th</sup> Cir. 1994). The precedent in this area rests on Rule 32 of the Federal Rules of Criminal Procedure. Under FED. R. CRIM. P. 32(i)(3)(A), a sentencing court “may accept any undisputed portion of the presentence report as a finding of fact.” In Mr. Langford’s case, the Court rejected this undisputed portion of the Presentence Investigation Report but failed to provide any reasoning therefore.

In determining the appropriate punishment, a court is to consider the factors set forth in Title 18, United States Code, §§ 3553(a)(1)-(a)(7). Particularly, the court is to consider: (1) the nature and circumstances of the offense and the history and characteristics of the defendant [18 U.S.C. § 3553(a)(1)]; (2) the need for the sentence imposed to reflect the seriousness of the offense, to promote respect for the law, and to provide just punishment for the offense [18 U.S.C. § 3553(a)(2)(B)]; to afford adequate deterrence to criminal conduct (18 U.S.C. § 3553(a)(2)(B)); to protect the public from further crimes of the defendant [18 U.S.C. § 3553(a)(2)(C)]; to provide the defendant with needed educational or vocational training, medical care, or other correctional treatment in the most effective manner [18 U.S.C. § 3553(a)(2)(D)]; (3) the kinds of sentences available [18 U.S.C. § 3553(a)(3)]; (4) the applicable guidelines or policy statements issued by the Sentencing Commission [18 U.S.C. § 3553(A)(4)]; and (5) the need to avoid unwarranted sentence disparities among defendants with similar records with similar conduct [18 U.S.C. § 3553(a)(6)].

The court shall impose a sentence sufficient, but not greater than necessary to comply with the purposes set forth in 18 U.S.C. § 3553(a)(2). Mr. Langford contends that a fine of \$1,975.00 was greater than necessary.

The sentencing court is not required to consider individually each of the factors listed in Title 18, United States Code, § 3553(a) before issuing a sentence. *See Lee*,

957 F.2d at 774-75 (*citing United States v. Graves*, 914 F.2d 159, 160 (8<sup>th</sup> Cir. 1990)).

The sentencing court need only give the reasons for its action as required by Title 18, United States Code, § 3553(c). Thus, when imposing a sentence, a district court need only consider Title 18, United States Code, § 3553(a) *en masse* and state its reasons for imposing a given sentence. Mr. Langford contends the Magistrate Court did not give adequate reasons for its sentence as required by Title 18 United States Code, § 3553(c). Mr. Langford contends the Magistrate Court imposed a sentence which was excessive and greater than necessary, in violation of Title 18, United States Code, § 3553(a).

Mr. Langford asks that this Court vacate the \$1,975.00 fine and remand the case for resentencing.

### **CONCLUSION**

Based upon the above reasons, Mr. Langford moves this Court to vacate his conviction in this case, or in the alternative, vacate the fine and remand the case for resentencing.

Respectfully submitted,

s/Daniel L. White

Daniel L. White, OBA #16969

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(405) 942-8801 (telephone)

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Email: danielwhite@for-the-defense.com

Attorney for Defendant

Robert M. Langford

**CERTIFICATE OF SERVICE**

I hereby certify that on the 27<sup>th</sup> day of March, 2008, I electronically transmitted the attached document to the Clerk of the Court using the ECF System for filing and transmittal of a Notice of Electronic Filing to the appropriate ECF registrants.

s/Daniel L. White

Daniel L. White, OBA 16969

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF OKLAHOMA**

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Case No. CR-07-158-M
	)	
ROBERT M. LANGFORD,	)	
	)	
Defendant.	)	

**ORDER**

Defendant Robert M. Langford appeals the judgment of conviction and sentence imposed by United States Magistrate Judge Shon T. Erwin in a misdemeanor case. Defendant's appeal is brought under Rule 58(g) of the Federal Rules of Criminal Procedure. This Court has jurisdiction of defendant's appeal pursuant to 18 U.S.C. § 3742(g).

**I. Background**

On August 2, 2006, a one count Information was filed charging defendant with being present as a spectator at a place where a cock fight was occurring in violation of 18 U.S.C. §§ 13, 1151, 1152.<sup>1</sup> On August 23, 2006, defendant was arraigned, at which time defendant entered a plea of not guilty, consented to trial before a magistrate judge, and demanded a jury trial.

On November 29, 2006, defendant filed a *pro se* Motion to Dismiss for Lack of Jurisdiction. On December 12, 2006, the government responded. A pretrial hearing was held on January 8, 2007, and at said hearing, the Magistrate Judge denied defendant's motion to dismiss.

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<sup>1</sup>There were approximately seventy-five (75) other individuals who were cited at the same time and location as defendant and had similar charges.

On January 23, 2007, the jury trial commenced for the consolidated cases of defendant and three other defendants. The trial concluded on January 25, 2007, with the jury finding defendant guilty on Count One. The Magistrate Judge ordered a presentence investigation, and the sentencing hearing was set for June 20, 2007. At the sentencing hearing, the Magistrate Judge sentenced defendant to a term of probation for twenty-four months, a fine of \$1,975.00, and a \$25.00 special assessment. Counsel for defendant timely filed a notice of appeal on June 29, 2007.

## II. Discussion

In reviewing a sentence imposed by a United States Magistrate Judge, a district court functions as an appellate court:

Post-conviction review of a magistrate judge's judgment is governed by same standards as appeal from judgment of a federal district court to the court of appeals. [The Court] review[s] the Magistrate Judge's conclusions of law *de novo*, applying the same standard used by the Magistrate Judge in making his initial ruling. [The Court] review[s] the Magistrate Judge's fact findings for clear error. A finding of fact is "clearly erroneous" if it is without factual support in the record or if the appellate court, after reviewing all the evidence, is left with a definite and firm conviction that a mistake has been made.

*United States v. Ellison*, 112 F. Supp. 2d 1234, 1236 (D. Colo. 2000) (internal quotations and citations omitted).

In his appeal, defendant contends that the court never had jurisdiction over his case, that defendant's arrest on Indian land by a state law enforcement officer was unauthorized and void, and that the Magistrate Judge erred in imposing a fine of \$1,975.00.

A. Jurisdiction

In 1817, the United States Congress passed the Indian Country Crimes Act (“ICCA”), which made federal laws, known as enclave laws, applicable to crimes committed in areas “within the sole and exclusive jurisdiction of the United States,” including Indian Country.<sup>2</sup> The ICCA provides:

Except as otherwise expressly provided by law, the general laws of the United States as to the punishment of offenses committed in any place within the sole and exclusive jurisdiction of the United States, except the District of Columbia, shall extend to the Indian country.

This section shall not extend to offenses committed by one Indian against the person or property of another Indian, nor to any Indian committing any offense in the Indian country who has been punished by the local law of the tribe, or to any case where, by treaty stipulations, the exclusive jurisdiction over such offenses is or may be secured to the Indian tribes respectively.

18 U.S.C. § 1152.<sup>3</sup> Additionally, the Assimilative Crimes Act (“ACA”) provides, in pertinent part:

Whoever within or upon any of the places now existing or hereafter reserved or acquired as provided in section 7 of this title, or on, above, or below any portion of the territorial sea of the United States not within the jurisdiction of any States, Commonwealth, territory, possession, or district is guilty of any act or omission which, although not made punishable by any enactment of congress, would be punishable if committed or omitted within the jurisdiction of the State, Territory, Possession, or District in which such place is situated, by the laws thereof in force at the time of such act or omission, shall be guilty of a like offense and subject to a like punishment.

---

<sup>2</sup>The parties do not dispute that the instant offense was committed in Indian Country.

<sup>3</sup>Because defendant in this case is not an Indian, the Court finds the second paragraph of the ICCA is not applicable. In his brief, defendant asserts that pursuant to the Indian Civil Rights Act, he is entitled to all rights afforded to tribal members. The Indian Civil Rights Act, however, undertakes to single out the more important civil rights contained in the United States Constitution and to make those applicable to tribal members. See *Martinez v. Santa Clara Pueblo*, 540 F.2d 1039, 1042 (10<sup>th</sup> Cir. 1976). Because defendant is not a tribal member, the Court finds the Indian Civil Rights Act is inapplicable in this case.

18 U.S.C. § 13(a).

The Tenth Circuit has recognized:

The purpose of the Assimilative Crimes Act is to provide a method of punishing a crime committed on government reservations in the way and to the extent that it would have been punishable if committed within the surrounding jurisdiction. *United States v. Dunn*, 545 F.2d 1281, 1282 (10<sup>th</sup> Cir. 1976). The Act fills in gaps in federal criminal law by providing a set of criminal laws for federal enclaves. *United States v. Mayberry*, 774 F.2d 1018, 1020 (10<sup>th</sup> Cir. 1985), quoting *United States v. Prejean*, 494 F.2d 495, 496 (5<sup>th</sup> Cir. 1974). The reason for adopting local laws is not that Congress passed on their merits after examining each individually, but that as a practical matter, Congress had to proceed on a wholesale basis to establish criminal laws for federal enclaves. *United States v. Sharpnack*, 355 U.S. 286, 293, 78 S. Ct. 291, 295, 2 L.Ed.2d 282 (1958).

*United States v. Sain*, 795 F.2d 888, 890 (10<sup>th</sup> Cir. 1986).

Because defendant is not an Indian, the Court, based upon the clear language of the ICCA and the ACA, finds that the court had jurisdiction in this case. Specifically, the Court finds that the ACA and ICCA allow federal enforcement of the Oklahoma criminal law against being present as a spectator at a place where a cock fight was occurring, Okla. Stat. tit. 21, § 1692.6. *See Ross v. Neff*, 905 F.2d 1349, 1353 (10<sup>th</sup> Cir. 1990) (“There is no question but that 18 U.S.C. § 13 would allow *federal* enforcement of the local ordinance against public intoxication involved in this case.”) (emphasis in original). Further, the Court finds that assimilating the said Oklahoma law would not be inconsistent with federal policies. There are no treaty provisions protecting cockfighting, nor has the prohibition of and punishment for cockfighting been traditionally within the exclusive jurisdiction of the tribe.

Accordingly, the Court finds defendant’s conviction should not be reversed on this basis.



B. Defendant's Arrest

Defendant contends his arrest on Indian land by a state law enforcement officer was unauthorized and void. The government contends that defendant was not arrested and willingly appeared to answer the court's citation in Lawton, Oklahoma. Having carefully reviewed the transcript of the trial, the Court has found, and defendant has cited to, no evidence that defendant was arrested by a state law enforcement officer. In fact, Palmer S. Mosley, the chief of police for the BIA in Anadarko, Oklahoma, testified that only two individuals, Justin McHone and Shan Gauchet, were actually arrested. *See* Transcript of jury trial at 257-58.

Accordingly, the Court finds defendant's conviction should not be reversed on this basis.

C. Sentencing

Defendant asserts the Magistrate Judge erred in sentencing defendant to pay a \$1,975.00 fine. Specifically, defendant contends that pursuant to 18 U.S.C. § 13, the maximum fine which could be imposed in this case was \$500.00, the maximum fine allowed by Okla. Stat. tit. 21, § 1692.6.

Title 18 United States Code Section 3551(a) provides:

Except as otherwise specifically provided, a defendant who has been found guilty of an offense described in any Federal statute, including sections 13 and 1153 of this title, other than an Act of Congress applicable exclusively in the District of Columbia or the Uniform Code of Military Justice, shall be sentenced in accordance with the provisions of this chapter so as to achieve the purposes set forth in subparagraphs (A) through (D) of section 3553(a)(2) to the extent that they are applicable in light of all the circumstances of the case.

18 U.S.C. § 3551(a). Based upon this section, the Tenth Circuit has held that the United States Sentencing Guidelines apply to cases brought under the ACA; however, the Tenth Circuit has held that "the sentence imposed may not exceed any maximum sentence and may not fall below any mandatory minimum sentence that is required under the law of the state in which the crimes occur."

*United States v. Garcia*, 893 F.2d 250, 251-52 (10<sup>th</sup> Cir. 1989). *See also United States v. Wood*, 386 F.3d 961 (10<sup>th</sup> Cir. 2004); *United States v. Nelson*, No. 98-2102, 1998 WL 658393 (10<sup>th</sup> Cir. Sept. 15, 1998).

Under Oklahoma law,

Every person who upon conviction is guilty of any of the provisions of Section 6 of this act<sup>4</sup> shall be punished by imprisonment in the county jail for not more than one (1) year, or shall be fined not more than Five Hundred Dollars (\$500.00), or by both such fine and imprisonment.

Okla. Stat. tit. 21, § 1692.8.

Accordingly, the Court finds that the maximum fine which could be imposed in this case is \$500.00. The Court, therefore, finds that the Magistrate Judge erred in imposing a \$1,975.00 fine in this case and that defendant's sentence must be vacated and that this case should be remanded for re-sentencing.

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<sup>4</sup>Section 6 provides:

Every person who is knowingly present as a spectator at any place, building, or other site where preparations are being made for a cockfight with the intent to be present at such preparation or cockfight, or is knowingly present at such cockfight, upon conviction shall be guilty of a misdemeanor.

Okla. Stat. tit. 21, § 1692.6.

III. Conclusion

For the reasons set forth above, the Court AFFIRMS defendant's conviction but VACATES defendant's sentence and REMANDS this case to the magistrate court with directions to re-sentence defendant in accordance with this Order.

**IT IS SO ORDERED this 27th day of February, 2009.**

  
VICKI MILES-LAGRANGE  
CHIEF UNITED STATES DISTRICT JUDGE

**IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF OKLAHOMA**

<b>UNITED STATES OF AMERICA,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>-vs-</b>	)	<b>Case No. CR-07-158-M</b>
	)	
<b>ROBERT M. LANGFORD,</b>	)	
	)	
<b>Defendant.</b>	)	

**NOTICE OF INTENT TO APPEAL**

Robert M. Langford, Defendant above named, hereby states his intention to appeal to the United States Court of Appeals for the Tenth Circuit from the Court's Order in a Criminal Case entered in this action on February 27, 2009.

Respectfully submitted,

s/Daniel L. White  
DANIEL L. WHITE, OBA #16969  
3955 N. W. 23<sup>rd</sup> Street  
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Phone: 405-942-8801  
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E-mail: danielwhite@for-the-defense.com  
Attorney for Defendant,  
Robert M. Langford

**CERTIFICATE OF MAILING**

I hereby certify that on the 3rd day of March, 2009, I electronically transmitted the attached document to the Clerk of the Court using the ECF System for filing and transmittal of a Notice of Electronic Filing to the following ECF registrants:

Linda Epperley  
Assistant U. S. Attorney

s/Daniel L. White

DANIEL L. WHITE, OBA 16969

May 28, 2009

UNITED STATES COURT OF APPEALS  
FOR THE TENTH CIRCUIT

Elisabeth A. Shumaker  
Clerk of Court

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

ROBERT M. LANGFORD,

Defendant - Appellant.

No. 09-6045  
(D.C. No. 5:07-CR-00158-M-1)  
(W.D. Okla.)

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**ORDER**

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Before **LUCERO, HARTZ**, and **TYMKOVICH**, Circuit Judges.

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This is an appeal by the defendant from an order of the district court, functioning as an appellate court, affirming the defendant's conviction, but vacating the sentence and remanding to the magistrate judge for resentencing. We dismiss for lack of appellate jurisdiction.

This court has jurisdiction to review only final decisions, 28 U.S.C. § 1291, and specific types of interlocutory orders not applicable here. In a criminal case, the final judgment rule generally prohibits appellate review until after conviction and the imposition of sentence. *See Flanagan v. United States*, 465 U.S. 259, 263 (1984). Because the district court vacated the sentence and remanded for resentencing, the district court order is not appealable.

This order does not preclude the defendant from filing an appeal after the entry of final judgment.

**APPEAL DISMISSED.**

Entered for the Court,  
ELISABETH A. SHUMAKER, Clerk

A handwritten signature in cursive script, appearing to read "Ellen Rich Reiter".

Ellen Rich Reiter  
Deputy Clerk/Jurisdictional Attorney



**UNITED STATES COURT OF APPEALS  
FOR THE TENTH CIRCUIT  
OFFICE OF THE CLERK**

Byron White United States Courthouse  
1823 Stout Street  
Denver, Colorado 80257  
(303) 844-3157

Elisabeth A. Shumaker  
Clerk of Court

May 28, 2009

Douglas E. Cressler  
Chief Deputy Clerk

Mr. Daniel L. White  
3955 N. W. 23rd Street  
Oklahoma City, OK 73107-0000

**RE: 09-6045, United States v. Langford**  
District docket: 5:07-CR-00158-M-1

Dear Counsel:

Enclosed please find an order dismissing this case today by the court.

Please contact this office if you have questions.

Sincerely,



Elisabeth A. Shumaker  
Clerk of the Court

cc: Linda A. Epperley

EAS/ao