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

TIMOTHY WHITEAGLE,
Petitioner,

v

WARDEN, FPC DULUTH,
Respondent.

CASE NO. 11-CR-65WMC

BRIEF IN SUPPORT OF HABEAS CORPUS
PETITION FOR DISMISSAL

NOW COMES Petitioner, Timothy Whiteagle, Pro Se and supplies this information on federal jurisdiction to This Honorable Court with this Brief in Support of his Petition For Dismissal from this incarceration.

As far as federal jurisdictions are concerned, Indian Tribes do have jurisdiction to prosecute tribe members for off-reservation offenses. The United States Court of Appeals for the Sixth Circuit ruled on January 5, 2016 that a tribal court of the Little River Band of Ottawa Indians had jurisdiction to try one of its counsel members for sexually assaulting one of the band's employees at a tribal event, even though the attack did not occur on reservation land. Kelsey v Pope, 2016 BL 797, Sixth Circuit, No. 14-1537.

"Indian tribes have the inherent sovereign authority to try and prosecute members on the basis of tribal membership even if criminal conduct occurs beyond a tribe's Indian country," the court said in an opinion.

In the United States District Court in 2015 in the Ninth Circuit, in the case of Woods v Department of Child and Family Services, the opinion states: C. Woods claim against the Department of Child and Family Services

are barred by sovereign immunity pursuant to the Eleventh Amendment.

Woods objects to Judge Johnston's recommendation that the Department of Child and Family Services should be dismissed with prejudice because it is immune from suit. (Doc. 15 at 18).

Woods named the Department of Child and Family Services as a defendant. The Department of Child and Family Services possesses Eleventh Amendment immunity from suit in federal court. Idaho v Coeur d'Alene Tribe of Idaho 521 US 261, 267-68, 117 S. Ct. 2028, 138 L. Ed. 2d 438 (1997). The case was dismissed with prejudice.

Although the law in this area is sparse, there is supporting language for its conclusion in two U. S. Supreme Court decisions and decisions from the Ninth Circuit which -- in addressing the issue of tribal jurisdiction in general -- indicated that tribes possess sovereignty over both their members and their territory.

In the case of Cherokee Nation v Georgia S. Pet. 1,8 LEd. 25 1831, THE OPINION STATES that The Cherokees are a state. They have been uniformly treated as a state since the settlement of our country. The numerour treaties made with them by the United States recognize them as a people capable of maintaining their relations of peace and war; of being responsible in their political character for any violation of their engagement, or for any aggression committed on the citizens of the United States, by any individual of their community. Laws have been enacted in the spirit of these treaties. The acts of our government plainly recognize the Cherokee Nation as a State, and the courts are bound by those acts.

The opinion of the solicitor of the Interior Department in 1939 confirmed the government's belief that tribes do have the authority to try and

prosecute members for off-reservation conduct. The inherent sovereignty of Indian tribes predate the Constitution, and is neither derived from nor protected by that document.

Tribal Law was subverted on April 2, 2012 because the government knowingly, willfully and illegally presented to the Court partial sections of the Code of Ethics, (COE), undermining by their actions justice for this HO-Chunk Member. The United States Attorney, John W. Vaudreuil, knowingly extracted certain parts and sections of the Code of Ethics. The Code of Ethics states:

> ...no person may offer to give to any official of the Nation, anything of value, if the gift could reasonably be expected to influence the vote, official actions or judgment of the elected, appointed, contract, or exempt employee of the Nation, or could reasonably be considered a reward for any official action or inaction.

Section 6n states:

> Elected, appointed, contract, or exempt employees of the Nation shall not use or attempt to use the position held by the official or unclassified employee to influence or gain unlawful benefits, advantages or privileges personally or for their immediate family.

The Code of Ethics was vigorously opposed by the Court during Timothy Whiteagle's trial contrary to the Eleventh (11th) Amendment, U. S. federal law and complete disregard for the Code of Ethics. The Code of Ethics is Tribal Law which has the same authority and power as U. S. federal law. The expectation for Timothy Whiteagle, Clarence Pettibone and Deborah Atherton was that they were to receive a fair and impartial trial and without prejudice, under tribal law and not federal law.

The Tribe, The HO-Chunk Nation also had the duty and obligation to protect the rights of Timothy Whiteagle, Clarence Pettibone and Deborah Atherton, using the Code of Ethics.

I am requesting the federal court system, who is also legally bound to protect the rights of all citizens under the United States Constitution, to not use or manipulate their authority and the power of the courts to fraudulently seek a conviction. According to United States federal rulings and treaties, the HO-Chunk Nation is considered a sovereign nation whose tribal laws are not to be brushed aside or played with.

The Code of Ethics has two (2) parts, which are (1) a legal statement of the crime and (2) punishment. At the time of my incarceration, I was making $300,000.00 per year. Due to my efforts, my financial services company put in a system that made over $230,000,000.00 (two hundred thirty million per year for the HO-Chunk Nation. The United States Attorney, Mr. John W. Vaudreuil was able to contact the HO-Chunk Nation's executive branch, and lied to them, stating that I stole $7,000,000.00 (seven million) dollars from the HO-Chunk Nation and that I bribed Clarence Pettibone. Not only am I requesting my lost wages and all of the charges dropped from myself, but I am also requesting that all of the charges be dropped from Clarence Pettibone and Deborah Atherton as well.

It appears that the United States Attorney, Mr. John W. Vaudreuil, First Assistant U. S. Attorney Mr. Stephen P. Sinnott and Criminal Division Chief, Ms. Laura Finn all broke the law by violating the rights of Timothy Whiteagle, Clarence Pettibone and Deborah Atherton by not using the Code of Ethics of the HO-Chunk Nation.

As a general rule, federal courts must recognize and enforce tribal court judgments under principles of comity. The recognition and enforcement of tribal judgment in federal courts must inevitably rest on the principles of comity.

This Brief makes it clear that the federal courts have recognized that tribal courts have had their jurisdiction since the time that the country was settled, and right on up to the present date.

Failure to dismiss the indictment, all charges and convictions, in addition to forced railroaded plea agreements -- lies and pressure by the government to never see their families again, and failure of the court to order immediate provision of full monetary compensation for losses incurred during incarceration is in violation of the defendants' constitutional rights and is warranted as false imprisonment.

Respectfully submitted,

Timothy Whiteagle
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January 18, 2016