

**UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT
NO. 18-1723**

Kimberly Watso, individually and on behalf of C.H. and C.P.,
her minor children, and Kaleen Dietrich,

Appellants,

vs.

Emily Piper in her official capacity as Commissioner of the
Department of Human Services; Scott County; Shakopee Mdewakanton
Sioux Community; Tribal Court of the Shakopee Mdewakanton Sioux (Dakota)
Community; and its Judge John E. Jacobson, in his official capacity; Red Lake Band
of Chippewa Indians; Tribal Court of the Red Lake Band of Chippewa Indians; and
its Judge Mary Ringhand, in her official capacity; Isaac Hall; and Donald Perkins,

Appellees.

APPELLANTS' STATEMENT OF ISSUES

Appellants, Kimberly Watso, individually and on behalf of C.H. and C.P., her
minor children, and Kaleen Dietrich, through their attorneys, intend to submit the
following issues for in their principal appellate brief:

I.

Whether there is a violation of the Supremacy Clause when the Indian
Child Welfare Act and federal regulations promulgated under the Act
preempt state agency policies that refer and transfer Indian children of a
non-Indian parent who objects to tribal jurisdiction to tribal court, but
the state agency nevertheless transfers the children to tribal court
without notice, an administrative hearing, or a state judicial proceeding
to adjudicate a legal or factual justification for the transfer of jurisdiction.

II.

After a county places an Indian child of a non-Indian parent under an emergency protective 72-hour hold authorized under state court rules which require the child released unless an emergency protective care hearing is held, whether state policies to automatically transfer the Indian child of a non-Indian parent, even one who objects to tribal court jurisdiction, violate constitutionally-protected parental rights and due process rights when the county agency then transfers the child to the tribe without notice, an administrative hearing, or a state judicial proceeding to adjudicate a legal or factual justification for the transfer of jurisdiction.

III.

Whether a Public Law 280 tribal court has jurisdiction over an Indian child who is a child of a non-Indian parent objecting to tribal jurisdiction when the tribe has failed to seek exclusive or referral jurisdiction from the U.S. Department of the Interior under the Indian Child Welfare Act.

IV.

Whether a Public Law 280 tribal court has jurisdiction to transfer a child protection case to another tribal court of a non-member Indian child of a non-member, non-Indian parent objecting to tribal court jurisdiction when the tribe has failed to seek exclusive or referral jurisdiction under the Indian Child Welfare Act.

V.

Whether any tribal court has jurisdiction over a child residing off the reservation when a non-tribal member parent objects.

Dated: April 20, 2018

/s Erick G. Kaardal

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individually and on behalf of C.H. and C.P., her
minor children, and Kaleen Dietrich*