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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF UTAH
CENTRAL DIVISION

ANGELITA M. CHEGUP, TARA J. AMBOH,
MARY CAROL JENKINS, LYNDIA M.
KOZLOWICZ,

Plaintiffs,

v.

UTE INDIAN TRIBE OF THE UINTAH AND
OURAY RESERVATION, a federally
recognized Indian tribe; THE TRIBAL
BUSINESS COMMITTEE FOR THE UTE
INDIAN TRIBE OF THE UINTAH AND
OURAY RESERVATION; LUKE DUNCAN;
TONY SMALL; SHAUN CHAPOOSE;
EDRED SECAKUKU; RONALD WOPSOCK;
and SAL WOPSOCK,

Defendants.

No. 2:19-cv-00286-DAK-PMW

**REPLY IN SUPPORT OF MOTION
FOR IMMEDIATE RELEASE**

Defendants' sole argument in opposition to Plaintiffs' Motion for Immediate Relief ("Motion") is that this Court does not possess jurisdiction. According to Defendants, (1) 25 U.S.C. § 1303 requires "permanent banishment"; (2) Plaintiffs have not exhausted Tribal Court

remedies; and (3) Defendants have not been properly served.¹ For the reasons outlined in Plaintiffs' Response in Opposition to Defendants' Motion to Dismiss, filed and incorporated herewith, Defendants are wrong on each account.

On the merits, Plaintiffs have presented reams of evidence that they have been deprived of constitutionally adequate notice and an opportunity to be heard before a neutral decisionmaker.² Defendants do not dispute this assertion or the evidence in support, and it must therefore be deemed admitted for the purpose of Plaintiffs' Motion. *See, e.g., Boedicker v. Rushmore Loan Mgmt. Servs.*, No. 16-2798, 2018 WL 828039, at *1 (D. Kan. Feb. 12, 2018); DUCivR 56-1(c); *see also Wheeler v. Comm'r*, 521 F.3d 1289, 1291 (10th Cir. 2008) ("[A]rguments raised for the first time in a reply brief are generally deemed waived.") (citing *United States v. Harrell*, 642 F.3d 907, 918 (10th Cir. 2011)).

In sum, Plaintiffs have established a clear case on the merits, which is unrefuted. There are no tribal remedies to exhaust. Additional facts will not cure Defendants' violations of Plaintiffs' rights. Plaintiffs are entitled to be released from custody pending review and resolution of the merits of their Petition for Writ of *Habeas Corpus*. Plaintiffs respectfully reiterate their request the Court issue an order granting said relief.

DATED this 6th day of August, 2019.

GALANDA BROADMAN, PLLC

s/ Ryan D. Dreveskracht
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¹ ECF No. 46, at 5, 7, 9.

² *See, e.g.,* ECF Nos. 14, 14-1, 14-2, 21, 22, 23, 24, 25.

CERTIFICATE OF SERVICE

I, Wendy Foster, declare as follows:

1. I am now and at all times herein mentioned a legal and permanent resident of the United States and the State of Washington, over the age of eighteen years, not a party to the above-entitled action, and competent to testify as a witness.

2. I am employed with the law firm of Galanda Broadman PLLC, 8606 35th Avenue NE, Ste. L1, Seattle, WA 98115.

3. Today I served the foregoing document, via U.S. Mail and through this Court's ECF system, on the following parties:

Ute Indian Tribe of the Uintah and Ouray Reservation
6964 East 1000 South
Ft. Duchesne, UT 84026

The foregoing Statement is made under penalty of perjury and under the laws of the State of Washington and is true and correct.

Signed at Seattle, Washington, this 6th day of August, 2019.

s/Wendy Foster
Wendy Foster