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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

ELILE ADAMS,

Petitioner,

v.

RAYMOND DODGE, Nooksack Tribal Court
Chief Judge; RAJEEV MAJUMDAR,
Nooksack Tribal Court Judge Pro Tem; BETTY
LEATHERS, Nooksack Tribal Court Clerk;
DEANNA FRANCIS, Nooksack Tribal Court
Clerk; NOOKSACK TRIBAL COURT, an
instrumentality of the Nooksack Indian Tribe;
and NOOKSACK INDIAN TRIBE, a federally
recognized tribal government.

Respondents.

NO. 2:19-cv-01263-JCC-MLP

**SECOND AMENDED PETITION
FOR WRIT OF *HABEAS CORPUS***

I. PETITION

1. Petitioner Elile Adams, a pretrial detainee in the custody of the Nooksack Indian Tribe, respectfully requests that this Court issue a writ of *habeas corpus* pursuant to the federal Indian Civil Rights Act of 1968 (“ICRA”), 25 U.S.C. §§ 1301-1303.

II. PARTIES

2. Petitioner Elile Adams is a 33-year-old woman and Lummi Nation member who resides on off-reservation trust lands at 7098 #4, Mission Road, Deming, Washington. She is not an enrolled member of the Nooksack Indian Tribe.

3. Respondent Raymond Dodge is the purported Chief Judge of the Nooksack Tribal Court. He is not an enrolled member of the Nooksack Indian Tribe

4. Respondent Rajeev Majumdar is a Pro Tem Judge for the Nooksack Tribal Court. He is not an enrolled member of the Nooksack Indian Tribe

5. Respondent Betty Leathers is the Court Clerk for the Nooksack Tribal Court. She is an enrolled member of the Nooksack Indian Tribe

6. Respondent Deanna Francis is the Court Clerk for the Nooksack Tribal Court. She is an enrolled member of the Nooksack Indian Tribe,

7. The Nooksack Tribal Court is an instrumentality of the Nooksack Indian Tribe.

8. The Nooksack Indian Tribe is a federally recognized tribal government.

III. JURISDICTION AND VENUE

9. Venue is proper in this Court because the acts alleged herein occurred in Whatcom County, Washington. Petitioner’s liberties are restrained in this District. Respondents reside within this District.

10. This Court has jurisdiction and authority to entertain a *habeas* action pursuant to 28 U.S.C. § 1331 and 25 U.S.C. § 1303 of the ICRA, which provides that 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.”

11. Exhaustion of tribal remedies would be futile because of the lack of adequate opportunity for Petitioner to challenge the Nooksack Tribal Court’s jurisdiction; and because

1 Respondents’ assertion of tribal jurisdiction is motivated by a desire to harass and is conducted
2 in bad faith. *Burlington N. R.R. v. Red Wolf*, 196 F.3d 1059, 1065 (9th Cir. 1999).

3 **IV. STATEMENT OF FACTS**

4 **A. “JUDGE” RAYMOND DODGE AND THE NOOKSACK TRIBAL “JUSTICE SYSTEM”**

5 12. Since at least 2016, George Adams—Petitioner’s father—has been a “staunch
6 defender” of, and traditional spokesperson for, over three hundred Nooksack tribal members
7 who have been proposed for disenrollment from the Nooksack Indian Tribe (“Tribe”) since
8 2012—the so-called Nooksack 306.¹

9 13. Petitioner Elile Adams has also been a vocal supporter of the Nooksack 306
10 and critic of purported Nooksack Tribal officials who have oppressed them.

11 14. On March 28, 2016, a group of Tribal members purporting to be governing body
12 of the Nooksack Indian Tribe (“holdover Councilpersons”) terminated Nooksack Tribal Court
13 Chief Judge Susan Alexander, after she issued several election rulings adverse to them.

14 15. On June 13, 2016, the holdover Councilpersons purportedly replaced Nooksack
15 Tribal Court Chief Judge Susan Alexander with Raymond Dodge, the Tribe’s immediate past
16 in-house attorney (who had unsuccessfully represented them in the election proceedings of
17 concern before Judge Alexander). *Nooksack Indian Tribe v. Zinke*, No. 17-0219-JCC (W.D.
18 Wash.), Dkt. No. 43, at 3.²

19 16. On October 17, 2016, Lawrence S. Roberts, United States Department of the
20 Interior (“DOI”) Principal Deputy Assistant Secretary of Indian Affairs (“PDAS”), issued a
21 decision to the holdover Councilpersons establishing that they lacked authority to act as or in
22

23 ¹ *Disenrollment Kills Nooksack Language Revitalization Program*, INDIAN COUNTRY TODAY (June 29, 2016),
24 available at https://newsmaven.io/indiancountrytoday/archive/disenrollment-kills-nooksack-language-revitalization-program-v_gOUFPP7Umtmq7Z77UxtA/. George Adams is a respected Nooksack Tribal Elder and the last remaining speaker of the Nooksack language, Lhéchelesem.

25 ² Additional facts giving rise to this lawsuit have been chronicled by the U.S. District Court for the Western District of Washington in *Nooksack Indian Tribe v. Zinke*, No. 17-0219-JCC (W.D. Wash.), Dkt. # 43.

1 any way represent themselves as the governing body of the Tribe, and refusing to recognize
2 “any actions taken” by them since March 24, 2016.

3 17. PDAS Roberts issued a second decision to the holdover Councilpersons on
4 November 14, 2016, reiterating that the United States “will only recognize those actions taken
5 by the Tribal Council prior to March 24, 2016, when a quorum existed, and will not recognize
6 any actions taken since that time because of a lack of quorum.” Such actions included the
7 holdover Councilpersons’ purported appointment of Respondent Raymond Dodge as Tribal
8 Court Chief Judge on June 13, 2016.

9 18. On November 9, 2016, Mr. Adams appeared in Nooksack Tribal Court before
10 Raymond Dodge, as a traditional spokesperson for Nooksack Tribal Elder Margretty Rabang,
11 who was unlawfully facing eviction pursuant to orders issued by Respondent Dodge and whose
12 lawyers of record were disbarred and excluded from court by Respondent Dodge (when he was
13 acting as both lawyer and purported judge).

14 19. Mr. Adams humiliated Respondent Dodge for his unethical behavior; he spoke
15 exclusively in his Lhéchelesem tongue. It was at that point when Respondent Dodge,
16 masquerading as Tribal Court Chief Judge, established his vendetta against the George and Elile
17 Adams (“Adamses” collectively).

18 20. On December 23, 2016, PDAS Roberts issued a third decision to the holdover
19 Council, invalidating any Tribal Court orders “based on actions taken by the Tribal Council
20 after March 24, 2016,” whether those orders were “issued to be served by the Nooksack Chief
21 of Police or could be issued and served in the near future.”

22 21. On April 27, 2017, counsel for Petitioner emailed Whatcom County Sheriff Bill
23 Elfo “ask[ing] that [his] agency reject any request from purported Nooksack officials to arrest or
24 detain our clients.” That same day Sheriff Elfo admitted to his staff, in reference to the
25 appointment of Mike Ashby as Nooksack Police Chief: “there has been a change of leadership

1 in the [Nooksack] Police Department that is of concern. We will ensure that we provide advice
2 to our deputies and not immerse ourselves in these matters.” The Sheriff replied to Mr. Galanda
3 the next day: “Thank you Mr. Galanda, we have advised our deputies accordingly.”

4 22. As of April 10, 2018, the Washington State Bar Association commented that the
5 Nooksack “justice system,” inclusive of its Tribal Court and Tribal Police, is “probably not
6 worthy of that description.” *Grievance of Gabriel S. Galanda against Connie Sue M. Martin*,
7 ODC File No. 17-01776 (Wash. St. Bar. Assoc.).

8 23. On June 11, 2018, DOI PDAS John Tahsuda expressed the United States’
9 continued concern about the need for “respect for the rule of law” at Nooksack.

10 **C. WHATCOM COUNTY AND RAYMOND DODGE’S “TRIBAL COURT” PROCEEDINGS**

11 24. In 2014, Manuel Galindo, the father of Petitioner Elile Adams’ daughter Z. A.-G.,
12 initiated a parenting action against Ms. Adams in Whatcom County Superior Court. *In re Z. A.-*
13 *G.*, No. 14-5-00085-2.

14 25. On January 13, 2015, this Court issued an Order concluding that Mr. Galindo is
15 the biological father of Z. A.-G. and that it had jurisdiction over Z. A.-G., Mr. Galindo and Ms.
16 Adams; and a second Ordered compelling Mr. Galindo to pay child support to Ms. Adams.

17 26. On May 8, 2015, the Superior Court issued a third Order, ruling that “Ms. Adams
18 is, and shall remain, [the] primary residential parent” for the child and awarding Mr. Galindo
19 three hours of visitation three times per week (“Superior Court Parenting Order”). Ms. Adams
20 and Mr. Galindo generally adhered to the Superior Court Parenting Order, until March of 2017.

21 27. On March 17, 2017, Petitioner sought a protection order against Mr. Galindo from
22 the Tribal Court. *Adams v. Galindo*, No. 2016-CI-PO-00. Mr. Galindo had a history of
23 physically and verbally abusing Ms. Adams, causing property damage to their former home
24 together, expressing suicidal ideation, and threatening to take their child back to Mexico with
25

1 him. That day, Respondent Raymond Dodge ostensibly presided, and issued a temporary
2 protection order against Mr. Galindo.

3 28. On March 30, 2017, Respondent Dodge himself initiated a parenting action
4 *against* Ms. Adams *sua sponte*, despite knowing that he lacked any authority to act as Tribal
5 Court Chief Judge according to AS-IA Roberts' three determinations. *In re the Matter of Z. A.-*
6 *G.*, No. 2017-CI-PP-001. That day, Ms. Adams filed the Superior Court Parenting Order with
7 the Tribal Court, which would have caused a legitimate judge to realize he lacks jurisdiction per
8 the common law first-to-file rule. In fact, Respondent Dodge was advised in open court that he
9 lacked jurisdiction to adjudicate the custody or parenting of the minor child, due to the pre-
10 existing Superior Court Parenting Order. Respondent Dodge proceeded anyway, preparing and
11 issuing a purported Order titled, "Parenting Plan, Visitation Schedule." Respondent Dodge is
12 of the uneducated "opinion that the Court possessed the authority to modify a Whatcom County
13 Superior Court order involving custody matters pertaining to minor child Z. A-G," without ever
14 communicating with the Superior Court. RCW 26.27.211; RCW 26.27.041(b).

15 29. Since March 30, 2017, Ms. Adams appeared before Respondent Dodge in either
16 *In re the Matter of Z. A.-G.*, No. 2017-CI-PP-001, or its related criminal matter, *infra*—by
17 which Respondent Dodge has endlessly harassed Ms. Adams through an abuse of judicial
18 process at least 20 times. She appeared before him on March 30, November 8, December 13,
19 2017, January 10, February 14, March 14, April 11, May 9, June 13, August 8, October 10,
20 November 14, December 19, 2018, and January 9 and 30, March 6 and 14, and May 20,
21 September 12, and October 9, 2019.

22 30. Between March 30, 2017, and July 31, 2019, Respondent Dodge issued no less
23 than twenty purported Orders *against* Ms. Adams in *In re the Matter of Z. A.-G.*, No. 2017-CI-
24 PP-001, many "*sua sponte*" and many for contempt of court.

1 31. On February 20, 2019, Ms. Adams was cited with “TEN COUNTS” of custodial
2 interference, at Respondent Dodge’s behest in *Nooksack Indian Tribe v. Elile Adams*, No. 2019-
3 CR-A-004.

4 32. On March 14, 2019, Ms. Adams appeared before Respondent Dodge in *Nooksack*
5 *Indian Tribe v. Elile Adams*, No. 2019-CR-A-004, and pleaded not guilty to at least five
6 criminal counts of custodial interference. Respondent Dodge assigned Ms. Adams a public
7 defender, Matthew Deming, in *Nooksack Indian Tribe v. Elile Adams*. That matter was
8 scheduled for some form of pre-trial hearing on May 20, 2019. Despite the pre-existence of the
9 civil parenting matter that he initiated against Ms. Adams, *In re the Matter of Z. A.-G.*, No.
10 2017-CI-PP-001, Respondent Dodge failed to recuse himself from the criminal matter that he
11 also initiated against her, *Nooksack Indian Tribe v. Elile Adams*, until October 10, 2019, in
12 violation of fundamental judicial appearance of fairness tenets.

13 33. On April 9, 2019, Ms. Adams obtained citizenship with the Lummi Nation for
14 herself and her minor child, after relinquishing each of their enrollments with the Nooksack
15 Tribe on January 31, 2019. In her own words, she “was seeking asylum in the Lummi Nation”
16 as a result of persecution from Respondent Dodge. At this time Ms. Adams is no longer a
17 member of the Nooksack Indian Tribe; nor is her daughter Z. A.-G.

18 34. On May 14, 2019, Ms. Adams filed a “Voluntary Non Suit of Elile Adams” with
19 the Tribal Court in *In re the Matter of Z. A.-G.*, No. 2017-CI-PP-001, submitting that: “During
20 the time when I filed my original petition asking for [a protection order] the Nooksack Tribal
21 Court was and is now nonfunctional. This Tribal Court has neither subject matter jurisdiction,
22 nor personal jurisdiction over me, nor over Mr. Galindo, nor our child.”

23 35. On May 20, 2019, Ms. Adams appeared before Respondent Dodge for some form
24 of pre-trial hearing in *Nooksack Indian Tribe v. Elile Adams*, No. 2019-CR-A-004, but
25 Respondent Dodge continued the hearing again until July 11, 2019.

1 36. On July 11, 2019, Mr. Deming appeared before Respondent Dodge for some form
2 of pre-trial hearing in *Nooksack Indian Tribe v. Elile Adams*, No. 2019-CR-A-004, on Ms.
3 Adams' behalf. That day Ms. Adams was on Bainbridge Island with her father, taking part in
4 preparations for the Northwest Tribes' annual Canoe Journey. The Adamases paddled a newly
5 carved cedar canoe along the Puget Sound for miles and miles during Canoe Journey.

6 37. On July 19, 2019, Respondent Dodge prepared, signed, and issued a Warrant of
7 Arrest against Ms. Adams in *Nooksack Indian Tribe v. Elile Adams*, No. 2019-CR-A-004,
8 describing the underlying charges as "Interference w/ custody x4/contempt x1" and listing a
9 "Reason or Issuance of Warrant: FTA [Failure to Appear]" ("Tribal Court Warrant").
10 Respondent Dodge issued the Tribal Court Warrant even though Mr. Deming appeared for Ms.
11 Adams in *Nooksack Indian Tribe v. Elile Adams* on July 11, 2019.

12 38. From July 24, 2019 to July 28, 2019, Nooksack Tribal Police, working in concert
13 with Respondent Dodge saw the Adamases attend the final Canoe Journey Landing and Protocol
14 ceremonies on the Lummi Reservation.

15 39. On July 29, 2019, the Adamases returned home, exhausted from Canoe Journey.

16 40. On the morning of July 30, 2019, the Adamases were asleep or relaxing at home
17 when Tribal Police officers arrived to the Adamases' home and assaulted, battered and falsely
18 detained, arrested and/or imprisoned them (as detailed below). Prior to the Tribal Police
19 officers' arrival that morning, they worked with County or Jail personnel to secure a spot in the
20 Jail for Ms. Adams to be jailed upon her arrest that day.

21 41. On the afternoon of July 30, 2019, by 2:15 PM, Respondent Dodge denied Ms.
22 Adams' "Voluntary Non Suit of Elile Adams" in *Nooksack Indian Tribe v. Elile Adams*, No.
23 2019-CR-A-004. Respondent Dodge did so admitting, based on *ex parte* communication with
24 the Tribe: "On this date a warrant for Ms. Adams [sic] arrest in a pending criminal matter was
25 executed. Ms. Adams is currently in custody."

1 42. That afternoon Respondent Dodge also issued a Notice of Hearing in *Nooksack*
2 *Indian Tribe v. Elile Adams*, No. 2019-CR-A-004 for August 8, 2019 at 1:30 p.m.

3 43. On July 31, 2019, Respondent Dodge issued a Criminal Summons prepared by the
4 Tribe's Office of Tribal Attorney, to Ms. Adams, in *Nooksack Indian Tribe v. Elile Adams*, No.
5 2019-CR-A-004. Respondent Dodge ordered her initial appearance at a hearing before the
6 Tribal Court on August 8, 2019 at 9:30 a.m., which he later cancelled without reason.

7 44. On August 6, 2019, Respondent Dodge continued the initial hearing in *Nooksack*
8 *Indian Tribe v. Elile Adams*, No. 2019-CR-A-004, until September 12, 2019 at 9:30 a.m.; and
9 the hearing in *In re the Matter of Z. A.-G.*, No. 2017-CI-PP-001, for a future date, pending some
10 "forensic interview report" that he commissioned.

11 45. On August 7, 2019, Respondent Dodge caused an appearance notice filed by Ms.
12 Adams' counsel, Gabriel S. Galanda, in *In re the Matter of Z. A.-G.*, No. 2017-CI-PP-001, to be
13 "REJECTED" by the Nooksack Tribal Court, thereby denying Ms. Adams her constitutional
14 right to counsel.

15 46. On August 9, 2019, Ms. Adams filed a tort lawsuit against Respondent Dodge in
16 his personal capacity, with the Whatcom County Superior Court. *Adams v. Dodge*, No. 19-2-
17 01522-37.

18 47. On August 13, 2019, the *Last Real Indians* blog published a news release about
19 Ms. Adams' Superior Court lawsuit in which she is quoted as saying: "'Dodge has made my
20 life a living nightmare' . . . 'So much so that I have sought asylum and protection from him
21 in the Lummi Nation.'"

22 48. On September 11, 2019, Respondent Dodge issued an Order Re: Security For
23 Criminal Hearings in *Nooksack Indian Tribe v. Elile Adams*, No. 2019-CR-A-004, styling pre-
24 trial hearings in the matter as "ministerial" and denying Ms. Adams' right to a public trial.

25 Respondent Dodge cited Facebook postings by Ms. Adams by which she requested family and
SECOND AMENDED PETITION FOR WRIT OF *HABEAS CORPUS* - 9

1 public support of her court appearance before him on September 12, 2019, calling her posts
2 “hostile” and “threatening” of the “safety and wellbeing” of court staff.” Ms. Adams and her
3 family and supporters appeared at the Tribal Courthouse on that day, without incident.

4 49. On September 17, 2019, Respondent Dodge answered *Adams v. Dodge*, No. 19-2-
5 01522-37, and counterclaimed against Ms. Adams claiming that Ms. Adams’ statement to *Last*
6 *Real Indians* that “Dodge has made my life a living nightmare” is “false and unprivileged.”
7 Ms. Adams has admitted to making the statement—because it is true.

8 50. On or about October 3, 2019, Ms. Adams filed an Amended Motion for
9 Disqualification of Judge, with Respondent Dodge, in *Nooksack Indian Tribe v. Elile Adams*,
10 No. 2019-CR-A-004, citing Respondent Dodge’s Whatcom County Superior Court libel
11 counterclaim against her as grounds for bias and conflict of interest.

12 51. On October 10, 2019, Respondent Dodge finally recused himself from *Nooksack*
13 *Indian Tribe v. Elile Adams*, No. 2019-CR-A-004, and Respondent Pro Tem Judge Rajeev
14 Majumdar was assigned to preside over the matter. Intimately involved with the Tribal Court’s
15 entire operation, Respondent Dodge continues to possess custody over Ms. Adams, who, as
16 explained below, has been released by Whatcom County to the Nooksack Tribal Court on bail.

17 52. On October 11, 2019, Respondent Dodge refused to recuse himself from *In re the*
18 *Matter of Z. A.-G.*, No. 2017-CI-PP-001, despite his state court counterclaim against Ms.
19 Adams.

20 53. On October 15, 2019, Respondent Dodge also caused an appearance notice filed
21 by Mr. Galanda, in *Nooksack Indian Tribe v. Elile Adams*, No. 2019-CR-A-004, to be
22 “REJECTED” by the Nooksack Tribal Court, thereby further denying Ms. Adams her
23 constitutional right to counsel.

24 54. On October 17, 2019, the Whatcom County Superior Court issued an Order
25 pursuant to the Uniform Child Custody Jurisdiction Act, RCW Chapter 26.27, in *In re the*

1 *Matter of Z. A.-G.*, No. 2017-CI-PP-001, finding that “this Court has never declined
2 jurisdiction” and that Mr. Galindo and Ms. Adams’ “appearance and participation in the
3 Nooksack Tribal Court custody proceedings [in *In re the Matter of Z. A.-G.*, No. 2017-CI-PP-
4 001] does not waive or divest this Court of its continuing and exclusive jurisdiction.” The
5 Superior Court “DECLARED that this Court retains exclusive, continuing jurisdiction over the
6 custody of [Z. A.-G.] pursuant to the Uniform Child Custody Jurisdiction And Enforcement
7 Act, Chapter 26.27 RCW.”

8 **D. THE EVENTS OF JULY 30, 2019**

9 55. At or about 10:00 AM on July 30, 2019, three Nooksack Tribal Police officers,
10 Sergeant Francisco Sanchez and Deputies Daniel Bennett and Brandon Farstad, arrived to the
11 Adamses’ home. The Adamses were all asleep or relaxing at home in their pajamas, having
12 returned from Canoe Journey the day prior. Mr. Adams opened the front door a few inches and
13 saw the Tribal Police standing on his porch. Officer Sanchez said, “Is Elile here? We have a
14 warrant for her arrest.”

15 56. At no time on July 30, 2019 did the Tribal Police ever present the Tribal Court
16 Warrant to either George Adams or Elile Adams.

17 57. Mr. Adams advised the Tribal Police that he was going to call the Whatcom
18 County Sheriff’s Office because both Ms. Adams and her daughter Z. A.-G. are enrolled Lummi
19 Nation citizens, not Nooksack Tribal members. Mr. Adams further advised them he needed to
20 get Mr. Galanda on the phone, whom he proceeded to call.

21 58. After the Adamses phoned Mr. Galanda from Mr. Adams’ cell phone, Mr. Adams
22 stepped out his front door with Mr. Galanda on speaker phone. While Mr. Adams had still been
23 inside, the Tribal Police had walked away from his front door towards the edge of the Adamses’
24 driveway.

1 59. Mr. Adams calmly proceeded towards the Tribal Police asking, “Who is the
2 highest ranking officer?” Sergeant Sanchez identified himself as “Sergeant Sanchez.” Mr.
3 Galanda asked him to identify himself by full name and badge number. Sergeant Sanchez
4 refused.

5 60. Mr. Galanda indicated he would begin to record their conversation, which he did.
6 According to a four-minute, thirty-second audio recording:

7 Mr. Galanda: Can you still hear me?

8 George Adams: Yeah.

9 Mr. Galanda: Alright I’ll just record it on my end.

10 George Adams: Okay.

11 Mr. Galanda: Sgt. Sanchez, can you please give me your name and badge
12 number?

13 (indiscernible - radio noise)

14 Mr. Galanda: Sgt. Sanchez, are you there?

15 (indiscernible - radio noise)

16 Mr. Galanda: Sgt. Sanchez, this is Gabriel Galanda, I represent Elile Adams.

17 Can please identify yourself by name and badge number?

18 (indiscernible - radio noise)

19 Mr. Galanda: Can you hear me?

20 Sergeant Sanchez: I’m here. We’re not going to be talking with ya. We’re not. We’re
21 not speaking with you. In fact, George, right now, because you refuse to let us go to
22 the house, and you know she’s in the house, we’re placing you under arrest for
23 obstruction, okay?

24 Mr. Adams: Okay . . .

25 Mr. Galanda: Let me, let me advise you of a few things

(indiscernible/yelling)

Mr. Adams: Okay. . . don’t touch . . . (indiscernible)

Sergeant Sanchez: George, listen George

Mr. Galanda: You have no lawful authority to put your hands on him.

Sergeant Sanchez: Relax.

Mr. Galanda: You have no lawful authority to put your hands on him.

(indiscernible)

George Adams: Leave my phone alone!

Mr. Galanda: This is being recorded.

(indiscernible)

Mr. Galanda: Please be advised you have no lawful authority under Nooksack
law to issue any warrant or cause any arrest.

(indiscernible)

Mr. Adams: Hey, get your hands off my phone . . . Hey . . .

Officer Bennett: George, relax.

(indiscernible)

George Adams: . . . my phone (indiscernible yelling)

Officer Bennett: Put your hands behind your back

1 (indiscernible yelling)
Officer Bennett: Relax, George.
2 George Adams: Hey!
Mr. Galanda: Please be advised you have no lawful authority to cause any arrest
3 or search of this home. This is all being recorded, George.
Officer Bennett: Relax, relax.
4 Mr. Galanda: This is all being recorded, George
Officer Bennett: Relax.
5 George Adams: Hey!
Officer Bennett: Relax.
6 Mr. Galanda: You have no lawful authority. Any warrant has been issued
without lawful authority. This arrest is being caused without lawful authority.
7 (indiscernible)
Mr. Galanda: Sgt. Sanchez, are you there?
8 (static)
(indiscernible yelling)
9 George Adams: Hey
(static)

10
11 61. When Mr. Galanda said, “Sgt. Sanchez, this is Gabriel Galanda, I represent Elile
12 Adams. Can please identify yourself by name and badge number?” Officer Bennett, who had
13 been on his cell phone with Chief Ashby, rushed up to where Sergeant Sanchez and Mr. Adams
14 were conversing.

15 62. Chief Ashby advised Officer Bennett not speak to Mr. Galanda because he “was
16 not a licensed Attorney on Nooksack Tribal lands and did not have a bar license to practice
17 there, nor a business license to conduct business at Nooksack.” In denying the Adamses’ right
18 to counsel, the Tribal Police offers acted in derogation of a standing Nooksack Tribal Court of
19 Appeals Order allowing Mr. Galanda to practice law and transact business at Nooksack. *In re*
20 *Gabriel S. Galanda, et al. v. Nooksack Tribal Court*, No. 2016-CI-CL-001 & 002 (Sept. 21,
21 2016), Order Regarding Plaintiffs’ Second Motion for Show Cause Order Re: Partial Summary
22 Judgment, Contempt, or Mandamus.

23 63. Immediately after concluding his call with Chief Ashby and while rushing
24 towards Sergeant Sanchez and Mr. Adams, Officer Bennett frantically waived his arms from
25

1 side to side as if to say, “No, this is not happening.” Officer Bennett told Sergeant Sanchez,
2 “Don’t say a word.”

3 64. Officer Bennett hit a button on his body camera at that time, to either activate or
4 de-activate the device.

5 65. Then when Mr. Galanda asked Sergeant Sanchez, “Can you hear me?”, the three
6 Tribal Police officers each grabbed Mr. Adams by his arms.

7 66. Officer Bennett slapped Mr. Adams’ phone out of his hand to distract him before
8 kneeing him in the groin with a karate-like move. Sergeant Sanchez and Officers Bennett and
9 Farstad threw him against a concrete sidewalk and stairway, causing bleeding to his hand and
10 contusions to his legs. Officer Farstad placed him in a chokehold for in upwards of a minute.
11 Sergeant Sanchez and Officers Bennett and Farstad violently rotated his torso and handcuffed
12 his hands behind his back, spraining the toes in his left foot. They destroyed his prescription
13 eye-glasses:



1 67. The Tribal Police confiscated Mr. Adams’ phone and Officer Farstad detained
2 him in the back of a hot patrol car without cracking the window for over thirty minutes before
3 citing him for “Obstructing a Public Official” and “Resisting Arrest.”

4 68. At 10:09 a.m., Mr. Galanda emailed Sheriff Elfo:

5 I just hung up a recorded call with Nooksack Sgt. Sanchez who is in the process
6 of unlawfully arresting George Adams purportedly for obstruction of justice
7 because he put me on a speakerphone to inquire about a Nooksack Tribal Court
8 warrant that Sgt. Sanchez was attempting to serve upon his daughter and his
9 home. Sgt. Sanchez would not identify himself or his fellow officers by full name
10 or badge number. PLEASE BE ADVISED THAT ANY ARREST BY
11 NOOKSACK POLICE OR ANY ENTRY INTO THE HOME IS BEING
12 CONDUCTED WITHOUT LAWFUL AUTHORITY.

13 69. By 10:30 a.m., Officer Bennett had entered the Adamses’ home to arrest Ms.
14 Adams. Officer Bennett walked upstairs unannounced, passing Ms. Adams’ child who was
15 sitting on the couch watching Disney cartoons. Ms. Adams told the officer from atop the
16 staircase, “You’re not supposed to be here. You don’t have my consent to be here.”

17 70. Officer Bennett ignored her statements and told her she was under arrest.

18 71. Ms. Adams then gave her child a hug and a kiss and went outside, where Officer
19 Farstad frisked and arrested her—for the first time in her life. Ms. Adams had no criminal
20 arrest record before July 30, 2019.

21 72. Officer Farstad handcuffed her arms behind her back and confiscated her cell
22 phone, too.

23 73. The Tribal Police refused to speak to Mr. Galanda or allow him to speak to Mr. or
24 Ms. Adams.

25 74. At 10:23 a.m., Mr. Galanda again emailed Sheriff Elfo:

 Please be advised that any purported arrest of George or Elile Adams by
Nooksack police, pursuant to some form of warrant issued by purported Judge
Ray Dodge or relates arrest, is unlawful. Neither Dodge nor Nooksack police
officers possess lawful authority to affect any arrest or search upon the
Adamses. Whatcom County should refuse to accept custody of George or Elile
Adams. Please advise.

1 75. At 11:05 a.m., Sheriff Elfo was advised by Whatcom County Deputy Prosecuting
2 Attorney George Roche, in reference to Mr. Galanda’s emails to Sheriff Elfo that morning: “Mr.
3 Galanda is arguing that Nooksack arrested some people unlawfully . . . My intuition tells me
4 this is an issue for Mr. Galanda and the Nooksack Tribe to work out amongst themselves.”

5 76. Sargent Sanchez transported Ms. Adams to the Whatcom County Jail, despite
6 lacking jurisdiction to detain or transport Ms. Adams beyond Nooksack trust lands. *State v.*
7 *Eriksen*, 172 Wn.2d. 506, 509, 25 P.3d 1079 (2011).

8 77. Ms. Adams was accepted into custody in the County Jail at 11:12 a.m. “for
9 contempt of court/failure to appear” before the Tribal Court in *Nooksack Indian Tribe v. Elice*
10 *Adams*, No. 2019-CR-A-004.

11 78. Upon being brought to the County Jail, Ms. Adams was placed in an isolation cell
12 for nearly two hours, with her arms handcuffed behind her back. She was experiencing carpal
13 tunnel syndrome pain and numbness due to being handcuffed for such a long period of time.
14 Her arms and fingers went numb. She felt burning sensations of pain.

15 79. When Ms. Adams was then booked into the County Jail, Whatcom County
16 Sheriff’s Deputy David Kimball commented: “This is a bogus charge.”

17 80. Deputy Kimball took off her handcuffs, noting that the Tribal Police had placed
18 the handcuffs on her upside down.

19 81. Deputy Kimball took Ms. Adams’ fingerprints and mug shots—each for the first
20 time in her life—and confiscated her belongings. Her mug shots:
21
22
23
24
25



82. Deputy Kimball then escorted her to the County Jail, where she was placed in cellblock “3K” with the general inmate population. Twenty other women were in the same cell, which reeked of urine. She cried.

83. Ms. Adams was incarcerated at the County Jail for nearly eight hours under a fee-for-service jailing agreement between the Nooksack Tribe and Whatcom County that does not assure prisoners any civil rights protections vis-à-vis each jurisdiction.³ County Jail personnel released her after Mr. Adams posted \$500.00 bail for her, after 7:57 p.m., ordering her to appear in Nooksack Tribal Court on August 21, 2019, at 11:00 a.m. in *Nooksack Indian Tribe v. Elile Adams*, No. 2019-CR-A-004.

84. That same day, Whatcom County issued a \$500.00 check to the Nooksack Tribal Court, transferring Ms. Adams’ bail monies to Respondents, who have both an interest in opposing this Petition, and the power to give the Ms. Adams what she seeks if the Petition has merit—namely, her unconditional freedom. *Reimnitz v. State’s Attorney of Cook Cty.*, 761 F.2d

³ The federal Bill of Rights does not apply to prisoners like Ms. Adams while on Nooksack Indian country, and Whatcom County has no policy or procedure to ensure that prisoners accepted into its custody from a tribal jurisdiction have been afforded any constitutional protection. *Talton v. Mayes*, 163 U.S. 376, 384 (1896) (within Indian country, the Fifth and Fourteenth Amendments do not apply to the actions of tribal governments).

1 405, 408-409 (7th Cir. 1985). Respondents Nooksack Tribal Court Clerks Betty Leathers and
2 Deanna Francis received the \$500.00 Whatcom County check for Ms. Adams' bail monies and,
3 upon information and belief, deposited those monies with the Nooksack Indian Tribe's
4 accounting office. Any or all of the Respondents control Ms. Adams' bail monies.

5 85. On September 20, 2019, the original, Whatcom County Respondents to this action
6 averred that "the Nooksack Tribal Court is currently the sole custodian of the Petitioner"; and
7 that effective as of the transfer of Ms. Adams' bail monies to the Nooksack Tribal Court,
8 "Whatcom County has no role in the Petitioner's bailor/bailee relationship." Dkt. No. 12 at 3-4.
9 They urged that "the Court's writ must be directed to the Nooksack Tribal Judge Raymond
10 Dodge in order to ensure the Petitioner's unconditional freedom." *Id.* at 6.

11 86. Because a defendant released on bail or on his own recognizance is "in custody"
12 within the meaning of 25 U.S.C. § 1303, Ms. Adams is currently in custody and is therefore a
13 proper petitioner for *habeas* relief. *See Hensley v. Municipal Court*, 411 U.S. 345 (1973);
14 *Schauer v. Burleigh Cty.*, 626 F. Supp. 61, 63 (D.N.D. 1985).

15 **V. GROUNDS CLAIMED AND REASONS FOR ISSUING WRIT**

16 87. Petitioner is being detained, in the custody of Respondents, pursuant to the Tribal
17 Court Warrant that was issued without due process, legal authority, or jurisdiction.

18 88. The process of Respondents imposing restraints on Ms. Adams' liberty violated
19 her due process rights.

20 89. The Indian Civil Rights Act states that "[n]o Indian tribe in exercising powers of
21 self-government shall deny to any person within its jurisdiction the equal protection of its laws or
22 deprive any person of liberty or property without due process of law." 25 U.S.C. § 1302(a)(8).

23 90. The constitutional requirement of due process of law requires notice and an
24 opportunity to be heard before an individual can be deprived of her liberty. The right to be heard
25 includes the right to counsel.

1 91. The purpose of the providing notice is to inform a party of the charges and to
2 enable her to marshal the facts and prepare a defense. This includes the right to confront and
3 question witnesses.

4 92. Notice is meaningless unless it allows sufficient opportunity for a party to obtain
5 counsel and prepare her defense.

6 93. The amount of time Ms. Adams had to mount a defense is constitutionally
7 inadequate.

8 94. The substance of the notice that she received is also constitutionally inadequate.

9 95. Finally, due process mandates an impartial decision maker—someone who is not
10 personally and substantially involved in the underlying incident. Ms. Adams due process rights
11 were violated because Respondent Dodge was not an impartial decision maker.

12 96. Respondents violated Ms. Adams' civil rights under 25 U.S.C. § 1302.

13 97. Ms. Adams was denied access to counsel.

14 98. Ms. Adams was not provided adequate time to mount a defense.

15 99. Ms. Adams was denied a public trial.

16 100. Respondents have offered no legal or factual justification for the criminal
17 sanctions against her.

18 101. Respondents failed to afford Ms. Adams a forum or other means to contest the
19 criminal charges or to protest her detention.

20 **VI. PRAYER FOR RELIEF**

21 WHEREFORE, Petitioner prays for the following relief:

22 1. Issue a writ of *habeas corpus* to have Petitioner brought before the Court to the
23 end that she may be discharged from her unlawful detention and restraint;

24 2. An award of reasonable attorneys' fees and costs; and

