

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

UNITED STATES OF AMERICA,)	Criminal No. 19-342(1) (ECT/LIB)
)	
v. Plaintiff,)	
)	DEFENDANT'S MOTION TO
DIONDRE MAURICE OTTO)	DISMISS FOR CONSTITUTIONAL
STATELY,)	VIOLATIONS
)	
Defendant.)	

The defendant, Diondre Stately, by and through his attorney, Douglas Olson, hereby moves the Court to dismiss this case on grounds that he is being prosecuted for the very same offense for which he has already been prosecuted, convicted, and sentenced in Red Lake Tribal Court, having by now completed the year long sentence imposed in that case. This is the same case, same charge (robbery), and same investigation (joint Red Lake/FBI investigation). At a minimum, it is fundamentally unfair to put a citizen through successive prosecution for the same offense, moreover the close association of the U.S. Attorney’s Office with the Red Lake Tribal Prosecutors and the coordinated investigation and prosecution of this and other Red Lake cases demonstrates that the “separate sovereign” doctrine underpinning the United States Supreme Court’s double jeopardy jurisprudence in this area is becoming blurred and increasingly a legal illusion masking a fundamentally unfair and discriminatory practice concerning the prosecution of a Red Lake citizen. Accordingly, the defendant moves the court to dismiss this case under the Due Process Clause of the United States Constitution (fundamental fairness), the Double Jeopardy Clause of the United States Constitution

(successive prosecution), and the Equal Protection Clause (discrimination) of the United States Constitution.

This motion is being filed to not only preserve and record this issue, but to highlight the injustice of successive prosecution, and bring it to the court's attention. Counsel requests that the matter be further briefed in our anticipated post-hearing briefing and understands that the government cannot be expected to respond to this motion at this late date and without further briefing and amplification by the defense. Accordingly, we ask that the matter be subject to post-hearing briefing, and request the court's permission to accept this late filing.

Dated: October 29, 2020

Respectfully submitted,

s/ Douglas Olson

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