

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MINNESOTA

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UNITED STATES OF AMERICA,

NO.: 19-CR-342 (2) (ECT/LIB)

Plaintiff,

v.

**DEFENDANT'S OBJECTIONS TO THE  
REPORT AND RECOMMENDATION OF  
THE MAGISTRATE JUDGE DATED  
JANUARY 11, 2021 (ECF #142)**

SHALAINA STAR STATELY,

Defendant.

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Defendant, Shalaina Star Stately, through and by her counsel, and in accordance with Local Rule 72.2 (b)(1), hereby Objects to the Report and Recommendation of the Magistrate Judge, dated January 11, 2021. (ECF #142). A transcript of the Motion hearing is available. Defendant relies on her previously submitted Motion to Suppress (ECF #43) and Memorandum in Support of Motion (ECF #129). In addition to her previous filings Defendant offers the following:

**I. THE REPORT AND RECOMMENDATION FAILS TO RECOGNIZE THAT THE USE OF TRIBAL COURT PLEAS IN FEDERAL COURT PROSECUTIONS FOR THE SAME OFFENSE IS A "UNIQUE NATURE" RECOGNIZED BY PADILLA.**

The Magistrate concludes that because Ms. Stately does not have a right to effective counsel in tribal court there is no harm to using her plea to convict her of the same offense in this Court. The Supreme Court in Padilla v. Kentucky, 559 U.S. 356 (2010), recognized that there are unique situations in the criminal justice system when the

fundamental rights of the Sixth Amendment must be recognized. Ms. Stately submits this is such case. If a criminal defendant has a right to be notified his or her plea may result in deportation, certainly a defendant in tribal court should have the right to be notified that her or his plea will be used against them in this Court. This is especially true when a defendant like Ms. Stately faces, at worst a misdemeanor conviction in tribal court with limited jail time and here before this Court a felony with lengthy prison terms. The Sixth Amendment, Due Process, and fundamental fairness require a different result in this case.

### **CONCLUSION**

When this Court reviews the record and applies the law correctly, Defendant submits, this Court must grant her Motion to Suppress.

Respectfully submitted,

**WOLD MORRISON LAW**

Dated: January 25, 2021.

s / Peter B. Wold  
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