

NAICJA 2022: JUDICIAL ETHICS

FLETCHER

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JUDICIAL INDEPENDENCE



ACRES-BLUE LAKE RANCHERIA-MARSTON SAGA:

NONMEMBER FORMER CONTRACTOR TO TRIBE
SUED TRIBE, TRIBAL JUDGE, TRIBAL CLERKS,
TRIBAL ATTORNEY, ALLEGING TRIBAL COUNCIL
APPOINTED TRIBAL ATTORNEY TO TRIBAL JUDGE
SPOT TO END NONMEMBER'S SUIT

JUDICIAL RECUSAL

BRUNER V. MUSCOGEE (CREEK) NATION:

JUDGE MUST RECUSE WHERE
APPEARANCE OF CONFLICT OF INTEREST
EXISTED BECAUSE OF JUDGE'S
KNOWLEDGE OF FACTS ACQUIRED IN
PRIOR PROCEEDING



JUDICIAL REMOVAL



IN RE NOT AFRAID:

JUDGE REMOVED AFTER PROVIDING
"CONTRACT LOANS" TO TRIBAL
COURT EMPLOYEES

IN RE KERN:

JUDGE REMOVED AFTER
FAILING TO APPEAR FOR
CHILD REMOVAL HEARING
+ OTHER REASONS

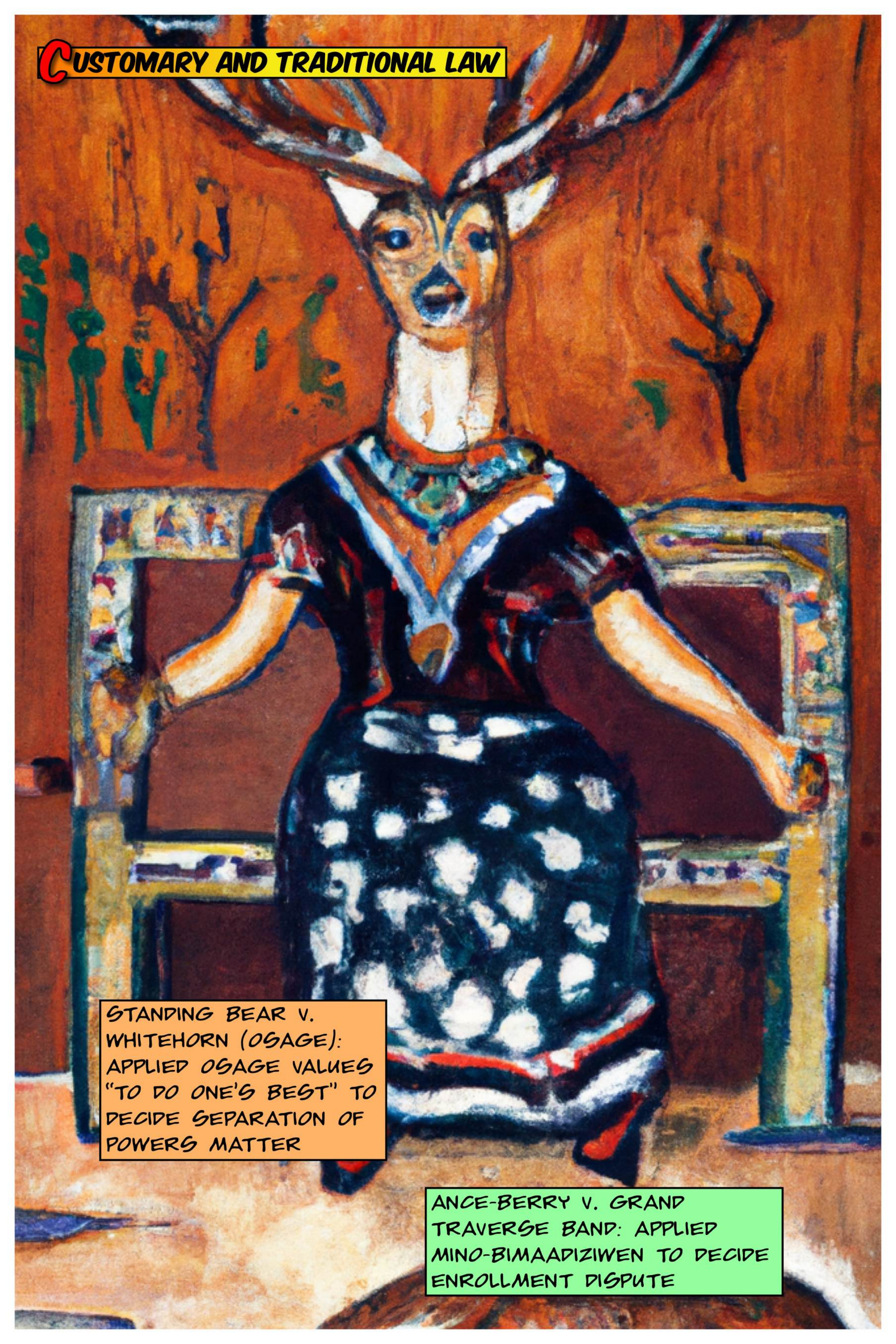
A painting of a mounted deer head with large antlers against a red wall. The deer's head is dark brown with some lighter patches, and its antlers are large and dark. The background is a vibrant red wall with vertical wooden paneling. The painting style is expressive, with visible brushstrokes and a rich color palette.

JUDICIAL ABUSE OF POWER

ADAMS V. DODGE:

\$35,000 SETTLEMENT REACHED IN CASE
WHERE JUDGE ALLEGED TO HAVE TARGETED
DISENROLLEES IN CHILD WELFARE MATTERS

CUSTOMARY AND TRADITIONAL LAW



STANDING BEAR V.
WHITEHORN (OSAGE):
APPLIED OSAGE VALUES
"TO DO ONE'S BEST" TO
DECIDE SEPARATION OF
POWERS MATTER

ANCE-BERRY V. GRAND
TRAVERSE BAND: APPLIED
MINO-BIMAADIZIWEN TO DECIDE
ENROLLMENT DISPUTE

SPECIAL ISSUES INVOLVED IN TRIBAL JUDGING



FINANCIAL
INTEGRITY:
EMPHASIZE IT

POLITICAL ACTIVITY: BE
VERY, VERY CAREFUL

CUSTOMARY LAW:
GO FOR IT

AMICUS BRIEFS:
ALSO BE VERY
CAREFUL

GAMBLING:
DON'T DO IT

IMPARTIAL LAW
REFORM ADVOCACY:
GO FOR IT

EFFECTIVE, EVEN AGGRESSIVE,
REGULATION OF ATTORNEY
CONDUCT: GO FOR IT

ADDITIONAL RESOURCES



ANNE BRUNO, VIEWS FROM A TRIBAL COURT: HOW THE INDIAN CIVIL RIGHTS ACT LED TO CIVIL RIGHTS VIOLATIONS, 19 TRIBAL LAW JOURNAL 1 (2019)

FLETCHER AND SINGEL, LAWYERING THE INDIAN CHILD WELFARE ACT, 120 MICHIGAN LAW REVIEW 1755 (2022)

KEKEK STARK, ANISHINAABE INAAKONIGWIN: PRINCIPLES FOR THE INTERGENERATIONAL PRESERVATION OF MINO-BIMAADIZIWIN, 82 MONTANA LAW REVIEW 293 (2021)

GREGORY H. BIGLER, TRADITIONAL JURISPRUDENCE AND THE PROTECTION OF OUR SOCIETY: A JURISGENERATIVE TAIL, 43 AMERICAN INDIAN LAW REVIEW 1 (2018)

TOM TSO, MORAL PRINCIPLES, TRADITIONS, AND FAIRNESS IN THE NAVAJO NATION CODE OF JUDICIAL CONDUCT, 76 JUDICATURE 15 (1992)

FLETCHER, REFLECTIONS ON PROFESSIONALISM IN TRIBAL JURISDICTIONS, FORTHCOMING IN MICHIGAN BAR JOURNAL

LAUREN VAN SCHILFGAARDE, INDIGENIZING PROFESSIONAL RESPONSIBILITY: THE ROLE OF ETHICS IN TRIBAL COURTS, 59 JUDGES' JOURNAL, SPRING 2020, AT 6