

## APPELLANT/PETITIONER'S OPENING BRIEF

1. **Statement of the Case.** (This should be a brief summary of the proceedings in the district court.)

Plaintiff requested declarative order on various points. The judge cherry picked through them and ignored some so he could dismiss acting like it was asking to order a tribe do a specific thing. Ignored fraud of defense counsel claiming it did not believe it had jurisdiction over non-Indians under VAWA, see attached

2. **Statement of Facts Relevant to the Issues Presented for Review.**

Comity. Denial of access to courts. No remedy available for damages suit, equals denial of access to courts. See attached.

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10TH CIRCUIT  
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3. **Statement of Issues.**

a. **First Issue:** No remedy available for damages against police defendants.

**Argument and Authorities:**

Choctaw Code prohibits suits for unlawful, bad faith acts of its employees. Suppression of evidence of crimes, lying in federal court pretending they sent evidence to prosecutor when FBI concluded they lied, is evidence they conspire to deny access to courts.

b. **Second Issue:** Not all requests and reasons for declarative order addressed. Ignored SOME

**Argument and Authorities:**

See motion for reconsideration & present of fraud as valid reasons after ruling of district court. Error of court to ignore SOME reasons for declarative order that the tribe does have such jurisdiction need confirmed by Michael Burrage arguing against tribe's belief they have jurisdiction. The tribe ruling they do, Media article by chief they do, yet Burrage's false claim the tribe does not think they do, and FBI staff telling

See attached

4. Do you think the district court applied the wrong law? If so, what law do you want applied?

Yes. see Attached pages 1-8

5. Did the district court incorrectly decide the facts? If so, what facts?

Yes see attached pages 1-8

6. Did the district court fail to consider important grounds for relief? If so, what grounds?

Yes. Declarative order requests cherry picked and actions of defense lying about tribes belief of jurisdiction caused even more need for clarification,

7. Do you feel that there are any other reasons why the district court's judgment was wrong? If so, what?

Yes see attached pages 1-8

Refusal to allow to refile the case unless a non-existent tribal remedy is used first.

8. What action do you want this court to take in your case?

Order District court 1. errred demanding she file suit in tribal court 1st - knowing their own law prohibits cases filed because of unlawful acts of defendants.

9. Do you think the court should hear oral argument in this case? If so, why?

Yes, because too much cases can be argued that would be allowed in a brief.

7/20/2023  
Date

Melissa Phillips  
Signature

1. (continued) when in fact defense counsel lied under penalty of perjury, to district court, claiming the tribe does not believe it has such jurisdiction. Evidence provided by plaintiff that is untrue, 1. Media articles by tribe chief dated Oct 2022 stating their jurisdiction under VAWA is even expanded. 2. Choctaw Code law in place, 3. Order from a Judge of Choctaw Court claiming Feb 2023 they do have jurisdiction over plaintiff's stalker when she submitted evidence of his repeated violations in petition to find stalker in contempt. Causing more thousands of dollars of expense to her due to such continued criminal acts of Michael Burrage and defendants.

2. No suit allowed for bad faith acts or unlawful acts of defendants under Choctaw Code argued. Defendant and counsel well aware of this lack of remedy fact.

Judge did ignore such "lack of remedy" against police defendants by not just dismissing case, while saying a valid state case against defendants appears, he refused to allow any refiling of case until all tribal remedy is exhausted.

3. Due to NO suit for damages is allowed, the judge said individual capacity case against officers is allowed, but only after tribal remedy exhausted, he made it impossible to refile due to NO remedy for suit for any act by tribal employees or tribe for unlawful, right violating, bad faith acts.  
Per Choctaw Code it is a crime to suppress

evidence of crimes. Crime to lie in police reports by officers.

Plaintiff filed for injunction to the chief against Michael Burrage and defendants for Burrage conspiracy to lie in Federal court claiming the tribe has no jurisdiction to prosecute, lies claiming they sent evidence to prosecutor, when FBI agent concluded they had not, and retaliations for her suit here. (New suit over that coming).

Michael Burrage, in full conflict of interest, demanded to accept summons, and claimed to work inside the tribe general counsel office, (not as he presented as a law firm hired for the tribe, but as an employee). Then he went to Federal district court and falsely presented plaintiff acknowledged she had to file actions in tribal court. 1. That was NOT a suit for damages against defendants! It was a request for criminal investigation into acts of Michael Burrage and police defendants.

3. Comity. This judge claims to be concerned about "Comity" when in fact he has allowed a former federal judge to argue against all tribe's right to jurisdiction over non-Indians and lie on the tribe's beliefs over jurisdiction. Making the chief out to be a liar for

telling the public they hold out to have such jurisdiction and the 9 million they got for that reason. Also making the tribal judge who ruled they have such to be a liar. As it paving the way for stalker defendant to fight in federal court if he gets time for being found in contempt (not criminal charges though) because after all the tribes own general counsel argued they don't have such jurisdiction, while the judge said they do!

That is outright evidence these defendants and Michael Burrage are attacking "Comity" from within.

4. No suit allowed for unlawful suppression of evidence blocking justice and equal treatment to plaintiff and other Cherokee victims by some stalker, equals no access to courts.

No allowing to refute until "impossible non-existent" remedies of suit in tribal courts the defendant counsel falsely said existed, equals NO access to courts.

stalking defendant's they dont have jurisdiction was made worse by acts of Michael Burrage arguing falsely in court claiming falsely he agreed with FBI staff of Muskogee. FBI staff of Durant said they do have to enforce.

so "Comity" is not to cause, allow, aid to bet division and confusion to the public about what authority tribes have under VAWA.

The Main reason for declarative order was to declare that tribes DO have criminal jurisdiction over non-Indians under VAWA and nothing changed that.

To this day, more confusion by state and this defendant counsel has led to complete oppression of tribal victims due to ignoring such important public interest that ongoing hostilities and inside political conspiracies are causing. Such as Michael Burrage getting favor with the state for contracts worth hundreds of millions of

dollars when no other firms considered, allowing excessive fees to rob victims and the state, while he falsely argues lies about powers of tribes in federal court contrary to Choctaw and all other tribes' beliefs. The attorney general newly elected fired him over such inappropriate contracts.

Attacking tribal rights from within for monetary or political gain is nothing new.

The victims under VAWA while such criminal perjury in this court, and criminal and bad faith acts of defendants are ongoing continue to suffer. Due to no suits allowed in tribal court for such bad faith acts, and a Federal judge saying he won't consider taking up jurisdiction until all non-existent remedies of suit in tribal court happen, he knows is not possible, was argued is not possible, a re-filing was made impossible thus is denial of access to court.



Authority :

Christopher v. Harbury, 536 U.S. 403

Supreme Court 2002

"the District Court acknowledged that five Courts of Appeals "have held that conspiracies to destroy or cover-up evidence of a crime that render a plaintiff's judicial remedies inadequate or ineffective violate the right of access."

Evidence that even FBI is recorded concluding that 1. They did not send anything to Prosecutors as they allege to Federal Court they did and a prosecutor chose in 2001 to not prosecute for gun law violations and harassment of victim, citing falsely he stopped such unlawful use of guns first time told, in fact, nothing was sent yet Jesse Petty is recorded saying he ordered Jesse James to send such evidence of him on video continuing to shoot across road while she was using it in violation

of being ordered by a law enforcement agency to stop weeks earlier.

Continued assurances by criminal defendants that he would not be charged no matter what he did was admitted under oath at the final stalking hearing. Said conduct the Judge ruled was stalking.

Evidence of videos law enforcement ~~pro~~ telling her they are sending her videos to prosecutor, then lie in this court like they never said that. Clear evidence of criminal conspiracy to cover up crimes, then continued defaming plaintiff to lie acting like that never happened makes this shared case on point.

No remedy for suit for damages per Choclaw code yet the district judge ignoring that clear argument and say no such argument was made then demand she file such suit for damages against defendants he knows is impossible, is to enjoin the denial of access to courts by denying ability to refile.

17.

in Federal court.

In conclusion, lack of ability to refile in federal District court for reasons stated gives this court jurisdiction or it too will be denying access to plaintiff for remedy as well as other native Americans.

Plaintiff requests specifically, sanctions on defendant counsel if he attempts to hijack this appeal by arguing issues of his own desire to appeal without his own cross appeal. Also if he commits any act of perjury in stating things plaintiff has provided evidence of deception done by defendants and their counsel. Causing further injury to plaintiff by acting like federal courts will give him pass to lie in Federal court, should not be allowed. Systematically throwing out cases of plaintiffs because they are pro se is against justice.

**CERTIFICATE OF SERVICE**

I hereby certify that on 7/20/2023 I sent a copy of  
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the Appellant/Petitioner's Opening Brief to Michael Burrage  
Whitten Law Firm, at 512 N. Broadway (really here in  
(Opposing Party or Attorney) Ave Ste 300, OK 73102, the last known address/email Arrant see attached  
address, by 7/20/2023 USPS prepaid postage  
(state method of service)

7/20/2023  
Date

[Signature]  
Signature

**CERTIFICATE OF COMPLIANCE**

I certify that the total number of pages I am submitting as my Appellant/Petitioner's Opening Brief is 30 pages or less or alternatively, if the total number of pages exceeds 30, I certify that I have counted the number of words and the total is \_\_\_\_\_, which is less than 13,000. I understand that if my Appellant/Petitioner's Opening Brief exceeds 13,000 words, my brief may be stricken and the appeal dismissed.

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