



IN THE DISTRICT COURT IN AND FOR TULSA COUNTY
STATE OF OKLAHOMA

DISTRICT COURT
FILED

DELILAH PAUL-LUCAS,

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Plaintiff,

)

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Vs.

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)

TAMMY PAUL, and

)

JASMINE PAUL-CRAVENS,

)

)

Defendant.

)

AUG 01 2024

DON NEWBERRY, Court Clerk
STATE OF OKLA. TULSA COUNTY

Case No.: SC-2024-5798

Judge T.L. Bruce

DECISION

On July 16th and 30th 2024, this Court heard legal arguments on Defendant's Motion to Dismiss Plaintiff's Forceable Entry and Detainer Action (FED) against Defendant Jasmine Paul-Cravens for lack of subject matter jurisdiction. Plaintiff was present and represented by Nathan Milner, Defendant was present and represented by Jakob Lancaster.¹

Defendant argued that state courts cannot exercise jurisdiction when a member is sued for a cause of action arising on the defendant's tribe's reservation. Defendant argued that the District Court of Cherokee Nation has exclusive jurisdiction over this dispute and that state court jurisdiction would impermissibly infringe on tribal self-governance, in violation of federal law.

¹ Plaintiff previously voluntarily dismissed Tammy Paul from the action based on information that she no longer resided at the property.

Plaintiff argued that state court has concurrent jurisdiction, and the matter should proceed. Plaintiff pointed out that the land on the reservation overlaps with Tulsa County.

Only the facts relevant to the motion to dismiss were discussed, stipulated to, or ruled on by this Court. The Agreed Facts relevant to the motion to dismiss were submitted by the parties on July 29, 2024, attached and made a part of this decision by reference.

Having reviewed Defendant's Motion to Dismiss for Lack of Jurisdiction and Brief in Support filed on June 21, 2024 and Plaintiff's Response and Objection to Defendant's Motion to Dismiss, heard oral arguments of counsel, and reviewed the facts relevant to the jurisdictional argument, this court finds the following.

There is no case law specific to an FED case with a non-member homeowner against a member tenant on a reservation. Defendant relies on two cases that are distinguishable. In *Ahboah v. Housing Authority of Kiowa Tribe of Indians*, 1983 OK 20 and *Housing Authority of the Seminole Nation v. Harjo*, 1990 OK 35, the tenants were tribal members, and the landlords were entities of the tribes. In both cases, each party purposefully availed themselves to tribal jurisdiction. Both cases involve tribal member contracts with the tribe itself. The tribal members knew they were dealing with tribal housing authority and the tribes knew they were dealing with tribal members. Neither case held that jurisdiction over property on a reservation automatically and exclusively lies with tribal courts.

In *Milne v. Hudson*, 2022 OK 84 n.6, the Supreme Court noted that, in its decision in *Lewis v. Sac and Fox Tribe of Oklahoma Housing Authority*, 1994 OK 20, the Supreme Court had effectively overruled *Harjo* and *Ahboah*. The Court stated it had "rejected previous case law which had held Indian nations had exclusive jurisdiction of all civil matters arising among Indian parties in Indian country." *Id.*

During the hearing on July 30, 2024, Defendant's counsel acknowledged being aware of the Court's statement in *Milne* that *Lewis* had effectively overruled *Harjo* and *Ahboah*. Despite this, Defendant had argued in its Motion to Dismiss that "[t]he Supreme Court of Oklahoma held Oklahoma courts cannot exercise jurisdiction when an Indian tenant is evicted from a dwelling in Indian country – twice." The same argument was made in Defendant's proposed conclusions of law.

In *Lewis v. Sac and Fox Tribe of Oklahoma Housing Authority*, 1994 OK 20, tribal members contracted with the Sac and Fox Tribe of Oklahoma Housing Authority. The Supreme Court found the state court had jurisdiction over the Indian dispute. It was explained that Supreme Court precedent did "not divest state courts of cognizance over all disputes among Indians. Where, as here, state law is implicated, governs the transaction and is invoked, and there is no infringement upon tribal self-government, there can be no barrier to state cognizance". *Id.* at paragraph 10 (emphasis omitted). The case went on to explain that in order to determine if state courts have jurisdiction where Indian interests are concerned, a

court must determine if Congress explicitly withdrew state court jurisdiction or if the interest infringes on tribal self-government. *Id.* at paragraph 12.

In *Milne v. Hudson*, 2022 OK 84, a member of the Muscogee Nation filed for a civil protective order against a member of the Cherokee Nation in State Court. The defendant filed a motion to dismiss for lack of jurisdiction. He objected to McIntosh County Court's jurisdiction because the plaintiff was a member of the Muscogee Nation, Hudson was a member of the Cherokee Nation, and McIntosh County was within the boundaries of the Muscogee Reservation. The trial court denied the motion to dismiss and granted a civil protective order. The defendant appealed.

The Supreme Court in *Milne* specifically stated the tribal court does not have exclusive civil jurisdiction over civil protective order cases occurring within Indian Country. "Where a reservation lies within state boundaries, that fact does not automatically exclude all state regulatory authority; 'an Indian reservation is considered part of the territory of the State'". *Id.* at paragraph 12 (quoting *Nevada v. Hicks*, 533 U.S. 353, 361-62 (2001)). "[A] tribe may have exclusive civil jurisdiction, including over non-Indians, where conduct threatens its political integrity, economic security, or the health and welfare of its citizens." *Id.* at paragraph 17 (citing *United States v. Cooley*, 141 S.Ct. 1638, 1643 (2021)).

The *Lewis* Supreme Court's analysis to determine whether the trial court could issue a civil protection order asked two questions: Has Congress explicitly withdrawn state court jurisdiction or does the interest infringe on tribal self-governance? The Supreme Court ruled that 18 U.S.C. section 2265(e) did not

confer exclusive civil jurisdiction on tribal courts. *Id.* at paragraph 15. It further found that the State's and tribe's interest were the same and that the exercise of state jurisdiction did not infringe on the tribal government's interest but provided an additional safeguard to the interests. *Id.* at paragraph 20, (citing *Lewis*, 1994 OK 20 at paragraph 19).

The test for tribal authority over non-members is whether the "conduct threatens or has some direct effect on the political integrity, the economic security, or the health or welfare of the tribe." *Id.* at paragraph 12, (*Montana v. U.S.*, 450 U.S. 544, 565 (1981)). The Supreme Court cautioned that the holding in *Milne* was narrow and "not to be understood as a broad declaration that all litigation of Indian rights lies within the inherent constitutional cognizance of Oklahoma state courts". *Id.* at paragraph 21, (citing *Lewis*, 1994 OK 20, paragraph 19).

Upon careful consideration, this Court denies Defendant's Motion to Dismiss, finding that the district court has concurrent jurisdiction over FED cases that involve a non-member property owner and a member tenant on reservation land that is within the boundaries of Tulsa County, State of Oklahoma. Defendant provided no authority that Congress divested state courts of concurrent jurisdiction. Furthermore, state court evictions have the same tribal interests and do not deal with the political integrity, economic security, or health and welfare of the tribe. This Court finds that subject matter jurisdiction is proper, because state court's concurrent jurisdiction does not impermissibly infringe on the Cherokee Nation's right to self-govern.

Dated this 1st day of August, 2024.



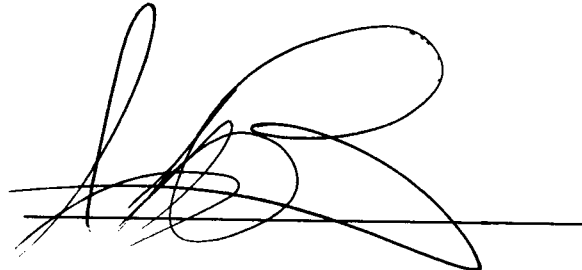
Tammy L. Bruce
Special District Court Judge

Certificate of Mailing

I, the undersigned, hereby certify on this 2 day of August 2024, I caused a true and correct copy of the above and foregoing instrument to be mailed, by first class mail, with sufficient postage thereon fully prepaid, and addressed to:

Nathan Milner
Attorney for Plaintiff
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Tulsa, OK 74119

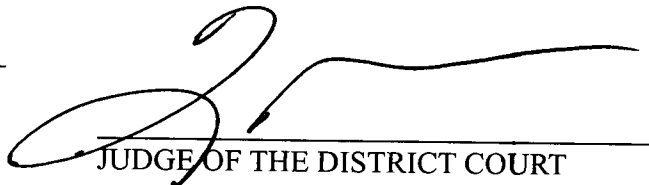
Jakob Lancaster
Attorney for Defendant
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907 S. Detroit, Suite 725
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FINDINGS FOR PLAINTIFF

4. The Court finds Plaintiff Delilah Paul-Lucas is not an enrolled member of any federally recognized Indian tribe.
5. The Court finds Plaintiff Delilah Paul-Lucas is a citizen of the United States and a resident of Tulsa County, state of Oklahoma.
6. The Court finds the Subject Dwelling in this eviction (a single-family dwelling at 2427 N. Peoria Ave., Tulsa, OK 74106) is within the city limits of Tulsa, Oklahoma, Tulsa County, State of Oklahoma.
7. The Court finds Plaintiff's cause of action against Defendant arose within the overlapping boundaries of Cherokee Nation's reservation, Tulsa municipality, Tulsa County, and the state of Oklahoma.
8. The Court finds the Subject Dwelling was deeded to Plaintiff and properly recorded thereto. The Court judicially noticed this fact pursuant to Plaintiff's Exhibit 1 and Defendant's Exhibit A over Defendant's objection (irrelevance) at the Motion to Dismiss hearing on July 16, 2024.

Dated: 8-1-24


JUDGE OF THE DISTRICT COURT

Prepared as to Form and Content Jointly by:

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