NO. 25-4095

UNITED STATES COURT OF APPELS
FOR THE TENTH CIRCUIT

Kandra Amboh,

Plaintiffs-Appellant,

v.

Nicholas Haney, et al.,

Defendant-Appellees,

On Appeal from the U.S. District Court for the
District of Utah, No. 2:25-CV-00868-RJS Hon. Robert J. Shelby

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PLAINTIFF-APPELLANT'S REPLY BRIEF RE: DEFENDANT-APPELLEE'S VIOLATION OF 25 U.S.C. 1922

Plaintiff-Appellant's:

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September 29, 2025.

ORAL ARGUMENT NOT NEEDED

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I. INTRODUCTION

The Indian child welfare act of 1978, 25 U.S.C. 1301 et seq. ICRA, and now, Violence and Abuse Against Indian Women was designed by Congress to address an intractable and distressing facet of Indian family life the penchant of Indian children being removed from their homes, and their parent Ms. Kandra Amboh and her children based on the standard that is far too lax and which is culturally biased to protect the legitimate interests of Ms. Amboh's and her children. The State Court's own misunderstanding of ICWA, and now becomes, Violence and Abuse Against Indian Women, because there was no action taken by Nicholas Haney, who has not filed his notice of appearance as named Defendant-Appellees, is in default at this time, or responded on his filed information in State court, and the named State Defendant-Appellee on ICWA over Indian children, deal with a non Indian parent, and ignored Ute Indian tribe in the proceedings where the ICWA law applies. A child of the Oglala Sioux Tribe v. Van Hunnik, 993 F. Supp. 2d 1017, 1034 (D.S.D. 2014)(Congress's purposed in enacting ICWA was to curb the alarmingly high rate of removal of Indian children from Indian parents.).

The Eighth District Juvenile Court Jeffrey Ross written production and admissions. Plaintiff-Appellant objected to many of judges requests, have not been resolved. ICWA remains

unresolved, and Plaintiff-Appellant obligated to present them as unresolved understanding of the Congressional Act where ICWA is involved, even the Indian Civil Rights Act. The objections by judge Ross does not go to the heart of Plaintiff-Appellants response in Judge Ross's Court. When Judge Ross acted to avoid responding to ICWA law, Plaintiff-Appellant will likely be deprived of significant evidence and her right to her Shonshone enrolled children.

Plaintiff-Appellant ICWA Definitions, 1903(4). In this case, to consider whether compliance with a qualified expert witness (QEW) provision of the ICWA is required prior to any foster care placement, parental termination or Indian Children custody matters, this court was lacking due process which was being ignored by the Court. Pending court proceeding, 25 U.S.C. 12(e), (f).

Congress enacted the ICWA in 1978 in response to the concerns over the consequences to [children of indigenous standing], families and tribes of abusive welfare practices which separated large numbers of [children of indigence standing] families and tribes through adoption or foster care placement usually in [non-indigenous] homes. Mississippi Band of Choctaw Indians v. Holyfield, 490 U.S. 30, 32 (1989). Based on the foregoing reasons, the federal court should reverse state court's order, for violation of ICWA-complaint claims.

Plaintiff-Appellant's Memorandum Response to order to show cause to compel the U.S. District Judges of Utah. The removals that were issued by state court created Congress, sought to establish the Indian Civil Rights Act 25 U.S. C. 1901(4), along with the ICWA to protect Indian Children, which was not properly complied with by the named Defendant-Appellee, Nicholas Haney, and Utah District Court Judges on 08/26/2025, Appellant supplement to opening brief filed by Kandra Amboh, the due date for Appellees response brief was reset to 09/25/2025. On District Court, Report and Recommendation, and Order Adopting Report and Recommendation.

Plaintiff-Appellant's motion filed by Kandra Amboh to compel the Wind River Tribal Judge to respond filed on 08/26/2025. The due date for Appellees response brief as been reset to 09/25/2025. Nicholas Haney, Jeffery Ross, and Erin Rawlings. 08/26/2025.

Order filed by Clerk of the Court referring appellant's motion to compel (Wind River Tribal Court Judge), to the panel of judges that will later be assigned to consider this case on the merits, (no ruling was issued at this time) served on 09/16/2025.

The central reasons the state removed so many Indian children from Indian Families, middle-class values in deciding whether abuse, neglect, or abandonment had occurred. Congress's overriding concerns in as passing ICWA was that states were

abusing the power to remove Indian children from the families and tribes. Mississippi Band of Choctaw Indian v. Holyfield, 490 U.S. 30, 32 (1989).

There is the need to COMPEL Defendant-Appellee Nicholas Haney, father non-Indian, who has not acted not answer, and denying acting to apply ICWA over two Indian children and the named Defendant-Appellee to show cause why no action was not made to comply with ICWA in Federal Court by presiding Judge Shelby, which has involved the Violence to provided Plaintiff-Appellant Kandra Amboh with 48-hour ICWA hearings. The state court, must yield to the federal law whether Defendant-Appellee Haney in this action have engaged to act in not responding to Plaintiff-Appellant Amboh's claims for the protection of her enrolled children in the practice to protect the enrolled Shonshone children by the policies, practice and customs which protects plaintiff-Appellant Amboh's constitutional rights over her children. Ginest v. Bd, of County Comm'rs of Carban Cnty., 306 F. Supp. 2d 1158, 1159-60 (D.Wyom.) federal courts have inherent authority to enforce these orders. Frew v. Hakins, 540 U.S. 431, 432 (2004). The prospective relief is sought, directed at policies, practices, and customs under federal law in, Oglala Sioux Tribe v. Van Hannick, 2014 WL 317657, at *3 (D.S.D. January 28, 2014). Plaintiff-Appellant Amboh has fought to maintain her enrolled children protections under Federal law based upon mother and

children are enrolled in the Shonshone Nation and requested to return her children to the mother.

II. DEFENDANTS VIOLATED 25 U.S.C. 1922 AND THE FOR 48-HOUR HEARING

The first duty imposed on Defendant-Appellee by 1922 is to prove during each 48-hour hearing that continued custody of the children by the state is necessary to prevent imminent physical damage or harm to the child. 25 U.S.C. 1922. There are no legal charges against the Mother to keep her from getting her children. Defendant-Appellee must demonstrate that the emergency that necessitated the children's removal from the home continues to be held by the Defendants, which is being claimed by the state Juvenile court. Defendant-Appellee Haney has filed allegations without evidence is continuing to prevent mother from talking or giving mother contact visits, all the while he has no Custody Order from any court to do what he has been doing to the mother to not have the children, but Plaintiff-Appellant Amboh can not go to get her children of which she would be arrested and now, the practice to sit back and wait for parent to request the hearing, that Defendant-Appellee already have the duty to not violate 1922. Whisman v. Rinchart, 119 F. 3d 1303, 1311 (8th Cir. 1997)(condemning the similar sit back and wait practice in child custody proceedings). The burden of proof in 48-hourhearings is similar to the burden imposed by 1922. Lawrence County v. Lead-Deadwood School Dist. No. 40-1, 469

U.S. 256 (1985).

State court reverses state court Indian Child Welfare Act, ICWA, 25 U.S.C. 1901 et seq, decision for lack of giving notice to Plaintiff-Appellant Amboh's extraordinary writ to vacate the order of the juvenile court, finding was in error there was failure to comply with the ICWA's notice and placement requirements.

In any event, perhaps Judge Ross, practices to comply with state law, but they certainly did not comply with federal law.

III. DEFENDANT-APPELLEE JUDGE ROSS VIOLATES 1922 BY FAILING TO ORDER DEFENDANT-APPELLEE HANEY TO RETURN INDIAN CHILDREN TO THEIR MOTHER AND TO THEIR HOME.

The State Juvenile Court issues a Temporary order granting the father Haney continued care over Indian children, who were not in his custody, the state juvenile court must order to return the children as soon as the temporary order has expired.

As discussed in Plaintiff-Appellant opening brief, there is critical difference between ordering that an activity must occur and merely authority that activity to occur. Andrus v. Allard, 444 U.S. 51, 62 n. 17 (1979); Smith v. Mark Twain Nat'l Bank, 805 F. 2d 278, 287 (8th Cir. 1986); Shopen v. Bone, 328 F. 2d 655, 657 (8th Cir. 1964). Not once has Judge Ross's order comply with 1922's reunification standard, and judging from the brief he filed, he has no intention of even doing so. Plaintiff-Appellant is therefore entitled to summary

judgment on the temporary order issued for 150 days to return her children.

IV. EACH NAMED DEFENDANT-APPELLEE IS POLICY MAKER.

Judge Ross is policy maker for purposes of liability under 42 U.S.C. 1983 with respect to the practices challenged in this lawsuit. Monell v. Dep't of Soc. Servics. of City of New York, 436 U.S. 658, 694 (1978). Judge Ross is one who speaks with final policy making authority . . Concerning the action alleged to have caused the particular constitutional or statutory violation at issue, that is one with the power to make official policy on particular issue. Jett v. Dallas Indep. Sch. Dist., 491 U.S. 701, 737 (1989).

Defendant-Appellee are actionable under 1983; Adickes v. S.H. Kress & Co., 398 U.S. 144, 167-68 (1970). The longstanding practice or custom which constitutes the standard operating procedure of the local governmental entity and which violates the Plaintiff's federal rights is actionable under 1983. Ware v. Jackson Cnty., Mo., 150 F. 3d 873, 885 (8th Cir. 1998)(holding that official policy purposes of 1983 liability may arise from actions that are so pervasive that they become custom or usage with the force of law.

In Tesmer v. Granholm, 114 F. Supp. 2d 603 (E.D. Mich. 2000). The court held that state judge were subject to suit under 1983 action challenging their practice of denying appellate counsel to indigent criminal defendants. Congress intent to reach unconstitutional actions by all state actors including judges. Mitchum v. Foster, 407 U.S. 225, 242 (1972)

The very purpose of 1983 was to interpose the federal courts between the States and the people . . . . To protect the people from unconstitutional action under color of state law, whether that action be executive, legislative, or judicial.)((quoting Ex parte Virginia, 100 U.S. 339, 346 (1879)). Coleman v. Watt, 40 F. 3d 255, 261-62 (8th Cir. 1994),

V. PLAINTIFF-APPELLANT IS ENTITLED TO AN EFFECTIVE REMEDY

Defendant-Appellee are violating Plaintiff-appellant's federal statutory rights under 1922. Plaintiff-appellant are entitled to an effective remedy purusant to 42 U.S.C. 1983. Statute which creates undivided rights are presumptively enforceable by 1983. Will v. Michigan Dep't of State Police, 491 U.S. 58, 71 n. 10 (1989); Brandon v. Holt, 469 U.S. 464, 471-72 (1985); Ex parte Yong, 209 U.S. 123 (1908); Entergy Arkansas, Inc. v. Nebraska, 210 F. 3d 887, 897 (8th Cir. 2000)(Under Young, the party may sue the state officer for prospective relief. In order to stop an ongoing violation of the federal rights.); Fond du Lac Band of Chippewa Indians v. Carson, 68 F. 3d 253, 255 (8th Cir. 1995)(upholding the right of an Indian tribe to seek prospective relief against state officials under 1983 for violating the tribe's federal rights. Because Defendant-Appellee Judge Ross is the state judge, Plaintiff-Appellant is only entitled to declaratory relief as to him, but Plaintiff-appellant will be entitled to injunctive relief, if judge Ross fails to heed the Court's declaration on

Plaintiff-Appellant's federal rights. 42 U.S.C. 1983; Pucci v. Nineteenth District Ct, 628 F. 3d 752, 765 (6th Cir. 2010); Leclerc v. Webb, 270 F. Supp. 2d 779, 793 (E.D. La. 2003).

VI. CONCLUSION

The Indian Child Welfare Act was passed thirty-six years ago, but Defendant-Appellees continues to ignore the twin duties imposed upon them by 1922 of the Act. These violations of federal law must cease. Plaintiff-Appellant's respectfully request summary judgment in her favor pursuant to Rule 56 of the Federal Rules of Civil Procedure and Local Rule 56.1 on the claims presented above.

Respectfully submitted this 29 day of September 2025

Kandra Amboh

CERTIFICATE OF SERVICE

Hereby certify that on 29, day of September, 2025, I have filed the foregoing: **PLAINTIFF-APPELLANT'S REPLY BRIEF RE: DEFENDANT-APPELLEE VIOLATION OF 25 U.S.C. 1922**, which caused parties of record to be served on;

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Respectfully submitted.

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September 29, 2025.

United States Court of Appeals
for Tenth Circuit
Byron White United States Courthouse
1823 Strout Street
Denver, Colorado 80247

Re: Kandra Amboh v. Nicholas Haney, et al.,
10th Cir. Case No. 2:25-CV-4095

Dear Clerk:

Filed: **PLAINTIFF-APPELLANT'S REPLY BRIEF RE: DEFENDANT-APPELLE'S VIOLATION OF 25 U.S.C. 1922,** this is submitted for filing for federal Court review.

Respectfully submitted

Kandra Amboh