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8 **UNITED STATES DISTRICT COURT**  
9 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**  
10

11 CRYSTAL BOWMAN,  
12 Plaintiff,  
13 v.  
14 JOSEPHINA<sup>1</sup> FRANK, et al.,  
15 Defendants.

Case No.: 5:25-cv-6372-BLF

**DEFENDANTS’ NOTICE OF MOTION  
AND MOTION TO DISMISS  
PURSUANT TO FRCP 12(b)(1) AND  
POINTS AND AUTHORITIES IN  
SUPPORT OF THE SAME**

**FILED CONCURRENTLY  
HEREWITH:  
(1) Declaration of Josefina Frank**

Judge: Hon. Beth Labson Freeman  
Hearing Date: May 28, 2026  
Hearing Time: 9:00 a.m.  
Courtroom 1, 5th Floor

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20 TO PLAINTIFF, PRO SE:

21 PLEASE TAKE NOTICE: that on Thursday, May 28 at 9:00 a.m. or as soon thereafter as  
22 this matter may be heard before the Hon. Beth Labson Freeman, U.S. District Judge, in  
23 Courtroom 1, 5<sup>th</sup> Floor of the United States Court House and Federal Building, 280 South 1st  
24 Street, San Jose, CA 95113, Defendants will and hereby do move this Court for dismissal of  
25 Plaintiff’s Petition for Writ of Habeas Corpus pursuant to FRCP 12(b)(1) in its entirety with  
26 prejudice.

27 This motion is made on the ground that the Petition fails to establish that Plaintiff is

28 <sup>1</sup> The Petition misspells Chairwoman Frank’s first name. The correct spelling is “Josefina.”

1 subject to “detention on the order of an Indian tribe” within the meaning of the Indian Civil  
2 Rights Act (“ICRA”), 25 U.S.C. §§ 1301, 1303, and thus this Court must dismiss the Petition for  
3 lack of subject matter jurisdiction.

4 This motion is based on this Notice, the Memorandum of Points and Authorities included  
5 herewith, the Declaration of Josefina Frank lodged herewith, all other materials on file herein, and  
6 such other matters as may be adduced prior to the Court’s taking this motion under submission.

7 Plaintiff and Defendants all reside in Humboldt County, California, and Defendants’  
8 Counsel’s office is in Marin County, California, making in-person attendance at a 9:00 a.m.  
9 hearing in San Jose time-consuming and costly. For these reasons, if the Court determines that a  
10 hearing will be necessary, Defendants respectfully request that all parties be permitted to appear  
11 and participate virtually.

## 12 MEMORANDUM OF POINTS AND AUTHORITIES

### 13 I. INTRODUCTION

14 Plaintiff, Crystal Bowman, has filed a petition seeking a writ of habeas corpus based on  
15 her contention that the Bear River Tribal Council's order excluding her from the lands of the Bear  
16 River Band of the Rohnerville Rancheria (the "Exclusion Order") constitutes "detention on the  
17 order of an Indian tribe" within the meaning of the Indian Civil Rights Act, 25 U.S.C. § 1303  
18 (hereinafter “§ 1303”). The Tribal Council based its Exclusion Order on its determination that  
19 Ms. Bowman “poses a health, safety, and general welfare risk to the Bear River Band of the  
20 Rohnerville Rancheria community.” As demonstrated below, under the Ninth Circuit's decision in  
21 *Tavares v. Whitehouse*, 851 F.3d 863, 878 (9th Cir. 2017), the facts alleged in Ms. Bowman's  
22 Petition, even if accepted as true, don't constitute "detention on the order of an Indian Tribe," and  
23 thus the Court must dismiss the Petition for lack of jurisdiction.

### 24 II. FACTUAL BACKGROUND

25 Although the Petition contains numerous allegations of purported fact,<sup>2</sup> the facts that are  
26 material to the determination of whether the Petition asserts a claim of "detention" within the  
27

28 <sup>2</sup> Defendants' Answer denies most of her allegations.

1 Court's jurisdiction under § 1303 are undisputed. Ms. Bowman is an enrolled member of the Bear  
2 River Band of the Rohnerville Rancheria ("Tribe"), the federally recognized Native American  
3 Indian Tribe that is the beneficial owner of and exercises jurisdiction over the federal trust lands  
4 of the Rohnerville Rancheria, located near Loleta, Humboldt County, California. Declaration of  
5 Josefina Frank ("Frank Decl.") lodged herewith, at ¶ 2. Defendants are the Tribal Council (the  
6 Tribe's elected governing body), the elected members of the Tribal Council, and the Tribal  
7 Administrator (about whom the Petition makes no separate allegations).

8 Multiple incidents at Ms. Bowman's home over the two years preceding April, 2024  
9 necessitated repeated responses by the Tribal Police Department. Frank Decl., ¶ 6. Those  
10 incidents included Ms. Bowman's harboring of Jeffrey Bowman at a time when he had been  
11 ordered excluded from the Tribe's properties. *Id.* Based on that history, in April, 2024 the Tribal  
12 Council served Ms. Bowman written notice of its intent to exclude her from the Tribe's properties  
13 pursuant to the Tribe's Exclusion Ordinance, No. 05-01 (2012), because she had become "a public  
14 safety nuisance for the Bear River community and threatens peace, safety, and general welfare of  
15 the tribal members."<sup>3</sup> Frank Decl., ¶ 7.

16 The notice of intent to exclude gave Ms. Bowman an opportunity to appear before the  
17 Tribal Council on May 2, 2024 at 11:00 a.m., to show cause why she should not be excluded  
18 under the Tribe's Exclusion Ordinance. Frank Decl., ¶ 8. Ms. Bowman appeared before the Tribal  
19 Council at the appointed date and time, but failed to persuade the Tribal Council to not order her  
20 exclusion. Frank Decl., ¶ 9. Consistent with § 3(F) of the Ordinance, the Exclusion Order stated  
21 that the Tribal Council decision was final and not appealable, that Ms. Bowman could apply in  
22 writing to lift or modify the Exclusion Order after six months, and that the Tribal Council could  
23 reconsider its order on its own motion at any time. Frank Decl., ¶ 5.

24 In June 2024, Ms. Bowman requested that the Tribal Council lift her exclusion order  
25 based on her execution of a "Care Plan" that, if followed, would avoid the sorts of problems that  
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27 <sup>3</sup> A copy of the 2012 Exclusion Ordinance in effect in 2024 is attached as Exhibit 1 to the Frank  
28 Declaration. A copy of the current version of that Ordinance as it was amended in 2025 is attached  
to the Frank Declaration as Exhibit 2.

1 had resulted in her initial exclusion. Frank Decl., ¶ 10. The Tribal Council agreed, and rescinded  
2 its Exclusion Order on June 7, 2024. Frank Decl., ¶ 11. *The very next day*, June 8, 2024, Ms.  
3 Bowman violated both the Care Plan and the Exclusion Ordinance by harboring Jeffrey Bowman  
4 at her tribally-owned residence on the Rancheria. Frank Decl., ¶ 12. In response, the Tribal  
5 Council immediately reinstated the order excluding Ms. Bowman, acknowledging that she could  
6 reapply to lift the order in six months. *Id.*

7 In April, 2025, Ms. Bowman submitted a request to the Tribal Council to lift the  
8 Exclusion Order. Frank Decl., ¶ 13. The Tribal Council declined to grant the request, but offered  
9 encouragement and continued support in anticipation of a further request in six months. *Id.*

10 Although Ms. Bowman remains excluded from Bear River’s tribal properties subject to  
11 her right to request the Tribal Council to lift the Exclusion Order at six-month intervals, and thus  
12 cannot reside in the tribally-owned house on the Rancheria, at no time has the Tribal Council  
13 ever ordered that she be physically or constructively detained, confined or fined; suspended her  
14 eligibility to receive the same tribal benefits as all other enrolled Bear River citizens; or restricted  
15 her right to participate fully in Bear River’s political process. Frank Decl., ¶ 14.

### 16 III. ARGUMENT

#### 17 A. Ms. Bowman Is Not and Never Has Been Subject to Detention by Order of the 18 Tribe.

19 “Because § 1303 provides the exclusive federal remedy for tribal violations of the ICRA,  
20 unless a Plaintiff is in ‘detention by order of an Indian tribe,’ the federal courts lack jurisdiction  
21 over an ICRA challenge.” *Tavares*, 851 F.3d at 866; *Jeffredo v. Macarro*, 599 F.3d 913, 918 (9th  
22 Cir. 2010). As Ms. Bowman has not alleged a cognizable detention for purposes of habeas relief  
23 under the ICRA, this Court lacks jurisdiction to do anything other than dismiss it.

24 The Ninth Circuit’s most recent analysis of the meaning of “detention” as that term is used  
25 in § 1303 is set forth in *Tavares*. In that case, the Court considered the petitions of members of the  
26 United Auburn Indian Community who had been banned for periods of up to ten years from tribal  
27 lands and facilities for violating tribal law. During their terms of “exclusion,” the members were  
28 barred “from tribal events, properties, offices, schools, health and wellness facilities, a park, and

1 the casino,” nor could they run for tribal office. The Community also suspended the members’  
2 “per capita distributions and all other financial benefits and membership privileges, excluding  
3 health care benefits.” *Tavares*, 851 F.3d at 868. The Ninth Circuit had no difficulty finding that  
4 these sanctions, including the temporary exclusion from certain tribal lands, did not constitute  
5 “detention” within the meaning of § 1303:

6           A temporary exclusion is not tantamount to a detention. And  
7 recognizing the temporary exclusion orders at issue here as beyond  
8 the scope of “detention” under the ICRA bolsters tribes’ sovereign  
9 authority to determine the makeup of their communities and best  
preserves the rule that federal courts should not entangle themselves  
in such disputes.

10 *Id.* at 877; *see also Jeffredo*, 599 F.3d at 919 (“[T]he denial of access to certain facilities does not  
11 pose a severe actual or potential restraint on the Appellants’ liberty” sufficient to invoke  
12 jurisdiction under § 1303.).

13           The circumstances alleged in the Petition do not come close to satisfying the prerequisites  
14 for a “detention” under § 1303. Ms. Bowman’s lease of the tribally owned house at 81 Carroll  
15 Road on the Rancheria has been terminated and she has incurred costs for the storage of her  
16 personal property that she failed to remove from the house after being given the opportunity to do  
17 so. As was the case in *Tavares*, she has been excluded from tribal properties. That she may be  
18 inconvenienced or suffer some personal hardship by reason of her exclusion is the consequence of  
19 her having violated tribal laws. The Tribal Council already has demonstrated its willingness to lift  
20 the exclusion order upon Ms. Bowman’s commitment to cease her disruptive conduct. Frank  
21 Decl., ¶ 11. Even after reinstating the exclusion order, the Tribal Council has expressed its  
22 openness to reconsidering the order in response to Ms. Bowman’s continued progress. Frank  
23 Decl., ¶ 13.

24           The Tribe neither has charged nor convicted Ms. Bowman of any criminal offense,  
25 revoked her tribal citizenship, banished her from the Rancheria, restricted her right to participate  
26 fully in Bear River’s political processes, denied tribal benefits, referred her for criminal  
27 prosecution by a non-tribal law enforcement agency, caused her to be confined, restricted in her  
28 movements, subjected her to constructive custody or otherwise deprived her of her liberty, other

1 than to exclude her from tribal properties. Frank Decl., ¶¶ 5, 14.

2 By contrast, under the Tribal Council’s Exclusion Order, Ms. Bowman remains eligible to  
3 receive tribal benefits and services available to other tribal members, has the right to run for tribal  
4 office, and can participate fully in tribal elections and the Tribe’s political process. Frank Decl.,  
5 ¶¶ 3, 14. Other than being excluded from Rancheria properties, Ms. Bowman is free to do and go  
6 as she pleases. Even the broadest conception of “detention” could not encompass Ms. Bowman’s  
7 circumstances. Certainly, she has not demonstrated the “severe actual or potential restraint” on  
8 liberty that is required to invoke this Court’s jurisdiction. *Jeffredo*, 599 F.3d at 919.

9 **IV. CONCLUSION**

10 Because the Petition fails to allege facts sufficient to constitute “detention” within the  
11 meaning of § 1303, the Court lacks subject matter jurisdiction, and the Petition must be  
12 dismissed.

13 Dated: February 3, 2026

Respectfully submitted,

14 By: /s/George Forman  
15 GEORGE FORMAN  
16 FORMAN SHAPIRO & ROSENFELD LLP  
17 Attorneys for Defendants Josefina Frank,  
18 Dakota McGinnis, John McGinnis, Aileen  
19 Meyer, Maggie Wortman, Edward Bowie,  
20 Derek Bowman, Bear River Band of the  
21 Rohnerville Rancheria Tribal Council, and  
22 Wendell Freeman, Jr.  
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