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4 UNITED STATES DISTRICT COURT
5 FOR THE NORTHERN DISTRICT OF CALIFORNIA
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7 CRYSTAL BOWMAN,

8 Plaintiff,

9 vs.

10 JOSEPHINA FRANK, ET AL, ,

11 Defendant

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

PLAINTIFF'S OPPOSITION TO DEFENDANTS'
MOTION TO DISMISS

12 INTRODUCTION

13 Plaintiff brings this action under the Indian Civil Rights Act("ICRA"), 25 U.S.C §1303, seeking habeas relief from
14 an exclusion order that forcibly removed her from her home, barred her from entering tribal lands, deprived her of
15 employment, eliminated her participation in tribal governance, and continues to restrict her physical presence within
16 her own community.

17 Defendants argue that this Court lacks jurisdiction under Tavares v. Whitehouse. That argument misstates both the
18 facts of this case and the holding of Tavares. The exclusion in Tavares involved limited suspension of access and
19 benefits. The petitioners there were not forcibly removed from their homes, stripped of employment, expelled from
20 all civic participations, or subjected to ongoing discretionary control over their ability to attend family events.
21 Here, Plaintiff remains subject to an active and coercively enforced exclusion order that operates as comprehensive
22 banishment. The cumulative restraints imposed upon her constitute constructive detention within the meaning of 25
23 U.S.C §1303. Accordingly, this Court has jurisdiction, and Defendants' Motion to Dismiss should be denied.

24 II. BACKGROUND

25 Plaintiff was ordered to vacate her tribally -owned residence within fifteen minutes and was physically removed.
26 The Tribal Council did not initiate eviction proceedings in tribal court under the Tribes' eviction ordinance. Instead,
27 the Council issued a resolution effectuating immediate removal. Plaintiff was not provided the Notice of intent with
28 date time, witnesses, and evidence against her. Despite repeated requests. She was not furnished evidence, witness
PLAINTIFF'S OPPOSITION TO DEFENDANTS' MOTION TO DISMISS - 1

1 identities, or a meaningful opportunity to respond before being displaced from her home, children, dog, and
2 belongings.

3 As a direct result of the exclusion order, Plaintiff has been:

- 4 • Removed from the Economic Development Committee
- 5 • Removed from the Gaming Commission;
- 6 • Removed from the Culture Committee;
- 7 • Removed from all committee service;
- 8 • Monday prior to exclusion Removed from position of Child Support Program Manager by Tribal Council
9 again skirting tribal policy where Tribal Council only removes directors from their positions.
- 10 • All personal belongings taken off reservation land and moved to state land and still being withheld.

11 Most tribal Committees now require in person attendance. Because Plaintiff is barred from entering tribal lands, she
12 is categorically prevented from participating in tribal governance and civic life.

13 Additionally, a Tribal Council member initially granted Plaintiff written permission to attend her uncles' funeral on
14 tribal land. For the same day Defendants were served with Plaintiff's Petition for Writ of Habeas Corpus, that
15 permission was revoked via email.

16 Plaintiff remains barred from entering tribal lands and must seek discretionary approval for physical access.

17 III. ARGUMENT

18 A .This Court Has Jurisdiction Under 25 U.S.C §1303

19 ICRA authorizes federal courts to grant habeas relief to any person"detained by order of and Indian Tribe."

20 Detention is not limited to physical incarceration. Severe restraints on liberty, including banishment and expulsion
21 from one's residence and community, may constitute detention when the restraint is ongoing and coercively
22 enforced.

23 Plaintiff remains subject to an active exclusion order that:

- 24 • Removed her from her primary residence;
- 25 • Bars her from entering tribal lands;
- 26 • Deprives her of employment
- 27 • Eliminates her participation in tribal governance

28 PLAINTIFF'S OPPOSITION TO DEFENDANTS' MOTION TO DISMISS - 2

- Subjects her presence to discretionary approval by Tribal Officials.

These combined restraints are sufficient to invoke §1303 Jurisdiction

A. Plaintiffs Forced Removal From Her Home Distinguishes This Case From Tavares

Defendants rely on Tavares v. Whitehouse. That reliance is misplaced.

In Tavares, the Ninth Circuit emphasized that the petitioners were not physically confined and were not forcibly removed from their residences. The exclusions there involved suspension of certain benefits and access but did not involve immediate eviction from a primary home.

Here, Plaintiff was ordered to vacate her home within fifteen minutes and was physically displaced without judicial process. The Tribal Council bypassed the Tribe's eviction Ordinance and Tribal Court system.

Removal from one's primary residence implicates fundamental liberty and property interest and reflects a far more severe restraint than those at issue in Tavares.

B. The Exclusion Operates as Comprehensive Civic and Professional Banishment.

Unlike the limited exclusions in Tavares, Plaintiff has been stripped of employment, committee membership and the ability to engage in tribal governance including zoom meeting. Zoom attendance have been discontinued after Crystal Bowman appeared via zoom at a November 2025 General Council meeting. Where Chairwoman Frank attempted to restrain Ms. Bowman from speaking. Community members halted the meeting in order to allow Ms. Bowman to speak. Zoom meetings are not provided to this date.

C. Defendants Maintain Ongoing Discretionary Control Over Plaintiff's Movement

The Continuing enforcement of the exclusion further distinguishes this case from Taveres.

Plaintiff was granted written permission to attend her uncle's funeral, and that permission was revoked the same day Defendants were serviced with this habeas petition. Plaintiff remains barred from entering tribal lands unless granted individualized approval.

E. The "Notice of Intent to Exclude" Was Not Served and Appears for the First Time in Litigation

Defendants now rely on a purported "Notice of Intent to Exclude." Plaintiff was never served with this document prior to her forced removal from her home. The notice given to Plaintiff did not state the

- Notification of violation of Tribal Ordinance 15-01
- Source Media Outlet Time Stamp April 29,2024. This was not an acceptable means of service in April of 2024 exclusion ordinance. This would not be included in document.

- 1 • Witnesses to Support Exclusion-Bear River Band Tribal Council.
- 2 • Notice did not have date and time of scheduled hearing
- 3 • Nor state the reason for exclusion.

4 Plaintiff repeatedly requested a copy of the Notice of Intent to Exclude, evidence and witnesses before and after her
5 removal and was not provided one. No proof of service has been produced. Plaintiff did not receive notice of the
6 allegations, the evidence, or the witnesses against her prior to her exclusion and still to this date has not been
7 provided any evidence or witnesses.

8 The document submitted by Defendants appears for the first time in this litigation. There is no contemporaneous
9 record demonstrating that it was issued or served before Plaintiff was removed from her residence.

10 Due process under the Indian Civil Rights Act requires notice and a meaningful opportunity to be heard before
11 deprivation of liberty or property. A notice produced only after litigation begins cannot cure the absence of notice at
12 the time of removal.

13 The failure to provide notice prior to exclusion further distinguishes this case from Tavares v. Whitehouse, where
14 the petitioners received formal notice and an opportunity to be heard pursuant to established tribal procedures.

15 Because Plaintiff was removed without prior notice and without a meaningful opportunity to contest the allegations,
16 the exclusion order was imposed in violation of ICRA's due process protections.

17 **D. The Cumulative Effect of These Restraints Constitutes Constructive Detention**

18 When viewed collectively, the exclusion order:

- 19 • Forcibly removed her from her home;
- 20 • Bars her from tribal lands;
- 21 • Deprives her of employment
- 22 • Eliminates her participation in governance
- 23 • Subjects her presence to discretionary approval;
- 24 • Prevented attendance at a family funeral.


25 These restraints exceed the limited exclusions addressed in Tavares and constitute detention within the meaning of
26 25 U.S.C §1303

27 Because plaintiff remains under an active and coercively enforced exclusion order, this Court has jurisdiction.

1 **IV. CONCLUSION**

2 For the foregoing reasons, Plaintiff respectfully request that the Court deny Defendants' Motion to Dismiss in its
3 entirety and allow this matter to proceed on the merits.

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6 Dated this 17th Day of February 2026

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9 Plaintiff, Pro Se Crystal Bowman

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