SUPREME COURT OF FLORIDA

CAROLE FRANCIS HOUGHTALING,

Petitioner,

v.

SEMINOLE TRIBE OF FLORIDA,

Respondent.

CASE NO. 79,177

DISTRICT COURT OF APPEAL,
2ND DISTRICT NO. 91-01508

PETITIONER'S INITIAL BRIEF

Respectfully submitted,

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INITIAL BRIEF

COMES NOW, Petitioner, CAROLE FRANCIS HOUGHTALING, (hereinafter referred to as "Petitioner"), and files this her Brief on the Merits in response to the question certified by the Second District Court of Appeal pursuant to Florida Rule of Appellate Procedure 9.125.

STATEMENT OF THE CASE AND FACTS

Petitioner filed a personal injury Complaint in Hillsborough County Circuit Court alleging that the Seminole Tribe of Florida (hereinafter referred as the "Tribe") was the owner and in possession of a building at 5223 Orient Road, Tampa, that was used as a commercial venture under the business name, Seminole Bingo Hall. Petitioner alleged that she suffered injury on or about May 29, 1990, when she fell upon the property. She further claimed that the Tribe had been negligent in maintaining the property and that such negligence was the proximate cause of her injuries. A copy of Petitioner's Complaint is attached as Exhibit A to her Response to the Tribe's Petition for Writ of Common Law Certiorari in the Second District Court of Appeal.

The Tribe filed its Petition for Writ of Common Law Certiorari following the Circuit Court's denial of its Motion to Dismiss Plaintiff's Complaint for lack of subject matter jurisdiction. The Tribe claimed that the Circuit Court had no subject matter

jurisdiction to hear the case against the Tribe because it enjoyed sovereign immunity from suit in state court. (Tribe's Petition for Writ of Certiorari to the Second District Court of Appeal, p.3 et seq.) Petitioner responded to the Tribe's Petition for Writ of Common Law Certiorari arguing that, in this case, the state court properly exercised jurisdiction over the Tribe under §285.16, Fla. Stat. (1989), enacted pursuant to a Congressional waiver of sovereign immunity in U.S. Public Law 280[1]. (Houghtaling's Response to Petition for Writ of Certiorari, p.14 et seq.)

The Second District Court of Appeals granted the Tribe's Petition for Writ of Certiorari and quashed the Order of the Circuit Court denying the Tribe's Motion to Dismiss. Seminole Tribe of Florida V. Houghtaling, 16 F.L.W. 2581 (Fla. 2d DCA Dec. 4, 1991). The Appellate Court's opinion provides that the sole meansthat Florida Courts may utilize to exercise jurisdiction over the Tribe is if the Tribe has consented to suit in contract or by its charter of incorporation. Houghtaling, 16 F.L.W. at 2582. The Court of Appeals further rejected Petitioner's argument that §285.16, Fla. Stat. (1989), provided the trial court with jurisdiction to hear her civil tort suit against the Tribe, by holding that this statute applied only to individual Indians and not to Indian tribes. Id. However, on Petitioner's Motion, the Second District Court of Appeal certified to this Court the

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[1] 67 Stat. 588 (August 15, 1953), 28 U.S.C. §1360 (1970).

following question as one of great public importance:[2]

> DOES 5285.16, FLORIDA STATUTES (1989), PROVIDE FLORIDA COURTS WITH JURISDICTION TO RESOLVE CIVIL SUITS BROUGHT AGAINST THE SEMINOLE TRIBE?

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[2] Seminole Tribe of Florida V. Houghtaling, No. 91-01508 (Fla. 2d DCA Dec. 4, 1991), p.9 (The portion of the opinion certifying the question does not appear in the Florida Law Weekly published opinion).

SUMMARY OF ARGUMENT

Florida courts have subject matter jurisdiction under §285.16, Fla. Stat. (1989), to hear certain civil disputes arising on Seminole Tribal lands, including cases brought against the Tribe itself. This statute, enacted pursuant to an express waiver of sovereign immunity by Congress in Public Law 280, clearly confers an the Florida courts jurisdiction over civil causes of action between Indians or other persons arising on an Indian reservation. The two purposes served by allowing the state courts to assume jurisdiction over the Tribe are, first, to ensure uniform application of state law and, secondly, to provide a forum, where none other exists, for the redress of civil wrongs.

Neither purpose of enactment would be met by this Court's adherence to the Tribe's argument that 5285.16 applies only to Indians and not to the Tribe itself. The statute itself, in subsection (2), requires uniformity in application of the law as a means of redress for injured parties. It states:

> "The civil . . . laws of Florida shall obtain on all Indian reservations in this state and shall be enforced in the same manner as elsewhere throughout the state." (Emphasis added).

No distinction is drawn by the Legislature between Indians and tribes, and the imposition of this distinction would belie the express mandate of uniform application.

Moreover, the narrow approach suggested by the Tribe not only flies in the face of the purpose of the statute, but leaves Florida

citizens without a forum for redress. The laws were enacted to meet the needs of the public as well as the Indian, for these laws also open the doors of the court system to the Indian should he seek redress. The Tribe has not provided a forum for resolution of civil disputes since 5285.16 was initially enacted, yet the Tribe invites the general public to gamble at its Bingo Hall. Those who are invited on to the tribal reservation must have a means of redressing tortious wrongs committed there. Section 285.16 provides such a means.

This Court should implement policies in keeping with the purpose for which §285.16 was enacted in 1961 by providing a definitive statement to Florida courts setting forth under what circumstances the courts can hear cases arising on the Indian reservation in this state. Clearly, in this civil tort case, in which no state regulatory issues are involved, subject matter jurisdiction over the Tribe should be conferred on the state courts.

ARGUMENT AND CITATION OF AUTHORITY

ISSUE: DOES 6285.16, FLORIDA STATUTES (1989), PROVIDE FLORIDA COURTS WITH JURISDICTION TO RESOLVE CIVIL SUITS BROUGHT AGAINST THE SEMINOLE TRIBE?

This Court must determine whether §285.16, Fla. Stat. (1989), confers subject matter jurisdiction upon Florida courts to hear disputes against the Seminole Tribe. Petitioner contends that the statute confers jurisdiction upon the courts to hear civil disputes of a non-regulatory nature between non-Indians and the Tribe. Bryan v. Itasca County, Minnesota, 426 U.S. 373, 96 S. Ct. 2012, 48 L. Ed. 2d 710 (1976). Consequently, the certified question should be answered "yes, but the jurisdictional determination must rest upon the facts of each case."

In analyzing the scope of any tribe's sovereign immunity, a court must look at the facts of the case; the legislation applicable to the facts, which may arise under Federal and/or state law; treaties into which the tribe may have entered that would affect the determination; and/or the corporate charter of the tribe, which may itself contain a waiver of sovereign immunity. Through the years, Congress, states, and the tribes themselves by their own acts have chipped away at the broad immunity originally conferred upon the tribes by the federal government. Sovereign immunity, therefore, can be waived in one or many ways, and the waiver under a particular siece of legislation may be limited to

certain facts[3]. United States v, Wheeler, 435 U.S. 313, 98 S.Ct. 1079, 55 L.Ed.2d 303 (1978) (Navajo tribe retained aspects of tribal sovereignty to punish tribal members pursuant to treaty); Rice v. Rehner, 463 U.S. 713, 103 S.Ct. 3291, 3296 77 L.Ed. 2d 961 (1983) (Court held state could regulate liquor distribution on the reservation; state interest in safety of the public outweighed the minimal effect upon tribal self government). In this case, the Court must focus upon U.S. Public Law 280 67 Stat. 588 (August 15, 1953), and 5285.16 Fla. Stat., to determine whether those legislative enactments empower Florida Courts to assume limited civil jurisdiction over the Tribe.[4]

Congress enacted U.S. Public Law 280 to effect cession of criminal jurisdiction and limited civil jurisdiction over Indian tribes with respect to five enumerated states. Public Law 280,

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[3] For a thorough discussion of Indian Law, *see* F. Cohen, Handbook of Federal Indian Law (1982 edition).

[4] These statutes do not provide the sole means of assuming jurisdiction over a tribe. Some tribes have consented to suit in their corporate charter or in contracts. Namekegon Dev. Co., v. Bois Forte Reservation Hous. Auth., 517 F.2d 508 (8th Cir. 1975)(waiver by contract case). Treaties may also provide for the assertion of state court jurisdiction over a tribe. See generally Lynaugh, Developing Theories of State Jurisdiction over Indians: The Dominance of the Premption Analysis, 38 Mont. L. Rev. 63, 64-67 (1975). Thus, in this case, the Second District Court of Appeal's focus on whether the Tribe was a Section 16 tribal government under the Indian Reorganization Act of 1934, 25 U.S.C. §476, stops short of addressing the critical question of whether there was an express waiver of sovereign immunity by Congress. Even when the Tribe itself has not waived its sovereign immunity in its charter, Congress may do so, and did so in Public Law 280. See United States v. Wheeler, 435 U.S. 313, 323, 98 S.Ct. 1079, 1086, 55 L.Ed.2d 303 (1978); Rice v. Rehner, 463 U.S. 713, 103 S.Ct. 3291, 3296, 77 L.Ed. 2d 961 (1983).

Sections 2 and 4 (Aug. 15, 1952)[5]. Far the remaining states, it gave each an option to assume jurisdiction over criminal offenses and civil causes of action. Public Law 280, Sections 6 and 7 (Aug. 15, 1953); *See* Washinston v. Confederated Bands & Tribes of Yakima Indian Nation, 439 U.S. 463, 99 S.Ct. 740, 58 L.Ed.2d 740 (1979); Seminole Tribe of Florida v. Butterworth, 658 F.2d 310, 312-313, nn.2-4 (5th Cir. 1981). Section 7 of U.S. Public Law 280, provides:

> "[T]he consent of the United States is hereby given to any other State not having jurisdiction with respect to criminal offenses or civil causes of action, or with respect to both, as provided for in this Act, to assume jurisdiction at such time and in such manner as the people of the State shall, by affirmative legislative action, obligate and bind the State to assumption thereof."

Florida was one of the "other states" subject to Section 7. As authorized by Public Law 280, the Legislature of the State of Florida then enacted Section 285.16 of the Florida Statutes in 1961, to assume "jurisdiction over criminal offenses committed by or against Indians or other person within Indian reservations and other civil causes of actions between Indians or other person or to which Indians or other persons are parties arising within Indian reservations." §285.16(1), Fla. Stat. (1989). The statute also provides that the civil and criminal laws of Florida "shall obtain on all Indian reservations in this state and shall be enforced in the same manner as elsewhere throughout the state." §285.16(2),

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[5] Act of August 15, 1953, Ch. 505, 67 Stat. 588-90 (now codified as amended in scattered sections of 18, 28 U.S.C.).

Fla. Stat. (1989).

Although Section 7 of Public Law 280 was repealed in 1968 by Section 403(b) of Public Law 90-284, this repeal had no effect on the assumption of jurisdiction by the State of Florida. In repealing Section 7, Congress specifically provided that:

> @@Section7 of the Act of August 15, 1953 (67 Stat. 588), is hereby repealed, but such repeal shall not affect any cession of jurisdiction made pursuant to such section prior to its repeal." 25 U.S.C. §1323(b)(emphasis added).

See also Three Affiliated Tribes V. Wold Ensineering, 476 U.S. 877, 106 S. Ct. 2305, 90 L. Ed. 2d 881 (1986); Seminole Tribe of Florida v. Butterworth, supra, 658 F.2d at 313. For a thorough discussion of Public Law 280, see Goldberg, Public Law 280: The Limits of state Jurisdiction over Reservation Indians, 22 U.C.L.A. L. Rev. 535 (1975).

Following the enactment of this retrocession statute by Congress, the Florida Attorney General issued Opinion No, 072-403 (November 13, 1972), addressing the specific question of whether State laws still govern criminal offenses committed by or against Indians or other persons within Indian reservations, and civil causes of action between Indians or other persons arising within Indian reservations. The Attorney General answered in the affirmative, stating that "since the State of Florida assumed jurisdiction over criminal offenses or civil causes of action committed by or against Indians prior to the repeal of Section 7 of the 1953 Act, the repeal does not affect such cession of

jurisdiction. Barring any retrocession by the Florida Legislature to the United States based upon 25 U.S.C. §1323, the State of Florida will retain the cession of jurisdiction." 1972 Op. Att'y Gen. Fla. 072-403 (November 13, 1972). He concluded that "[a]ccordingly, state law governs criminal offenses committed by or against, and civil actions between Indians or other persons within Indian reservations." Id. (emphasis added). This Opinion was reaffirmed in 1977 by the Florida Attorney General in 1977 Op. Att'y Gen. Fla. 077-29 (March 23, 1977), in which he distinguished local police power regulations from state laws governing criminal and civil causes of action and concluded that the "civil laws of the State of Florida control on such reservations as they do elsewhere in Florida insofar as such . . . civil laws do not conflict with federal law", in which instance the federal law would supersede state law. In the instant case, the Seminole Tribe does not argue a conflict with federal law.

Rather, the Seminole Tribe, relying on state regulatory cases, has argued that it is entitled to sovereign immunity despite this express congressional waiver and assumption of jurisdiction by the State of Florida. Alternatively, it has arguedthat §285.16, Fla. Stat., should be construed to apply only to actions against individual Indians as opposed to Indian tribes. Neither argument should be persuasive in the context of civil causes of action.

When §285.16, Fla. Stat. (1989), was enacted, it was the intent of the Legislature that the laws of the State would be

uniformly applied upon the reservation as elsewhere.[6] The Tribe has urged a distinction between the word "Indians" and the term "Tribe", arguing that the Tribe continues to enjoy sovereign immunity from all civil suits. (Tribe's Petition for Writ of Certiorari to the Second District Court of Appeal, p. 7). That contention yields an absurd result.

Statutes should be construed logically and in a manner to give effect to the intent of the legislature. 49 Fla. Jur.2d, Statutes §185; Williams v. State, 492 So.2d 1051 (Fla. 1986) (This Court rejected an argument that a convicted felon should not have been convicted for carrying a concealed weapon, even though the weapon could have been considered an antique covered by an exception to the criminal statute, where the gun was fully operable and loaded). An interpretation, such as that adopted by the District Court below[7], yields the illogical result that if the bingo hall were operated by Indian X, Petitioner could avail herself of state law remedies for redress; whereas if the bingo hall is operated by a group of Indians--a Tribe--she cannot. This interpretation flies in the face of the purpose of the legislation which is to provide for uniform application of the laws throughout the State of Florida.

However, these semantic distinctions should not be applied by

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[6] §285.16(2), Fla. Stat. (1989); 1972 Op. Att'y. Gen. Fla. 72-403 (November 13, 1972); and 1977 Op. Att'y. Gen. Fla. 77-29 (March 23, 1977).

[7] Seminole Tribe of Flor da v. Houghtaling, 16 F.L.W. 2581 (Fla. 2d DCA Oct. 4, 1991).

a court when such was not the clear intention of Congress.[8] Congress, in enacting Public Law 280, sought to ensure uniformity in the application of laws as to the entire "Indian country".[9] There can be no uniform application of law, as sought by Congress and the Florida Legislature, if the Tribe is exempt from the operation of the law.

The California case of Long V. Chemehuevi Indian Reservation[10] was cited by the Second District Court of Appeal in rejecting Petitioner's arguments on jurisdiction under Public Law 280. The Long court purportedly based its ruling upon the Supreme Court's opinion in Bryan V. Itasca County, Minnesota, 426 U.S. 373, 96 S.Ct. 2102, 48 L.Ed. 2d 710 (1976). The Long court quoted a portion of the opinion that "[T]here is notably absent (in Public Law 280) any conferral of state jurisdiction over the Tribes themselves . . ." Long, 171 Cal. Rptr. at 734 (citing Bryan v. Itasca, 426 U.S. at 389). This quote considered in its proper context refers only to state court jurisdiction over the tribes to

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Despite the numerous Supreme Court cases dealing with the issue of the waiver of sovereign immunity by Public Law 280, none has adopted the distinction between individual Indians and a tribe urged by the Tribe. One California state court case, Long v. Chemehuevi Indian Reservation, 171 Cal. Rptr. 733, 115 Cal. App. 3d 853 (Cal. App. 1981), held that Public Law 280 did not apply to tribes. Another California court, however, has held that Public Law 280 does apply to tribes. Southwest Forest Indus. V. Hupa Timber Corp., 198 Cal. Rptr. 690, 151 Cal. App. 3d 239 (Cal. App. 1984). (For reasons unknown to the undersigned counsel, this opinion was withdrawn, but demonstrates the split of authority on the issue.)

[9] 28 U.S.C. §1360(a).

[10] Lons v. Chemehuevi Indian Reservation, 171 Cal. Rptr. 733, 115 Cal. App. 3d 853 (Cal. App. 1981).

tax and regulate. Bryan v. Itasca, 426 U.S. at 389. The Bryan opinion does not support the premise that a tribe may not be sued by a nan-Indian in a civil tort suit as is presented in this case. Indeed, as discussed below, Bryan supports the exercise of jurisdiction over a tribe in civil, non-regulatory disputes. More recent Supreme Court cases have clarified that this one statement in Bryan, cited in Long, was made in reference only to state authority to tax or regulate and did not encompass or exempt tribes from properly assumed jurisdiction over civil causes of action arising on the reservation.[11]

In Bryan v. Itasca, supra, the Supreme Court addressed the issue of whether Public Law 280 conferred jurisdiction on the state and county to impose a personal property tax on property owned by an Indian and located on the Indian reservation. In holding that a distinction must be drawn between civil regulatory and non-regulatory matters, the Court interpreted and defined the parameters of the state court civil jurisdiction assumed under Public Law 280. After reviewing the legislative history as to civil disputes, the Court concluded that the primary purpose of Public Law 280 was to redress the lack of adequate Indian forums for resolving private legal disputes between Indians and non-Indians by permitting the state courts to decide such disputes. Bryan, supra, 426 U.S. at 383. The "consistent and exclusive use of the terms 'civil causes of action,' 'aris[ing] on,' 'civil laws

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[11] California v. Cabazon Band of Mission Indians, 480 U.S. 208, 107 S. Ct. 1083, 94 L. Ed. 2d 244 (1987).

. . . of general application to private persons or private property,' and 'adjudicat[ion],' in both the Act and its legislative history" compelled the Court to conclude that the primary intent of the statute was to grant jurisdiction over private civil litigation in state court. Id. at 385. The Court noted:

> "A fair reading of these two clauses suggests that Congress never intended 'civil laws' to mean the entire array of state non-criminal laws, but rather that Congress intended 'civil laws' to mean those laws which have to do with private rights and status. Therefore, 'civil laws . . . of general application to private persons or private property would include the laws of contract, tort, marriage, divorce, insanity, descent, etc., but would not include laws declaring or implementing the state's sovereign powers, such as the power to tax, grant franchises, etc. These are not within the fair meaning of private laws." [emphasis supplied]

Bryan v. Itasca, 426 U.S. at 384, n.10 (citing Israel & Smithson, Indian Taxation, Tribal Sovereignty and Economic Development, 49 N.D.L.Rev. 267, 296 (1973)). The Bryan opinion demonstrates that private civil disputes arising on Indian lands and not involving regulatory matters are ripe for review by state courts under jurisdiction granted by Public Law 280. [12]

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[12] Justice Rehnquist clearly recognized that the language in the Bryan opinion concerning retention of tribal sovereignty focused upon the power of the State to tax reservation Indians in Washinston v. Confederated Tribes of the Colville Indian Reservation 447 U.S. 134, 180, 100 S.Ct. 2069, 65 L.Ed. 2d 10, (1980) (case concerned inter alia state authority to require tribe and members to collect sales taxes on cigarettes from non-tribal members for purchases made on the reservation; HELD: state could enforce tax; case was not heard on Public Law 280 jurisdictional grounds) (Rehnquist, J., dissenting).

Petitioner does not claim that Public Law 280 grants a full range of civil jurisdictional authority over all activities of the Tribe. By its own terms and as interpreted by the United States Supreme Court in Brvan v. Itasca County, supra, Public Law 280 does not provide authority for state or local regulation or taxation of the Tribe or Indian land. California v. Cabazon Band of Mission Indians, 480 U.S. 202, 107 S.Ct. 1083, 94 L.Ed. 2d 244 (1987) (state cannot regulate tribal bingo and gambling enterprises). See also Seminole Tribe of Florida V. Butterworth, 658 F.2d 310 (5th Cir. 1981), cert. denied, 455 U.S. 1020 (1982)(state cannot regulate Tribe's bingo operations); and Askew v. Seminole Tribe of Florida, 474 So.2d 877 (Fla. 4th DCA 1985) (state cannot tax Tribe). The United States Supreme Court, however, has drawn a clear distinction between a state's regulatory/taxation jurisdiction and jurisdiction over civil tort suits. Bryan v. Itasca County, supra, 426 U.S. at 384, n.lO.

In the most recent United States Supreme Court decision involving the issue of Public Law 280 and tribal sovereign immunity, California v. Cabazon Band, supra, the Supreme Court recognized that there was no "per se" rule precluding state jurisdiction over tribes and tribal members. California v. Cabazon Band, supra, 480 U.S. at 214-215. The Court held that "when a State seeks to enforce a law within an Indian reservation under the authority of Public Law 280, it must be determined whether the law is criminal in nature, and thus fully applicable to the reservation under 52, or civil in nature, and applicable only as it may be

relevant to private civil litigation in state court." California v. Cabazon Band, supra, 480 U.S. at 208. The Cabazon Court then held that state laws should be applied unless such application "would interfere with the reservation's self-government or would impair a right granted or reserved by federal law." California v. Cabazon Band, 480 U.S. at 214-215, n.17 (citing Mescalero Apache Tribe v. Jones, 411 U.S. 145, 148 (1973)).

Applying this analysis in the area of taxation, the Court has developed a general rule precluding jurisdiction because the effect upon the tribe's ability to govern itself is very great, while the state's interest, in comparison, is weak. Id. However, in cases involving the safety of the general public and the rights of private citizens to protections afforded under state law, the state's interest is far greater. In Rice v. Rehner, the Supreme Court pointed out the growing "trend away from the idea of inherent Indian sovereignty as a bar to state jurisdiction . . ." Rice v. Rehner, 463 U.S. at 718 (quoting McClanahan v. Arizona State Tax Commission, 411 U.S. 164, 172, 93 S.Ct. 1257, 1262, 36 L.Ed. 2d 129 (1973)).[13]

Thus, the Supreme Court's current view regarding tribal

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[13] The Rice case concerned application of state liquor regulations on Indian reservations. While heretofore the Supreme Court had viewed tribes as possessing absolute sovereign immunity as to taxation and regulation, the pice case demonstrates a trend away from absolute rules and more toward a balancing of competing interests. The Rice court held that the state interest in public safety and welfare was great in the area of liquor regulation and the tribal interest in self-government was minimally affected by the application of state law to the reservation. Rice v. Rehner, 463 U.S. at 724.

sovereign immunity has again turned to a more assimilistic approach.[14] In addition to the Rice case, supra, the Supreme Court's opinion in Cabazoq, supra, demonstrates a greater affirmance of state court assumption of jurisdiction, especially when the claim is relevant to private civil litigation. Cabazon, 480 U.S. at 208.

This case concerns private civil tort litigation, where Petitioner has no other avenue to redress the wrongs against her. The Brvan court determined that a major purpose underlying enactment of Public Law 280, as it applied to civil litigation, was to provide a forum when there were no tribal courts to resolve these claims. Bryan v. Itasca, 426 U.S. 383, 388, n.13 (1975).[15] One of the important issues which concerned Judge Altenbernd in the Appellate Court below was a lack of a forum for resolving essentially private disputes arising out of the Tribe's commercial activities which draw in the unsuspecting public. Seminole Tribe of Florida v. Houghtaling, 16 F.L.W. 2581, 2582 (Fla. 2d DCA 1991). To date, the Seminole Tribe has provided no forum for resolution of private civil litigation, yet it continues to open its Bingo

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[14] Since the 1930's, when the Howard Wheeler Act was enacted, legislation and Supreme Court interpretation has vascilated between great deference to tribal immunity to a more assimilistic view. See Lynaugh, Developing Theories of State Jurisdiction Over Indians: The Dominance of the Preemption Analysis, 38 Mont. L.Rev. 63, 65-66 (1977). However, since that article was written, again Congressional policy and Supreme Court interpretation have shifted to a less tolerant view of the Tribe's sovereign immunity status. See Rice and Cabazon, supra.

[15] See also Lynaugh, Developing Theories, 38 Mont. L.Rev. at 91.

Hall to hundreds of people daily. As Judge Altenbernd notes, these tourists and Florida residents do not realize that they leave their rights under Florida and Federal law behind when they enter the reservation in Tampa (16 F.L.W. at 2582), and many are unsuspecting retirees without the resources to wage lengthy appellate battles to determine their rights. The only means of protecting these people and the public at large is through judicial redress of civil torts in the Florida courts pursuant to Public Law 280 jurisdiction. This Court should not dismiss this important means of protecting Florida and United States citizens when it is not required, and was clearly not intended by Congress or the Florida Legislature.

The very concerns that plagued Congress in the 1950's when Public Law 280 was passed are even more urgent in the 1990's. With commercial activity continuing to expand on Tribal land, greater numbers of aggrieved parties, in contract and in tort, look to the Florida courts as a forum for redress. Public Law 280 jurisdiction, as adopted by §285.16, Fla. Stat., provides the specific grant of authority under which the state can exercise jurisdiction over causes of action which occur on the reservation, This Court must make a policy statement in this case to protect the rights of its citizens and to effectuate the purposes underlying §285.16, Fla. Stat. (1989).

CONCLUSION

Accordingly, Petitioner requests the Court to reverse the opinion of the Second District Court of Appeal as it applies to Public Law 280. In so doing, the Court must define the scope of authority granted to Florida Courts to exercise jurisdiction over causes of action arising upon the Indian reservations, including actions against the Tribe itself, pursuant to §285.16, Fla. Stat. Finally, Petitioner asks that the Court remand this case to the trial court for further proceedings.

Respectfully submitted

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I HEREBY CERTIFY that a copy of the foregoing was furnished to W.Douglas Berry, Esquire, Bayport Plaza, Suite 1100, 6200 Courtney Campbell Causeway, Tampa, FL 33607, the Honorable Robert H. Bonanno, Circuit Court Judge, Hillsborough County Courthouse, Tampa, FL 33602 this 4th day of February, 1992.

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