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Attorneys for Respondent/Appellant

IN THE SUPREME COURT OF THE STATE OF MONTANA
Supreme Court Case No. DA 22-

JAYLENE CECELIA PHILLIPS,

Petitioner/Appellee,

-vs-

LEONIE CANDICE WEBB,

Respondent/Appellant.

Cause No. DA 22-

NOTICE OF APPEAL

NOTICE is given that Leonie Candice Webb, the Appellant above-named and who is the Respondent in that cause of action filed in the Seventeenth Judicial District, in and for the County of Phillips, as Cause No. DR-21-18, hereby appeals to the Supreme Court of the State of Montana from the final judgment or order entered in such action of the 3rd day of June, 2022. Said Order is attached hereto and made a part hereof.

THE APPELLANT FURTHER CERTIFIES:

1. That this appeal is not subject to the mediation process required by Rule 7, M. R. App. P.
2. That this appeal **is not** an appeal from an order certified as final under Rule 54(b), M. R. Civ. P.
3. That the notice required by Rule 27, M. R. App. P., has been or will be given, within 11 days of the date hereof, to the Supreme Court and the Montana Attorney with respect to a challenge to the constitutionality of any act of the Montana Legislature.
4. That all available transcripts of the proceedings in this cause have been ordered from the court reporter contemporaneously with the filing of this Notice of Appeal.
5. That included herewith is the filing fee prescribed by statute, or the affidavit to proceed without payment of the required filing fee prescribed in the Appendix of Forms as Form 3.


DATED this 28th day of June, 2022.

JOHNSON, BERG, & SAXBY, PLLP

/s/ Kevin H. Ness

By: _____
Thane Johnson/Kevin H. Ness
Attorneys for Respondent/Appellant
PO Box 3038
Kalispell, Montana 59903-3038

JUN 03 2022

by 
Phillips County, Deputy

1 Hon. Yvonne Laird
2 District Judge
3 17th Judicial District
4 P.O. Box 470
5 Malta, MT 59538
6 Telephone: (406) 654-1062

7
8 MONTANA SEVENTEENTH JUDICIAL DISTRICT, PHILLIPS COUNTY

9 JAYLENE CECELIA PHILLIPS, 10 11 Petitioner, 12 vs. 13 LEONIE CANDICE WEBB, 14 Respondent.	No. DR-2021-18 ORDER ON MOTION TO DISMISS FOR LACK OF SUBJECT MATTER JURISDICTION
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16 Before the Court is Respondent Leonie Candice Webb's ("Candy") *Motion to Dismiss*
17 *for Lack of Subject Matter Jurisdiction* filed on May 10, 2022. Petitioner Jaylene Cecelia
18 Phillips ("Jaylene") filed her response on May 20, 2022. Candy filed her reply on May 31,
19 2022.

20
21 **Background**

22 This proceeding concerns Jaylene's petition for a temporary order of protection
23 ("Petition") filed on August 23, 2021. On August 27, 2021, the Court issued a *Temporary*
24 *Order of Protection* which was later converted to a *Permanent Order of Protection* on
25 December 15, 2021. The Court's *Permanent Order of Protection* ("Order") requires Candy to
26 stay at least 1500 feet away from Jaylene and her minor children, K.W. and O.W. Candy is
27 the paternal grandmother of K.W. and O.W. As it pertains to Jaylene and Candy, the Court's
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1 Order is effective for the next five (5) years until October 26, 2026, unless Jaylene files a
2 motion to extend it. The Order is effective for one (1) year until October 26, 2022 as it
3 pertains to K.W., O.W., and Candy, unless a motion to extend is granted.
4

5 Jaylene filed her Petition in response to a series of violent and abusive acts perpetrated
6 by Candy and her son Frank Webb ("Frank"). In May 2021, K.W. and O.W. had been residing
7 with Frank who is the girls' father. Frank's home is located within the exterior boundaries of
8 the Fort Belknap Indian Reservation, near Lodge Pole in Blaine County, Montana. Candy also
9 resides within the reservation boundaries, a short distance away from Frank's home.
10

11 On May 21, 2021, Jaylene went to Frank's house to fix the girls' hair for kindergarten
12 graduation, which was scheduled to take place later that day in Dodson, Phillips County,
13 Montana. Upon arriving at Frank's house, Jaylene noted that his demeanor was irritated and
14 agitated, and roughly ten to fifteen minutes thereafter he confronted her with his concerns
15 about her personal relationship with another man. Frank had apparently received a text
16 message from a person claiming to have a romantic relationship with Jaylene. Jaylene
17 attempted to de-escalate the situation to no avail. She eventually grew concerned for her
18 safety and went into the bathroom where she downloaded a recording app onto her phone. She
19 then proceeded to make an audio recording of the events which transpired ("Recording"). The
20 Recording was entered into evidence at the hearing on Jaylene's Petition.
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23 At hearing, the Recording and Jaylene's testimony established that a short time after
24 the Recording was commenced Frank, Candy, K.W., O.W., and Jaylene traveled together in
25 the same vehicle from Frank's residence to Dodson which is located outside the boundaries of
26 the reservation within Phillips County. During the trip Jaylene was physically and verbally
27 abused by Frank: including being strangled at one point and told she would be thrown off a
28

1 "fucking bridge." Candy drove the vehicle and verbally abused Jaylene. Upon reaching
2 Dodson, Candy drove the vehicle around town for 20 minutes and continued to verbally abuse.
3 Jaylene while Frank physically assaulted her in front of her children. Jaylene asked repeatedly
4 to be let out of the vehicle, but Candy refused to let her out. As a result, Jaylene suffered
5 physical restraint and continued physical abuse by Frank.
6

7 Sometime thereafter, Candy came to the domestic violence shelter where Jaylene was
8 staying in Billings, Montana, and parked outside. Jaylene was forced to contact local law
9 enforcement who responded and advised Candy to leave, or Candy would be cited for
10 trespassing. Like Dodson, Billings is located outside the exterior boundaries of the reservation
11 and within the territorial boundaries of the State of Montana.
12

13 Discussion

14 Candy argues that the Court lacks subject matter jurisdiction because Jaylene, Frank,
15 and Candy all qualify as Indians under applicable law, and the violent and abusive acts which
16 gave rise to the Petition occurred "almost exclusively within the exterior boundaries of the
17 Fort Belknap Reservation." This argument has no merit.
18

19 While "the exercise of state jurisdiction over activities occurring entirely on Indian
20 lands is an infringement on inherent tribal authority and is contrary to principles of self-
21 government and tribal sovereignty," it is well established that state courts may assume
22 jurisdiction over an Indian party who has engaged in "substantial activities. . . off the
23 reservation" or actions involving "significant contacts with the state." *Judicial Stds. Comm'n*
24 *v. Not Afraid*, 2010 MT 285, ¶¶ 11-12, 358 Mont. 532, 245 P. 3d 1116; *Crawford v. Roy*, 176
25 Mont. 227, 230, 577 P. 2d 392, 393-94 (1978). An Indian party has engaged in activities
26 having substantial contacts with the State of Montana if the conduct giving rise to an action
27
28

1 occurred at least in part outside the exterior boundaries of the reservation and within the
2 territorial boundaries of the state. *Crawford*, 176 Mont. at 230, 577 P. 2d at 393-94; *Not*
3 *Afraid*, ¶¶ 3-4, 11-12.

4
5 Here, much of Candy's violent and abusive conduct occurred in the Dodson area and
6 in Dodson and Billings all of which are located outside the exterior boundaries of the Fort
7 Belknap Indian Reservation and within the State of Montana. This Court clearly has subject
8 matter jurisdiction.

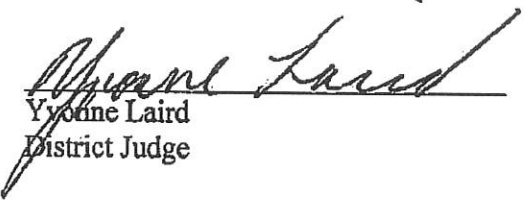
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10 Based on the forgoing, **IT IS HEREBY ORDERED** that:

11 1. Respondent's *Motion to Dismiss for Lack of Subject Matter Jurisdiction* is

12 **DENIED.**

13 2. The Clerk shall send a copy of this Order to counsel of record.

14 Dated this 3rd day of June 2022.

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16 
17 Yvonne Laird
18 District Judge

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20 p/phillips.motiontodismiss
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CERTIFICATE OF SERVICE

I, Thane P. Johnson, hereby certify that I have served true and accurate copies of the foregoing Notice - Notice of Appeal to the following on 06-29-2022:

Craig Wahl (Attorney)
2722 3rd. Ave. North
Ste. 400
Billings MT 59101
Representing: Jaylene Cecelia Phillips
Service Method: eService

Electronically signed by Diane Johnson on behalf of Thane P. Johnson
Dated: 06-29-2022