

Supreme Court Clerk's Office - Keller, Heather

From: Dyan Tomaselli <DTomaselli@oneida-nation.org> on behalf of Meghan Beakman <mbeakman@oneida-nation.org>
Sent: Wednesday, December 28, 2016 12:06 PM
To: (SUP) Clerk of Court Office
Subject: In the Matter of a Petition to Permit Temporary Provision of Legal Services by Qualified Attorneys from Outside North Dakota
Attachments: Ltr to Penny Miller re Petition to Permit Temporary Provision of Legal Services by Qualified Attorneys from Outside North Dakota.pdf
Importance: High

Dear Ms. Miller:

Please find attached the Oneida Indian Nation's comments on the proposed amendment permitting temporary provision of legal services by qualified attorneys from outside North Dakota.

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ONEIDA INDIAN NATION



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ONEIDA NATION HOMELANDS

December 28, 2016

Via Email

Penny Miller
Clerk of the North Dakota Supreme Court
600 E. Boulevard Ave.
Bismarck, ND 58505-0530
supclerkofcourt@ndcourts.gov

RE: **N.D. Supreme Court No. 20160436—Petition to Permit Temporary Provision of Legal Services by Qualified Attorneys from Outside North Dakota**

Dear Ms. Miller:

I write on behalf of the Oneida Indian Nation (“the Nation”) in support of the above-referenced petition (the “Petition”) to admit attorneys outside of North Dakota for temporary practice in North Dakota courts in connection with protests of the Dakota Access Pipeline. The proposed relief would facilitate the provision of legal counsel to the many indigent individuals who have been arrested in connection with the protests.

The Nation has been a driving force behind efforts to preserve the rich cultural history of Native Americans, improve their economic well-being, and protect their civil rights. Many of those arrested during the Dakota Access Pipeline protests are Native American. The Nation is committed to ensuring that its members and members of other Indian Nations are not deprived of their Constitutional rights.

The Nation understands that the mass arrests are placing a logistical and financial burden on North Dakota’s judicial system that threatens to deprive arrestees of their Constitutional right to effective legal counsel. The Nation believes that the temporary practice process proposed by the Petition would attract experienced out-of-state criminal defense attorneys, who, together with those attorneys already practicing in North Dakota, would ensure that all of the State’s arrestees receive effective representation and a timely adjudication.

Depriving Native American arrestees of their basic Constitutional rights to effective counsel reinforces the deep-seated and unfortunate belief among many Native Americans that they remain second-class citizens in the U.S. legal system. The distrust and resentment that flows from these beliefs has long-term ramifications not just for individual arrestees but for U.S.-Indian relations more broadly. Granting the Petition would send a powerful message to Native American communities that the legal system is taking steps to ensure they are treated fairly.

Ensuring a robust pool of criminal defense attorneys is particularly important here because many Native American arrestees are indigent. There are currently not enough public defenders to represent these arrestees. Absent an expedited bar admission process that allows additional attorneys to temporarily practice in North Dakota on behalf of the arrestees, many of the arrestees will not receive effective representation.

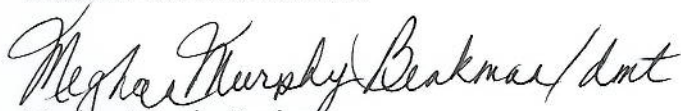
Granting the Petition would also benefit the North Dakota Bar and the State as a whole. The temporary nature of the changes proposed in the Petition ensures that any influx of attorneys into North Dakota will be short-lived and there will be no permanent effect on the State's admission requirements. And in the short term, a temporary relaxation of the bar admission process will help current bar members, who are now being overburdened by the unprecedented number of arrestees needing legal counsel.

Granting the Petition is also likely to help the State financially. The Nation understands that there are many experienced out-of-state attorneys who are willing to represent indigent pipeline protesters *pro bono*. Allowing these attorneys to temporarily practice in North Dakota could relieve the State of having to pay for counsel for many indigent defendants.

For these reasons, the Nation respectfully requests that this Court grant the Petition to temporarily relax the North Dakota Bar admission process in connection with the representation of Dakota Access Pipeline protesters.

Very truly yours,

ONEIDA INDIAN NATION


Meghan Murphy Beakman

MMB/dmt