

IN THE SUPREME COURT
OF THE
MISSISSIPPI BAND OF CHOCTAW INDIANS

FILED

SEP 12 2013

CHOCTAW SUPREME COURT
BY: 
COURT CLERK

Mississippi Band of Choctaw Indians

Appellee

vs.

SC 2013-01

Vandel Jim

Appellant

JUDGMENT IN INTERLOCUTORY APPEAL

Appellant filed his interlocutory appeal challenging the Tribe's jurisdiction to charge him with Voluntary Manslaughter Class "A" pursuant to Choctaw Tribal Code (CTC) §3-3-25(1). This Court heard Appellant's interlocutory appeal on June 13, 2013.

Appellant raises two arguments in his interlocutory appeal. First, Appellant argues that the Tribe is without the jurisdiction to charge him with Voluntary Manslaughter Class "A" under CTC §3-3-25(1) because the federal government has exclusive jurisdiction over the matter pursuant to 18 U.S.C. §1153, The Major Crimes Act. The Court finds this argument without merit as it is well established that the Tribe has concurrent jurisdiction with the federal government over Major Crimes Act violations occurring within its reservation.

Second, Appellant argues in the alternative that if the Tribe has jurisdiction over the matter, the Tribe limited its jurisdiction to prosecute Major Crimes Act violations to only those matters in which the federal government declines to prosecute when it enacted CTC §3-1-5. CTC §3-1-5 states in pertinent part that "[t]he prosecution for a major crime listed in the Major Crimes Act, 18 U.S.C. §1153 may be commenced within the time prescribed in §3-1-4 of the tribal code, after the United States Attorney has declined to prosecute the defendant under the federal law and has notified the Tribe in writing."

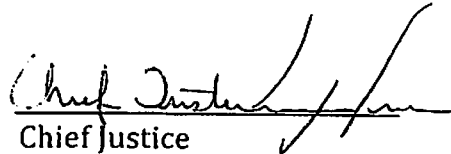
The plain language reading of the CTC is unambiguous. CTC §3-1-5 is titled "Tolling of Time Limitation for the Prosecution of Crimes." This section extends the time allowed for the Tribe to prosecute Major Crimes Act violations beyond the two-year limit provided in CTC §3-1-4 Time Limitation for Commencing Prosecution. CTC §3-1-5 says nothing about tribal jurisdiction over persons who commit Major Crimes Act violations.

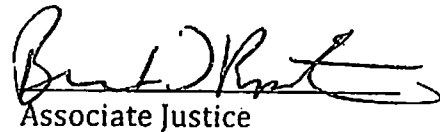
Further, the plain language reading of CTC Title 1, Chapter 2 Jurisdiction is clear. §1-2-1 Tribal Policy requires that any limit on the jurisdictional provisions of the CTC must be *expressly* provided in the CTC. CTC §1-2-3(2)(b) states that the Tribe has jurisdiction over "any Indian person for any charge of criminal offense

prohibited by the Tribal Code or other ordinance of the Tribe when the offense is alleged to have occurred within the Choctaw Indian Reservation."

The Court finds that CTC §1-3-5 does not expressly limit Tribal jurisdiction to prosecute Major Crimes Act violations to only those matters in which the federal government declined to prosecute. Appellant's motion to dismiss the case is denied.

So Ordered on this the 12th day of September 2013.


Chief Justice


Associate Justice

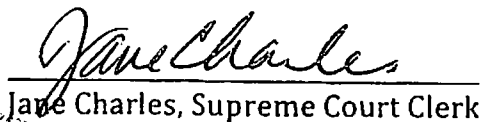
CERTIFICATE OF SERVICE

I do hereby certify that I have this, the 12th day of September 2013 caused to be forwarded by the United States Mail, a true and correct copy of the above and foregoing document to the below listed counsel of record.

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