

Indian Law & Appellate Advocacy

Legal Issue: Civil Jurisdiction in Indian Country

Should a Tribe have the authority to regulate non-members who are passing through their reservation on a State Highway? If yes, should the tribe have the authority to enforce regulations against non-members?

This workshop will provide in five parts:

Part One: Introduction

Your workshop leader will introduce (1) civil jurisdiction and (2) tribal sovereignty.

Part Two: Client Inquiry

Your office receives a letter from a potential client. Please read over their statement of the case.

Part Three: Legal Research & Legal Reasoning

You will conduct legal research and prepare your argument.

Part Four: Arguing in Federal Court

Each attorney's office will argue their position in front of the Supreme Court.

Part Five: Is this a good legal rule?

1. Brie, while enrolled LLM, lived on RRT reservation, worked on the reservation, her children went to RRT tribal school, and rarely left the RRT reservation? Is it fair for her to evade all of the RRT laws?
2. What if the rule was the opposite such that anyone who was on the reservation was subject to the RRT laws. Would this be fair to Brie? Would it be fair to someone who had no idea she was even driving through the reservation? Is it fair to expect her to memorize/know the laws of the Tribes and the State of Oregonia?
3. Does this legal rule make sense to you? Why do you think the United State Supreme Court made this rule? How should courts determine whether or not conduct has some direct effect?

FACT SHEET

State of Oregon	RRT Reservation Elementary School Elder Center	State of Oregon
State Highway	X (Brie's Citation)	X Accident
	Fish Processing Center	
LLM Reservation		

November 1, 2012:

Brie, a member of the LLM Tribe, is driving on a Oregon State highway through the RRT Reservation. Brie is distracted. She is distracted by her loud music, three friends in the backseat and is especially distracted by her cute boyfriend who is riding in the passenger seat. Brie passes a sign that says, "RRT Tribal Code §231 prohibits driving distracted. Violators will be cited". She sees the sign and continues on with her distracted driving. Five minutes later, Brie is pulled over by RRT Tribal police and is cited for distracted driving.

The citation reads, "You must pay the RRT \$50 by November 15, 2011. If you fail to pay your fine then the RRT Tribal Court will enter an order for 15 days confinement in the RRT jail. You may appear in RRT tribal court to contest this citation by calling Judge Icecream Sundae at 888-987-3454".

November 16, 2012:

Brie fails to pay her citation. RRT tribal court issues an arrest warrant for Brie.

November 20, 2012:

Brie is driving distracted again. She gets into an accident. The RRT police arrived at the scene and arrested Brie.

November 21, 2012:

Brie challenges her citation. She argues the RRT Tribe does not have jurisdiction over her because she is not a member of the tribe.

December 15, 2012:

RRT denies Brie's Appeal. She now seeks review in the Supreme Court of the United States.