

OK AG values Bank over Battered Women

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On November 20, 2007, Oklahoma Attorney General Drew Edmondson announced an innovative partnership with Wal-Mart to combat domestic violence. In the press release describing that initiative, Edmondson declared, "It's tragic to lose a mother, daughter, sister or friend to domestic abuse. We will never know how many of those deaths could have been prevented if these women had only known where to go for help."

In February 2008, Edmondson joined several other state attorneys general (Idaho, Alaska, Florida, North Dakota, South Dakota, Utah, Washington, and Wisconsin) on an amicus brief asking the U.S. Supreme Court for a ruling that has the potential to eviscerate tribal court authority to issue and enforce protection orders leaving Indian women battered by non-Indians with no legal recourse and no protection.

The case pending before the Supreme Court, called Plains Commerce Bank v. Long Family, is not a case about domestic violence. Instead, it is a case involving a loan made by a non-Indian bank to Indians who lived on the Cheyenne River Sioux Reservation.

When things went awry, the bank lost the suit in tribal court, then went to federal court to contest the ability of the tribal court to hear the case.

In Plains Commerce Bank v. the Long Family, the U.S. Supreme Court is being asked to clarify the ability of tribal courts to hear cases involving non-Indians who come onto a reservation and do business with Indians.

If this has been a state, there would be no question the state court could decide the case. State courts have the authority to decide cases involving people and companies who conduct business within the state, even if they are not state residents. The U.S. Supreme Court, however, has created a separate set of rules for tribal courts limiting their authority over non-Indians.

Under those rules, the Supreme Court has declared that if a non-Indian engages in consensual relations with a tribal member, the tribal court can hear any case arising out of that transaction.

The bank in the case is asking the Supreme Court to rule that the consensual relationship test can be satisfied only if the non-Indian clearly and expressly agrees to let the tribal court decide the case.

Edmondson and several state attorneys general are urging the Court to do what the bank asks.

The problem is that such a ruling could potentially have far-reaching consequences. The consensual relationship test is also what allows tribal courts to issue and enforce protection orders to protect victims of domestic violence.

Domestic violence is a widespread problem, and it is particularly acute for Indian women. U.S. government statistics show that Indian women are two and a half times more likely to be the victims of violent crime. One in three American Indian women will be raped in their lifetime and three of four will be physically assaulted. Indian women are stalked at a rate more than double that of any other population. Well over 75% of the perpetrators of these crimes are non-Indian.

The statistics show that when an Indian woman is involved with a non-Indian man in Indian country, the only court that can issue and enforce a protection order is a tribal court.

Since it is unlikely that these men will clearly and expressly agree to tribal court authority over them, that leaves Indian women with no legal recourse.

Apparently, the Oklahoma Attorney General thinks a bank that has voluntarily used the tribal court got mad because it lost the case is more important than Indian women who are battered and abused. He would rather protect the bank than the woman.

If that is the case, shame on him. If it is not the case, then I urge him to withdraw from the brief asking the Court to protect the bank.

It's not too late, and if it saves one woman's life, it is well worth it.

Read more about it by following the links below:

See the complete Amicus Brief at <http://www.sacred-circle.com/Sacred%20Circle%20Final.pdf>

or <http://www.narf.org/sct/caseindexes/current/plainsvlong.html>