

TRIBAL COUNCIL TIMESHEETS



Tammy Hillebrand of the Toledo High School Media Center accepts a \$3,000 check from the Siletz Tribal Charitable Ad-Hoc Committee. Tribal Council members (l to r) Reggie Butler Sr., JoAnn Miller, Gerald Ben, Bonnie Petersen, and Delores Pigsley present the check.

Delores Pigsley - 4/6/00-5/4/00

TC	Ind	Gmg	Trvl							
1	1			4/6	Personnel calls, agenda prep			2	.75	4/29
		2		4/7	Gaming calls, ECONW report	2	2	7.5	1.25	4/30
		10.25	3.25	4/10	NIGA mtg.-Portland, reception in G. Ronde	1	1	.5	1.25	5/2
		8.5	2	4/11	NIGA mtg.					
.5	.5	6.25	2	4/12	NIGA mtg., packet	3.25	3.25	1.5	5/3	
2.5	2.5	2.5		4/13	Prep for Council, calls, Gaming agenda items					
1.5	1.5	3.5	1.25	4/14	Gaming Board, prep	1.5	1.5	1	1.25	5/4

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factors that led to the tribe's victory was the perseverance of this family, remaining as a placement option during the 2nd years this case dragged through the courts. If the Siletz family had not remained available, the tribe would have lost this case.

The efforts of the Siletz Tribe's ICW staff, witnesses, and the tribe's staff attorney should be recognized. A team of tribal representatives and witnesses traveled to Montana to present testimony in the placement hearing and carried through with their jobs despite the outright hostility of the court, state, and foster parents to the tribe's participation.

The state of Montana supported the infant's placement in the Siletz home all the way up to the point the biological parents agreed to voluntarily relinquish their parental rights in exchange for not being criminally prosecuted for causing the child's injuries. All of a sudden, the local county attorney changed his position and supported adoption of C.H. by the non-Indian foster parents. We later learned that the foster parents were politically well connected in the local community and had ties to the district attorney.

The state argued that "good cause" existed to not follow the placement preferences of ICWA. ICWA requires that Indian children be placed with relatives or other Indian families in the absence of good cause to the contrary. The lower state court agreed with the state and foster parents and found that good cause existed based on the child's "extraordinary emotional and physical needs." The court found that the child, because of her early background, was "at risk" for developing emotional or attachment disorders in the future. It also held that the non-Indian foster parents were more experienced than the Siletz family in dealing with children with special needs and that placing C.H. in the Siletz relative's care might

expose her to future contact with the family member who had caused her injuries.

The Montana Supreme Court reversed the lower court's decision and ordered the state to immediately commence adoption proceedings for C.H. on behalf of the Siletz relative family. The Supreme Court held that the lower court had applied the incorrect legal test under ICWA. It held that it was improper to balance merits of the non-Indian foster family and the Siletz relatives because ICWA presumes that it is in the best interest of an Indian child to be raised in an Indian home.

The Montana Supreme Court's decision is a broad ranging, positive decision that should help prevent the loss of many Indian children in the future. The fact situation decided in this case - where an Indian child resides in a non-Indian foster home for a lengthy period of time and that foster family then seeks to adopt the Indian child - is one that occurs with great regularity. The Montana Supreme Court's decision sets out clear guidelines and standards in a clearly reasoned decision that greatly limits the ability of states and lower courts to find good cause not to place an Indian child according to the requirements of the ICWA.

Finally, I want to mention the wonderful assistance provided in this case by the Indian Law Clinic of the University of Montana Law School and its director, Maylinn Smith. The tribe had to retain local counsel in Montana because none of its attorneys are licensed there. Smith represented the Siletz Tribe in proceedings in the lower court and wrote substantial portions of the tribe's briefs to the state Supreme Court. The tribe could not have won this case without her able efforts.