

Fort Belknap Indian Community



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Fort Belknap Indian Community
(Tribal Govt.)
Fort Belknap Indian Community
(Elected to administer the affairs of the community and
to represent the Assiniboine and the Gros Ventre Tribes
of the Fort Belknap Indian Reservation)

August 31, 2022

Christi Jacobsen
Montana Secretary of State
State Capitol, Room 260
P.O. Box 202801
Helena, Montana 59620-2801

Re: Statements made during oral arguments in [Western Native Voice v. Jacobsen](#)

Dear Secretary of State Jacobsen,

The Fort Belknap Indian Community Council has consistently fought for the right of our membership to access polling sites and exercise our right to vote. We do this for the same reason as all other citizens: the right to vote for a candidate of one's choice is a cornerstone of democracy.

But the Montana legislature once again has proposed legislation that will infringe on these basic rights. HB 530 follows in the footsteps of a similar bill that the state legislature proposed in 2020 and that a Montana court determined to be unconstitutional. This time, instead of banning the practice of collecting ballots for others altogether, which the 2020 bill did, HB 530 bans compensating ballot collectors. Given the reality of remote distances and transportation obstacles of Native Americans living within their homelands, collecting and properly delivering sealed ballots would enhance the Native American vote. While HB 530 prohibits paid ballot collection, the bill makes exception for government officials.

Recently, oral arguments were held in *Western Native Voice v. Jacobson*. One of the issues raised involved the inclusion of tribal governments in the exception to the prohibition of compensation ballot collectors. Chief Legal Counsel Austin James, on behalf of the Montana Secretary of State's Office, expressed his doubt that Indian tribes are governmental entities. Although these statements were made under oath, while testifying in his official capacity, he made it very clear that they were his personal opinion.

American Indian and Alaska Native Tribal Nations are sovereign governments recognized under the U.S. Constitution, treaties, statutes, Executive Orders, and court decisions. Federal recognition of Indian tribes as tribal governments is published annually in the Federal Register, an easily accessible public record. The status of Indian tribes and the government-to-government relationship is well acknowledged in state and federal governments. It is a basic tenet that is taught in public schools as well as law school and is obviously present in all legislation and

Montana laws and regulations. So, when Mr. James expressed his personal opinion that he did not believe that tribes were government entities, it was upsetting for two reasons: 1. His blatant ignorance is appalling; and 2. His use of his position of state legal counsel to advocate his personal opinion under oath borders, if not, crosses the line of ethical responsibilities and representation.

Furthermore, it is very concerning that a person in the position of Chief Counsel of the State of Montana is not cognizant of basic principles of Indian Law in a state that includes eight (8) tribal governments representing at least ten (10) tribes.

As a recent law school graduate and representative of the State of Montana on serious and consequential legal issues, his remarks are inexcusable. Whether Mr. James was representing the State of Montana in making this patently erroneous statement or injecting his personal opinion while representing the State of Montana, his statements are unprofessional and deeply offensive.

If the statement was made out of ignorance, then Mr. James needs to reach out to the respective Indian tribes in Montana to get a better understanding and education of tribal governmental issues pertaining to Indian Country, including experiencing and understanding our cultural traditions and practices.

If advocating his personal opinion while representing the State of Montana and under oath was intentional, then the problem is bigger than it appears, as ethical matters should be taken very seriously. In any event, the people, including Indian tribes, and government of Montana deserve better.

Sincerely,



JEFFERY STIFFARM
President

Xc: Austin James, Montana Chief Legal Counsel
Honorable Jon Tester
Honorable Steve Daines
Honorable Matt Rosendale
FBIC Council