No. 19-231

In the Supreme Court of the United States

ROBERT R. REYNOLDS,

Petitioner,

v.

WILLIAM SMITH, Chief Probation Officer, Amantonka Nation Probation Services; JOHN MITCHELL, President, Amantonka Nation, ELIZABETH NELSON, Chief Judge, Amantonka Nation District Court,

Respondents,

On Writ of Certiorari to the United States

BRIEF FOR RESPONDENT

Team Number 880

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QUESTIONS PRESENTED

1. Whether Petitioner is an Indian within Amantonka criminal jurisdiction as a naturalized citizen.
2. Whether Petitioner's court-appointed attorney, who held a JD from an accredited law school, and who was a member of the Amantonka bar, satisfied Petitioner's legal right to counsel.

STATEMENT OF THE CASE

I. Factual Background

A. Petitioner's Background and Conduct

Petitioner, a naturalized citizen of the Amantonka Nation, met his future wife Lorinda while in college. R. at 6. His wife was, and still is, a citizen of the Amantonka Nation. R. at 6. Following graduation, they married and moved into tribal housing on the Amantonka Nation Reservation. R. at 6. Petitioner began working at a job on the Reservation as well. R. at 6. After a few years living and working on the Reservation, Petitioner applied for naturalization, completed all of the tribe's requirements, and took an oath of Amantonka citizenship. R. at 6.

Following his naturalization, Petitioner lost his job, began drinking excessively, and became verbally abusive toward his wife. R. at 6. Then, nearly two years after becoming an Amantonka citizen, Petitioner "struck his wife with an open palm across her face with enough force to cause her to fall to the ground," breaking her rib. R. at 6. Petitioner was arrested and charged with violating Title 5, Section 244 of the Amantonka Nation Code. R. at 7. As an Indian indigent defendant, Petitioner was appointed a public defender under Title 2 Section 607(a) of the Amantonka Nation Code. R. at 7. His public defender possessed a Juris Doctorate degree from an American Bar Association accredited law school and was a member in good standing of the Amantonka Nation Bar Association.1 R. at 7.

During the ensuing proceedings, Petitioner made three pretrial motions. R. at 7. The Amantonka District Court denied all three. *Id.* A jury found Petitioner guilty of partner assault and he was sentenced to seven months incarceration, along with fines and mandatory batterer rehabilitation and alcohol treatment through Amantonka Nation Social Services. R. at 7. Following sentencing, Petitioner renewed his pretrial motions. R. at 5.

B. Amantonka Culture and Law

The Amantonka Nation has a longstanding and important cultural tradition of welcoming spouses of its citizens into the tribe, as affirmed in the Amantonka Nation Code. R. at 7. Should a citizen's spouse wish to become a member, they must live on the Amantonka reservation for more than two years; take classes in Amantonka culture, law, and government; pass the Amantonka citizenship test; and perform 100 hours of community service. Amantonka Nation Code Title 3 Ch. 2 Sec. 201, 202. Once the applicant accomplishes these requirements, they become a sworn citizen of the Amantonka Nation listed on the Amantonka Nation roll and entitled to "all the privileges afforded all Amantonka citizens." Amantonka Nation Code Title 3 Ch. 2 Sec. 203.

The Amantonka Nation Code includes a right to counsel in criminal prosecutions. Amantonka Nation Code Title 2 Ch. 5 Sec. 503. The accused is also entitled to public defender if he or she is indigent. *Id.* Indigent Indians are entitled to a public defender that meets the following criteria:

> (1) Be at least 21 years of age;
> (2) Be of high moral character and integrity;
> (3) Not have been dishonorably discharged from the Armed Services;
> (4) Be physically able to carry out the duties of the office;
> (5) Successfully completed, during their probationary period, a bar examination administered as prescribed by the Amantonka Nation's Executive Board; and
> (6) Must have training in Amantonka law and culture.

Amantonka Nation Code Title 2 Ch. 6 Sec. 607(a). Indigent non-Indians, on the other hand, are entitled to:

> A public defender who holds a JD degree from an ABA accredited law school, has taken and passed the Amantonka Nation Bar Exam, and who has taken the oath of office and passed a background check . . .

Amantonka Nation Code Title 2 Ch. 6 Sec. 607(b).

II. Legal Background

In Petitioner's pretrial motions, he first sought to have the charges dismissed on the grounds that he is a non-Indian and the Amantonka Nation lacks criminal jurisdiction over non-Indians. R. at 3. He based his argument on the U.S. Supreme Court's decision in *Oliphant v. Suquamish Indian Tribe,* 435 U.S. 191 (1978). The District Court for the Amantonka Nation denied this motion because Petitioner is a citizen of the Amantonka Nation and is therefore an Indian. R. at 3.

In Petitioner's second and third motions, he argued he was entitled to alternative legal counsel. R. at 3. First, Petitioner argued that as a non-Indian the Amantonka Nation's criminal jurisdiction over him was an exercise of Special Domestic Violence Criminal Jurisdiction, and as such, he was entitled to an attorney as described in the Violence Against Women Reauthorization Act of 2013, 25 U.S.C. § 1304(d)(2) ("VAWA 2013"). R. at 7. The District Court denied this motion on the grounds that Petitioner is an Indian and VAWA 2013 is inapplicable in this case. R. at 3.

Petitioner then argued in the alternative, if he was found to be an Indian, the Amantonka Nation Code violates equal protection because Indians and non-Indians are entitled to different types of legal representation. R. at 7. Specifically, indigent non-Indians are entitled to representation by a public defender who holds a JD degree from an ABA accredited law school. Amantonka Nation Code Title 2 Ch. 6 Sec. 607(b). However, public defenders representing indigent Indians do not need a JD degree. Instead, they must have, among other things, training in Amantonka law and culture. Amantonka Nation Code Title 2 Ch. 6 Sec. 607(a). The Amantonka District Court denied this motion, finding Petitioner's argument unpersuasive. R. at 4.

III. Course of Proceedings

Following Petitioner's guilty verdict, Petitioner made a motion to set aside the verdict, renewing his arguments raised in the pretrial motions. The Supreme Court of the Amantonka Nation unanimously affirmed Petitioner's conviction and the Amantonka District Court's rulings on the pretrial motions. R. at 7. Petitioner then petitioned to the U.S. District Court for the District of Rogers for a Writ of Habeas Corpus under 25 USC §1303. R. at 8. The District Court for the District of Rogers granted the Writ, but on appeal the U.S. Court of Appeals for the Thirteenth Circuit reversed and remanded with instructions to deny the Writ. R. at 9. Petitioner appealed and this Court granted certiorari. R. at 10.

SUMMARY OF THE ARGUMENT

Petitioner is a naturalized citizen of the Amantonka Nation and therefore subject to the Amantonka Nation's criminal jurisdiction. As a federally recognized tribe, the Amantonka Nation has criminal jurisdiction over all its citizens, including those naturalized into the tribe. In choosing to become a citizen of the Amantonka Nation, Petitioner chose to submit himself to Amantonka criminal jurisdiction. Even though he is not of Amantonka native dissent, Petitioner voluntarily assumed his Indian status and cannot now opt-out when doing so would be jurisdictionally convenient. The Amantonka Nation has proper criminal jurisdiction over Petitioner as a naturalized citizen and does not need exercise Special Domestic Violence Criminal Jurisdiction.

Petitioner's equal protection claim should be dismissed because his legal counsel satisfied all Amantonka and Federal requirements. First, as an Indian, he has no standing to assert his equal protection claim, because his legal counsel was certified by the Amantonka Nation to represent Indians and non-Indians alike. Further, even if he had standing, the tribal and cultural reasons for the differentiation in the Amantonka Nation Code are sufficient to justify this policy. Finally, even if Petitioner were a non-Indian, he would still lose, because

his attorney was sufficiently qualified to represent defendant charged under the Nation's Special Domestic Violence Criminal Jurisdiction.

ARGUMENT

I. Petitioner Is a Naturalized Citizen of the Amantonka Nation and Therefore Subject to Amantonka Criminal Jurisdiction.

As a naturalized citizen, Petitioner is an Indian subject to the criminal jurisdiction of the Amantonka Nation and is therefore outside the scope of Special Domestic Violence Criminal Jurisdiction. As a federally-recognized tribe, the Amantonka Nation is able to define its citizenry and extend criminal jurisdiction over recognized citizens, including Petitioner, for most crimes. Petitioner elected to become a citizen of the Amantonka Nation, undertook the naturalization process, and swore an oath of citizenship. R. at 6. Furthermore, Petitioner is married to a native Amantonka citizen, he lives in tribal housing on the Amantonka Nation Reservation, and he has worked on the reservation since the beginning of his marriage. *Id*. He cannot now claim his citizenship and cultivated community ties are meaningless simply because he has no Indian blood.

A. Standard of Review Is De Novo

The standard of review for determination of Indian status is *de novo*, as the determination is a mixed question of law and fact. *United States v. Bruce*, 394 F.3d 1215, 1218 (9th Cir. 2005).

B. The Amantonka Nation Has Criminal Jurisdiction Over Its Citizens, Including Petitioner

1. Tribes have Criminal Jurisdiction Over Indians

While there is no single federal law on point to determine criminal jurisdiction in Indian Country, tribal nations generally have criminal jurisdiction over their own citizens, *Talton v. Mayes*, 163 U.S. 376, 381 (1896), and over nonmember Indians. *United States v.*

Lara, 541 U.S. 193, 210 (2004). This jurisdiction originates in the historical tradition of tribal sovereignty, which has been degraded over time into a complex "jurisdictional maze." Robert N. Clinton, *Criminal Jurisdiction Over Indian Lands: A Journey Through a Jurisdictional Maze*, 18 Ariz. L. Rev. 503, 504 (1976).

Criminal jurisdiction in Indian Country depends on the nature of the crime and the Indian status of both the perpetrator and victim of the crime. Historically, tribal relations with the United States were organized through treaties, many of which granted tribes jurisdiction over crime which happened on tribal land, especially when the parties were consensually related to the tribe by citizenship, naturalization, or marriage." Maura Douglas, *Sufficiently Criminal Ties: Expanding VAWA Criminal Jurisdiction for Indian Tribes*, 166 U. Pa. L. Rev. 745, 757 (2018).

The Supreme Court has held a tribe's ability to prosecute crime is inherent to its tribal sovereignty. *United States v. Wheeler,* 35 U.S. 313, 323-24 (1978). Furthermore, tribal criminal jurisdiction over its citizens is inherent to tribal sovereignty. *Talton*, 163 U.S. at 38. However, Congress has chipped away at this sovereign status over time and now the sovereignty of Indian tribes "exists only at the sufferance of Congress and is subject to complete defeasance." *Wheeler*, 435 U.S. at 323. Tribal sovereignty only extends as far as Congress permits, as Congress has "plenary authority over the tribal relations of . . . Indians." *See Lara*, 541 U.S. at 194. Congress has used this plenary authority to extend federal jurisdiction over several types of crimes committed in Indian Country.

While federal laws of general applicability also apply generally in Indian Country, *United States v. Farris*, 624 F.2d 890, 897 (9th Cir. 1980), there are five specific federal laws extending federal criminal jurisdiction over Indian Country. First, the Indian Country Crimes Act extended general criminal federal jurisdiction over crimes committed in Indian Country

where one party is Indian and the other is not. 18 U.S.C. §1152; *see United States v. Prentiss,* 256 F.3d 971, 974 (10th Cir. 2011). Second, the Major Crimes Act established federal criminal jurisdiction over several enumerated crimes (including murder, kidnapping, assault against a child, among others) committed by an Indian in Indian Country. 18 U.S.C. § 1153. Congress enacted this law in response to *Ex parte Crow Dog*, holding tribes retain exclusive criminal jurisdiction over all crimes, including murder, committed by tribal members. 109 U.S. 556, 557 (1883). Congress disagreed, and believed "tribal remedies were either nonexistent or incompatible with principles [Congress] thought should be controlling*."* *Keeble v. United States*, 412 U.S. 205, 210 (1973). Third, Public Law 28 gave states jurisdiction previously exercised by federal courts over certain crimes pursuant to the Indian Country Crimes Act and Major Crimes Act. 28 U.S.C. § 1360. Fourth, the "*Duro* fix" restored "the inherent power of Indian tribes . . . to exercise criminal jurisdiction over all Indians," not just those who were citizens of the prosecuting tribe. Indian Civil Rights Act, 25 U.S.C. § 1301(2) (2012). Fifth, the VAWA 2013 restored tribal jurisdiction over non-Indians who commit certain domestic violence offenses. 25 U.S.C. § 1304.

Outside of these federal laws, tribes retain criminal jurisdiction over crimes committed in Indian Country. In *Talton v. Mays*, this Court held a crime "committed by one Cherokee Indian upon the person of another within the jurisdiction of the Cherokee Nation is . . . clearly not an offense against the United States, but an offense against the local laws of the Cherokee Nation." 163 U.S. at 381. The Court upheld federal recognition of tribal criminal jurisdiction over crimes committed by its tribal members in *Wheeler*, emphasizing "tribal courts are important mechanisms for protecting significant tribal interests" including "maintaining orderly relations among their members and . . . preserving tribal customs and traditions." 435 U.S. at 331-332.

However, tribes do not have criminal jurisdiction over non-Indians who commit crimes in Indian Country unless Congress has explicitly granted jurisdiction. Before 1978, over forty tribes extended tribal criminal jurisdiction over crimes committed by non-Indians on tribal land. *Oliphant v. Suquamish Indian Tribe*, 435 U.S. 191, 196 (1978). This Court invalidated such broad jurisdiction in *Oliphant*, holding "Indian tribes do not have inherent jurisdiction to try and to punish non-Indians." 435 U.S. at 212. This decision was of considerable concern to many Indian nations, as it stripped their ability to protect their people within their borders. Determining criminal jurisdiction after *Oliphant* requires three determinations – the type of offense (for applicability of The Major Crimes Act), whether the state has jurisdiction under Public Law 28, and whether the perpetrator or the victim is Indian.

As a federally recognized tribe, the Amantonka Nation retains criminal jurisdiction over most crimes perpetrated by its members. No federal laws extend federal criminal jurisdiction over Petitioner's assault of his wife. Partner or family member assault is not covered by the Major Crimes Act or by state law under Rule 28. Similarly, neither the Major Crimes Act nor VAWA 2013 confer federal criminal jurisdiction, because the assault was between two members of the Amantonka Nation, and so non-Indian provisions in those laws do not apply. Therefore, Petitioner is under Amantonka, not federal, criminal jurisdiction.

2. Petitioner is a Citizen of the Amantonka Nation, and Therefore an Indian

As there is no one controlling definition of "Indian" for purposes of federal jurisdiction, the Court should defer to the Amantonka Nation's criteria for determining citizenship. The Amantonka Nation is a "distinct, independent political communit[y and retains its] original natural right in matters of local self-government." *Santa Clara Pueblo v. Martinez*, 436 U.S. 49, 55 (1978). This includes the power to regulate internal and social

relations such as citizenship. *Roff v. Burney*, 168 U.S. 218, 222 (1897). As the Supreme Court of the Amantonka Nation found when ruling on this case, the Amantonka Nation has a "longstanding custom and tradition" of welcoming people who marry members, as embodied in the naturalization process. R. at 7. Beyond citizenship, Petitioner has demonstrated his intent to live as a member of the community since marrying his wife, and cannot now disclaim these bonds for the sake of criminal convenience.

a. There is No Conclusory Federal Definition of Indian

There is no overarching definition of "Indian" in federal law which controls in this case. Federal jurisprudence suggests "Indian" is a political, not a racial category. In *Morton v. Mancari*, this Court held a Bureau of Indian Affairs hiring preference for Indians was not a racial classification, but rather a criterion "designed to further the cause of Indian self-government." 417 U.S. 535, 554 (1974). This was affirmed in *United States v. Antelope*, which held federal regulation of Indian tribes was "not to be viewed as legislation of a 'racial' group consisting of Indians" but rather as "governance of once-sovereign political communities." 430 U.S. 641, 646 (1977).

Despite "Indian" being a political classification, federal statutes provide little clarity on who is considered Indian for purposes of federal law. The two principal criminal laws which purport to define the term (the Indian Country Crimes Act and the Major Crimes Act) give no definition. Even the Indian Civil Rights Act ("ICRA") fails to provide a clear definition. Instead, ICRA defines "Indian" as "any person who would be subject to the jurisdiction of the United States as an Indian under" the Major Crimes Act. 25 U.S.C. § 1301. However, since the Major Crimes Act does not define "Indian," the precise meaning remains unclear.

Other federal statues present inconsistent definitions of "Indian" for federal purposes. *See* Katharine C. Oakley, *Defining Indian Status for the Purpose of Federal Criminal Jurisdiction*, 35 Am. Indian L. Rev. 177, 182 (2011). For example, the Indian Self-Determination Act of 1975 defines "Indian" as "a person who is a member of an Indian tribe." 25 U.S.C. § 5301(e). Under the Indian Financing Act, "Indian" is defined as "any person who is a member of any Indian tribe, band, group, pueblo, or community which is recognized by the Federal Government as eligible for services from the Bureau of Indian Affairs." 25 U.S.C. §1452(b). In the Indian Child Welfare Act, the definition of "Indian" is "any person who is a member of an Indian tribe," and an "Indian child" is defined as an unmarried person under age eighteen who is either "(a) a member of an Indian tribe or (b) eligible for membership in an Indian tribe and is the biological child of a member of an Indian tribe." 25 U.S.C. § 1903 (3), (4). Each of these unique definitions is closely tied to the underlying policy goals of its originating statute. Tribal criminal jurisdiction is closely tied to an Indian nation's right to determine how to govern its community; therefore, the controlling definition of "Indian" should originate from the nation in question.

Because there is no federal definition of "Indian" on point for criminal jurisdiction which is not self-referential, the Amantonka Nation's determination of "citizenship" should govern. The Amantonka Nation has a historical practice of welcoming non-Indian people who marry Amantonka citizens into their community. Title 3, Chapter 2 of the Amantonka Code governs the eligibility and naturalization process. Anyone who is married to a citizen and has lived on the Amantonka reservation for at least two years can apply for naturalization. Amantonka Nation Code Title 3, Ch. 2, Sec. 201. Once an applicant has finished classes in Amantonka culture, law, and government; passed the citizenship test; and performed 100 hours of community service on the reservation, the applicant will be a

naturalized Amantonka citizen "entitled to all the privileges afforded all Amantonka citizens." Amantonka Civil Code Title 3, Ch. 2, Sec. 202, 203. For purposes of internal governance including criminal jurisdiction, the definition of "Indian" in the Amantonka Nation should include naturalized citizens.

b. Case Law Should Not Control the Definition of "Indian"

Federal courts have proposed numerous tests to determine the definition of "Indian" for federal criminal jurisdiction, and two necessary factors have emerged: blood and tribal recognition. Although complex enough to have provoked a circuit split, this test ignores the most critical factor—tribal self-determination. As previously established, Indian tribes still retain sovereignty within their borders which can only be abrogated by Congress. *Wheeler*, 435 U.S. at 323. Court precedent requiring some blood quantum defies this basic principle of self-determination.

The Supreme Court first articulated a definitional of term "Indian" for purposes of federal criminal jurisdiction in *United States v. Rogers*, holding that a White American man naturalized into the Cherokee tribe was not-Indian, and therefore his murder of another White naturalized-Cherokee man was within federal jurisdiction under the Indian Country Crimes Act. 45 U.S. 567, 572 (1846). Rogers argued the Cherokee treaty allowed the tribe to make law within its borders for people connected with the tribe, including criminal jurisdiction. *Id.* at 571. However, the Court found the Indian Country Crimes Act abrogated this exercise of sovereignty. *Id*. According to the Court, "a white man who at mature age is adopted in an Indian tribe does not thereby become an Indian," and tribal criminal jurisdiction "is confined to those who by the usages and customs of the Indians are regarded as belonging to their race." *Id*. at 572–73 (1846). The *Rogers* test frames Indian status as racial, which is at odds with other Supreme Court precedent classifying Indian status as political rather than racial.

See, e.g. Morton, 417 U.S. at 554; *Antelope*, 430 U.S. at 646. Nevertheless, the *Rogers* test was solidified in *United States v. Broncheau*, where the Ninth Circuit held in order to be Indian under federal criminal jurisdiction, a person must have a) some Indian blood and b) tribal or governmental recognition as Indian. 597 F.2d 1260, 1263 (9th Cir. 1979).

While blood remains a constant requirement, the Eight and the Ninth Circuit disagree about how best to determine the tribal recognition prong of *Rogers*. The Ninth Circuit applies a strictly hierarchical four-factor test in declining order of importance, where tribal enrollment is merely one factor. *See*, *e.g.*, *United States v. Bruce*, 394 F.3d 1215, 1224 (9th Cir. 2005). The Eighth Circuit applies a less rigid five-factor test where tribal enrollment alone is dispositive. *United States v. Stymiest*, 581 F.3d 759, 764 (8th Cir. 2009).

As applied in the Ninth Circuit, the *Rogers* test requires a person to have a) native blood and b) a sufficient "non-racial link to a formerly sovereign people" in order to be Indian for the purposes of federal criminal jurisdiction. *Bruce*, 394 F.3d at 1224. The first prong requires a "substantial percentage" of Indian blood, which has inconclusively been defined to be between 1/16 to 1/8. *See Makah Indian Tribe v. Clallam County*, 440 P.2d 442, 444 (1968). In *United States v. Zepeda*, the Ninth Circuit held Indian blood could come from any tribe, whether or not they are federally recognized. 792 F.3d 1103, 1111 (9th Cir. 2015). Furthermore, the *Zepeda* court found the blood requirement does not make "Indian" a racial classification, citing the definition of "Indian" in the Indian Reorganization Act. *Id.* at 1119. In her dissent, Judge Ikuta was troubled by this reasoning, and suggested requiring a certain amount of blood "disrespect[s] the tribe's sovereignty by refusing to defer to the tribe's own determination of its membership rolls. *Id.* at 1119. Judge Ikuta recommended ending the blood quantum requirement all together, citing harmful precedents which relied on blood quantum such as Virginia's antimiscegenation laws overruled by *Loving v. Virginia. Id.*

The second prong of the *Rogers* test proves to be more useful in determining Indian status. The Court interrogates the extent of tribal sovereignty by analyzing connection to the tribe. In the Ninth Circuit, the courts must consider the following evidence in declining order of importance: "1) tribal enrollment; 2) government recognition formally and informally through receipt of assistance reserved only to Indians; 3) enjoyment of the benefits of tribal affiliation; and 4) social recognition as an Indian through residence on a reservation and participation in Indian social life." *Bruce*, 394 F.3d at 1224. The Ninth Circuit affirmed the hierarchy of these factors in *United States v. Cruz*, holding in order to meet the third factor, the person in question must take advantage of tribal benefits. 554 F.3d 840, 847 (9th Cir. 2009). The Eight Circuit considers two additional factors: whether the person considers themselves Indian and whether the person has subjected themselves to the jurisdiction of tribal court. *Stymiest*, 581 F.3d at 763.

Petitioner alleges that his lack of Indian blood is enough to prove that he is not an Indian for the purposes of criminal jurisdiction, and this claim is generally supported by Eighth and Ninth Circuit case law. However, by inquiring into levels of blood purity, the *Rogers* blood quantum requirement invokes racial categorization, which this Court has been eager to avoid. *See, e.g. Morton*, 417 U.S. at 554; *Antelope*, 430 U.S. at 646. Congress has not set any applicable federal blood quantum requirement for the purpose of determining tribal criminal jurisdiction over Indians. Since Congress has not legislated in this area, any judicial requirement of blood quantum would unlawfully interfere with tribal sovereignty, as Judge Ikuta writes in her *Zepeda* dissent. 792 F.3d at 1119. Respondent asks this Court to end the blood quantum requirement and defer to tribal determination of membership to confer Indian status.

c. Community Determination Should Be Valued More Than Blood or Case Law

Rather than basing Indian status on circular, complex, and confused federal legislation and case law, the Court should follow its own precedent in *Santa Clara Pueblo v. Martinez* and allow the Amantonka Nation to define its own membership for tribal purposes, including criminal jurisdiction. 436 U.S. 49, 72 n.32 (1978). Many tribal codes include definitions of "Indian" beyond blood. *See* Addie C. Rolnick, *Tribal Criminal Jurisdiction Beyond Citizenship and Blood*, 39 Am. Indian L. Rev. 337, 39-40 (2015) (E.g. the San Ildefonse Pueblo code defines "Indian" as "[a]ny resident of the Pueblo who is considered Indian by the traditions, customs, culture, and mores of the Pueblo of San Ildefonso"; the Leech Lake Band of Ojibwe tribal code definition includes "Indians who are recognized as such by an Indian community . . . for any purpose.")

In *Santa Clara Pueblo*, this Court found that Indian nations are "distinct, independent political communities, retaining their original natural rights" in matters of local self-government, including membership. 436 U.S. at 55. While the Supreme Court ultimately found the tribe was immune from suit and so did not rule on the merits of the case, the district court's holding is instructive. Santa Clara Pueblo members challenged a tribal ordinance that only granted tribal citizenship to the children of male members who married outside the tribe but not to children of equally situated female members. The district court found for the tribe, determining that membership criteria was "'no more or less than a mechanism of social . . . self-definition,' and as such were basic to the tribe's survival as a cultural and economic entity." *Id*. at 54. The court held that "to abrogate tribal decisions, particularly in the delicate area of membership, for whatever 'good' reasons, is to destroy cultural identity under the guise of saving it." *Id*.

This Court should apply a more flexible standard for tribal criminal jurisdiction applicable to everyone whom a tribe recognizes as a community member. *See* Rolnick at 344.

This broad standard would center the tribe as the ultimate arbiter of who is and is not an Indian in the context of their Nation, and allow tribes to weigh criteria such as blood, formal citizenship, naturalization, and community ties differently, in accordance with their unique cultural traditions.

Following the citizenship determination of the Amantonka Nation, Petitioner is an Indian. He is married to an Amantonka citizen, lives in tribal housing on the Amantonka Reservation, works for an Amantonka business, and proactively took the steps necessary to become a naturalized Amantonka citizen "entitled to the privileges afforded all Amantonka citizens." R. at 3; Amantonka Nation Code Title 3, Ch. 2, Sec. 203. Petitioner cannot seek to be a member of the Amantonka Nation merely to benefit, he must also accept Amantonka jurisdiction over his own prosecution and sentencing as a member of the community.

C. Special Domestic Violence Criminal Jurisdiction Does Not Apply Because Petitioner is an Indian

As Petitioner is a naturalized Amantonka citizen, he is subject to the criminal jurisdiction of the Amantonka Nation and therefore does not fall within the scope of Special Domestic Violence Criminal Jurisdiction conferred by VAWA 2013.

VAWA 2013 grants Indian tribes limited criminal jurisdiction to prosecute non-Indians who commit certain domestic-violence crimes in Indian Country. 24 U.S.C. §1304. In order for a tribe to exercise jurisdiction over non-Indians using this statue, the perpetrator must be connected to the tribe by either residing on the tribe's land, being employed by the tribe, or being a spouse or partner of a member of the tribe or another Indian who resides on that tribe's land. 24 U.S.C. §1304(B).

Congress passed this part of VAWA 2013 to increase the likelihood that non-Indians who perpetrate intimate partner violence in Indian Country will be stopped and prosecuted. Maura Douglas, *Sufficiently Criminal Ties: Expanding VAWA Criminal Jurisdiction for*

Indian Tribes, 166 U. Pa. L. Rev. 745, 748 (2018). Previously, tribes could not respond to violence perpetrated by non-Indians and were forced to rely on often distant federal law enforcement officer to respond to each and every crime involving a non-native perpetrator. *Id.* These jurisdictional gaps led to under-reporting and under-enforcement of domestic violence against tribal members from non-native men, leaving many tribal members uniquely vulnerable. *Id.* Now, Indian nations have jurisdiction to prosecute some of these crimes internally and begin to address this justice gap.

The Amantonka Nation does not need to exercise Special Domestic Violence Criminal Jurisdiction over Petitioner, because he is already within the Nation's criminal; jurisdiction as an Amantonka citizen. The Amantonka Nation should be empowered to determine its own citizenry independent of blood or other externally imposed criteria, in order to ensure it is best able to protect Amantonka citizens. In this case, Amantonka police were able to quickly respond and charge the Petitioner, separating the couple, putting a protective order in place, and ensuring both parties got counseling. The Amantonka Nation was able to respond so quickly because it determined both parties were Indians, and therefore within its criminal jurisdiction, immediately. Tribal police did not have to conduct a time-intensive VAWA jurisdiction analysis and instead were able to immediately arrest and try Petitioner, preventing what could have been a much greater tragedy.

Despite not having any native Amantonka blood, Petitioner voluntarily assumed Amantonka citizenship when he undertook naturalization and swore a citizenship oath to the Amantonka Nation. He has since built his life as a member of the Nation and benefits from his tribal affiliation. He should not be able forswear his tribal citizenship to avoid tribal criminal jurisdiction. As a federally-recognized tribe, the Amantonka Nation is an independent political community that retains the right to extend citizenship to naturalized

members and exercise criminal jurisdiction over them. Therefore, the Amantonka Nation has proper criminal jurisdiction over Petitioner as a naturalized citizen and does not need exercise Special Domestic Violence Criminal Jurisdiction.

II. Petitioner's Legal Counsel Satisfied all Amantonka and Federal Requirements

Petitioner's legal representation met the standards of the Amantonka Nation Code and VAWA 2013. Further, the Amantonka Nation Code policy of treating indigent Indians and non-Indians defendants differently does not violate the equal protection requirements of either the Indian Civil Rights Act, 25 U.S.C. § 1302 ("ICRA") or the United States Constitution.

A. Standard of Review

The standard of review for denial or grants of writs of habeas corpus under ICRA is *de novo*. *Alvarez v. Tracy*, 773 F.3d 1011 (9th Cir. 2014), withdrawn and superseded on denial of reh'g en banc sub nom. *Alvarez v. Lopez*, 835 F.3d 1024 (9th Cir. 2016).

B. As an Amantonka Citizen Petitioner Received Appropriate Legal Representation

Petitioner's equal protection claim is faulty for two reasons. First, because Petitioner's public defender met the criteria for both Indians and non-Indians Petitioner has no standing to bring this claim. Second, even if Petitioner had standing, equal protection under ICRA does not require that Indians and non-Indians receive the same legal representation.

1. Petitioner Lacks Standing to Bring an Equal Protection Claim

Although Petitioner is an Indian he received the same legal representation as he would have if he were a non-Indian. Consequently, Petitioner cannot show he suffered an injury as a result of the differing standards spelled out in the Amantonka Nation Code. Without an injury, Petitioner does not have standing to challenge this policy here.

"[T]hose who seek to invoke the jurisdiction of the federal courts must satisfy the threshold requirement imposed by Article III of the Constitution by alleging an actual case or controversy." *City of Los Angeles v. Lyons*, 461 U.S. 95, 101 (1983). For there to be a case or controversy litigants must have a "personal stake" in the suit—standing. *Camreta v. Greene*, 563 U.S. 692 (2011). The party seeking relief in federal court bears the burden of showing they have standing. *Summers v. Earth Island Inst.*, 555 U.S. 488, 493 (2009). This Court has identified three conditions Petitioner must meet to satisfy the standing requirement: first, the party bringing the claim must have suffered an "injury in fact" that is "concrete and particularized" and neither "conjectural," nor "hypothetical"; second, "there must be a causal connection between the injury and the conduct complained of"; and third, it must be likely that the injury would be "redressed by a favorable decision." *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560–61 (1992). For an injury to be concreate, this Court has said the injury must be "'real' and not 'abstract.'" *Spokeo, Inc. v. Robins*, 136 S. Ct. 1540 (2016) (quoting Webster's Third New International Dictionary 472 (1971); Random House Dictionary of the English Language 305 (1967)). Additionally, "a generalized remedy that deters all future unlawful activity against all persons cannot satisfy the remediation requirement, even though it deters (among other things) repetition of this particular unlawful activity against these particular plaintiffs." *Friends of the Earth, Inc. v. Laidlaw Envtl. Servs. (TOC), Inc.*, 528 U.S. 167, 204 (2000).

Petitioner failed to establish any one of the conditions required for Article III standing, let alone met his burden to prove all three. First, Petitioner has not introduced any facts to show an injury in fact caused by the Amantonka Nation Code requirement that Indians and non-Indians receive different legal representation. To the contrary, the facts show that although it was not required, Petitioner was appointed a public defender with the same

legal training as one who would have been appointed to him as a non-Indian. Therefore, Petitioner's argument that he was treated unequally is hypothetical, not concrete. Additionally, because he received the same legal counsel as if he were a non-Indian, his eventual conviction cannot be categorized as an injury in fact either. It is also worth noting that Petitioner has not alleged any wrongdoing on the part of his attorney. As such, Petitioner has failed to meet his burden to show he suffered an injury through this policy. Also, because Petitioner has not articulated any injury, he cannot provide a causal connection between an injury and the policy.

Petitioner further failed to articulate how a favorable decision, reversing this policy, would remedy his hypothetical injury. A reversal of this policy would simply require Indians and non-Indians to receive the same level of legal counsel. In this case, Petitioner received that level of representation. It is immaterial what the alleged injury would be, because a favorable decision for Petitioner in this case would merely grant him the same legal counsel he received in the first place. As such, Petitioner has not met his burden of establishing he has standing to bring this claim.

Without any injury, let alone one that can be redressed by a favorable decision, Petitioner has no standing to challenge the Amantonka Nation Code. For this reason, Petitioner's equal protection claim should be dismissed.

2. Even if Petitioner has Standing, Equal Protection under ICRA does not Require Identical Legal Representation for Indians and Non-Indians

If the Court finds Petitioner has met his burden to establish standing on this claim, the Court should still dismiss this claim. Tribal custom and tradition support the different levels of legal counsel outlined in the Amantonka Nation Code, as such, the equal protection clause of ICRA is not violated.

Although ICRA grants equal protection to Indians, its mandate is "not coextensive with the equal protection clause of the Fourteenth Amendment to the United States Constitution." *Wounded Head v. Tribal Council of Oglala Sioux Tribe of Pine Ridge Reservation*, 507 F.2d 1079, 1082 (8th Cir. 1975); *see also Groundhog v. Keeler*, 442 F.2d 674 (10th Cir. 1971); *White Eagle v. One Feather*, 478 F.2d 1311 (8th Cir. 1973). Equal Protection under ICRA "differs from the constitutional Equal Protection Clause [of the United States Constitution] in that it guarantees 'the equal protection of *its* [the tribe's] laws,' rather than of '*the* laws.'" *Santa Clara Pueblo v. Martinez*, 436 U.S. 49, 63 n. 14. (1978). Courts have long recognized it is inappropriate to strictly apply the fourteenth amendment equal protection standard because it could significantly interfere with tribal custom and tradition. *Tracy v. Superior Court of Maricopa Cty.*, 168 Ariz. 23, 41 n. 16 (1991) (listing federal cases recognizing the importance of Indian history and culture when applying equal protection under ICRA). This Court has not articulated the appropriate equal protection standard to apply to ICRA; however, *Howlett v. Salish and Kootenai Tribes* outlines the approach taken in the Eighth and Ninth Circuits as well as that of several tribal courts. 529 F.2d 233 (9th Cir. 1976).

In *Howlett*, the Ninth Circuit followed the Eight Circuit in adopting the following standard for analyzing equal protection claims under ICRA. 529 F.2d at 238. The court differentiated between instances: first, "[w]here the strict application of traditional equal protection doctrines would significantly impair a tribal practice or alter a custom firmly embedded in Indian culture," and second, where tribal polices or procedures closely "parallel to those commonly employed in Anglo-Saxon society." *Howlett*, 529 F.2d at 238. In the first instance, the courts acknowledge the equal protection clause of ICRA must be implemented differently than that of the fourteenth amendment. *Id.* However, in the second instance, the

courts "have no problem of forcing an alien culture, with strange procedures, on (these tribes.)" *Id.* In *Howlett*, the plaintiffs challenged tribal election and voting procedures. Rather than announce a general rule that tribal voting procedures are always subject to the United States Constitution, the court examined the Salish and Kootenai tribal election and voting procedures at issue to see the extent to which they paralleled federal or state procedures. *Id.* at 238-239. Finding the tribal voting procedures were nearly "taken verbatim" from Anglo-Saxon culture, the court held the United States Constitutional interpretation of equal protection should be applied to the voting procedures. *Id.* at 239. However, even applying strict scrutiny to the tribal election procedure policy, the court found the interests of individuals were outweighed by the compelling tribal interest in elevating knowledgeable candidates to Tribal Council positions. *Id.* at 244.

Here, the Amantonka policy of appointing a lay counselor to represent Indians falls squarely within the first instance: a situation "'[w]here the strict application of traditional equal protection doctrines would significantly impair a tribal practice or alter a custom firmly embedded in Indian culture." The federal government has long recognized a tribe's ability to discipline its own members for violations of its own laws. *See United States v. Wheeler*, 435 U.S. 313, 324-25 (1978). "[F]ar from depriving Indian tribes of their sovereign power to punish offenses against tribal law by members of a tribe, Congress has repeatedly recognized that power and declined to disturb it." *Id.* at 325. This is in part due to the indigenous justice systems that do not mirror that of Anglo-Saxon society. *Nevada v. Hicks*, 533 U.S. 353, 384 (2001) (noting that tribal law is often based "on the values, mores, and norms of a tribe and expressed in its customs, traditions, and practices" (internal citations omitted)). The Amantonka Nation's method for administering justice to Indians does not mirror that of Anglo-Saxon society. Instead, the Amantonka Nation focus on Amantonka culture. Indeed,

the Amantonka Nation requires public defenders for Indians to "have training in Amantonka law and *culture*." Amantonka Nation Code Title 2 Ch. 6 Sec. 607(a) (emphasis added). The Amantonka Nation is a federally recognized tribe, which means it has disciplined its own citizens since time immemorial. To apply the U.S. Constitutional notions of equal protection would serve to impair this firmly imbedded tribal practice of self-discipline. As a cultural practice, the policy of treating Indians and non-Indians differently in applying tribal justice does not run afoul of the equal protection clause in ICRA, because the it reflects the Amantonka Nation's cultural and historical practices.

3. The Amantonka Nation has a Compelling Government Interest Sufficient to Uphold its Public Defender Policy

Even if the Court is inclined to analyze the Amantonka Nation Code policy under the U.S. Constitutional standard of strict scrutiny, the Amantonka Nation has a sufficiently compelling governmental interest narrowly tailored to justify its policy.

If this Court decides the policy falls into the second category of those which those parallel Anglo-Saxon society, the distinction between Indians and non-Indians could indeed be a suspect classification, requiring a strict scrutiny analysis. *Johnson v. California*, 543 U.S. 499, 505 (2005). "Under strict scrutiny, the government has the burden of proving that [suspect] classifications are narrowly tailored measures that further compelling governmental interests." *Id.* Respondents can meet that burden.

The Amantonka Nation has a compelling government interest in the safety of its citizens, and the classification of Indian and non-Indian is narrowly tailored by only applying the policy to the limited number of non-Indians over which the Nation has criminal jurisdiction. Indian nations have very limited jurisdiction over non-Indians, and the instances of jurisdiction are strictly proscribed in federal statutes. In this case, VAWA 2013 allows criminal jurisdiction over non-Indian defendants charged under special domestic violence

criminal jurisdiction. VAWA 2013 was enacted to address the rampant violence against Indian women by non-Indians living on tribal land. Letter from Assistant Attorney General Ronald Weich to Vice President Joe Biden (July 21, 2011) (making a plea for Congress to address the rampant violence against Indian women, because "[v]iolence against Native women has reached epidemic rates."). Without Congressional Authorization tribal authorities were unable to prosecute the offenders. *Id*. VAWA 2013 grants such authorization, but it strictly details the rights of the defendants as well. *See* 25 U.S.C. 1302 (c). Those rights include the right to legal representation that differs from that offered to Indian defendants.

Here, the safety of tribal members and the ability to prosecute those who commit crimes against those members is a compelling government interest for the Amantonka Nation. However, the only way for the Amantonka Nation to prosecute non-Indians who commit acts of domestic violence against its citizens is by complying with the requirements of VAWA 2013. The Amantonka Nation treats Indian and non-Indian defendants differently because VAWA 2013 requires it. Additionally, this different treatment is narrowly tailored as it only applies in the narrow circumstances when the Amantonka Nation has jurisdiction over non-Indians. Therefore, the Amantonka Nation Code survives strict scrutiny and should be upheld by this Court.

Petitioner's argument that the Amantonka Nation Code violates equal protection as a matter of law should be dismissed. Petitioner has not presented any facts to show he was injured by this policy, or how can assert standing to bring this claim. Additionally, the Amantonka Nation Code reflects cultural and historic tribal practices, as well as addresses the Amantonka Nation's compelling interests in protecting its citizens. Therefore, Respondents have sufficiently rebutted Petitioners equal protection claims.

C. Even if Petitioner is a non-Indian, Petitioner Received Appropriate Counsel

Petitioner is an Indian and received appropriate legal representation under the Amantonka Code, ICRA, and the United States Constitution. However, even if Petitioner were a non-Indian he was sufficiently represented by an attorney at his trial. His attorney held a JD degree and was in good standing with the Amantonka bar, thereby meeting the requirements for legal counsel laid out in VAWA 2013.

If Petitioner is a non-Indian, Amantonka jurisdiction would be based on the special domestic violence criminal jurisdiction outlined in VAWA 2013. As noted above, VAWA 2013 also enumerates the rights of defendants charged under the statute, including the right to appointed counsel for indigent defendants. It does so by incorporating Section 1302 (c) of ICRA, that requires tribes "provide an indigent defendant the assistance of a defense attorney licensed to practice law by any jurisdiction in the United States that applies appropriate professional licensing standards and effectively ensures the competence and professional responsibility of its licensed attorneys."

Here, Petitioner argues his attorney failed to meet the statutory requirements because his attorney was a member of the Amantonka bar and not a state bar. Petitioner's argument generally relies on alleged differences between the tribal bar exam and that of a state. R. at 7. However, Petitioner failed to provide any evidence to support this alleged difference. Nor has he described any errors allegedly committed by his legal counsel. As a result, his argument must be analyzed based solely on the text of the statute and the Amantonka Nation Code. For the reasons described below, his legal counsel met the statutory and Constitutional requirements and this claim should be dismissed.

1. First, Petitioner's Attorney was Licensed to Practice Law in a Jurisdiction in the United States

The Amantonka Nation Code requirements for non-Indian defenders complies with the text of VAWA 2013. VAWA 2013 requires tribes "provide an indigent defendant the

assistance of a defense attorney licensed to practice law by any jurisdiction in the United States . . .." 25 U.S.C. 1302(c). Those licensed to practice law in Amantonka affirmatively meet this criteria because the Amantonka Nation is on its face a jurisdiction in the United States.

To accept Petitioner's argument that he needed a state barred attorney implies the Amantonka Nation is not a jurisdiction in the United States. This is not the case. The Amantonka Nation is a jurisdiction in the United States, because the United States exercises authority over Amantonka. Jurisdiction is described as "[a] geographic area within which political or judicial authority may be exercised." JURISDICTION, Black's Law Dictionary (10th ed. 2014). This means that a jurisdiction in the United States is one over which the United States can exercise political or judicial authority. Although Amantonka is a sovereign nation, it is not precluded from being a jurisdiction within the United States. Indeed, states, which are sovereigns, are also jurisdictions in the United States. Additionally, it is well understood that the U.S. Constitution grants Congress plenary power over tribes. *See United States v. Lara*, 541 U.S. 193, 194 (2004). As a result, the United States regularly exercises authority over tribes, thereby confirming that tribes are jurisdictions within the United States.

2. Second, the Amantonka Nation Applied Appropriate Professional Licensing Standards in Barring Petitioner's Attorney

The Amantonka Nation's attorney licensing standards "ensures the competence and professional responsibility" of its attorneys as required by VAWA 2013. Therefore, Petitioner's barred attorney met the standards outlined in VAWA 2013.

In addition to the jurisdictional prong, VAWA 2013 requires tribal governments apply "appropriate professional licensing standards and effectively ensure[] the competence and professional responsibility of its licensed attorneys." 25 U.S.C. § 1302(c)(2). The statute fails to define what constitutes "appropriate" standards or ensuring "competence." However,

Petitioner argues he was entitled to a state licensed and barred attorney, so for purposes of this appeal Petitioner must concede states meet these licensing standards. The Amantonka Nation licensing standards are just as rigorous as state analogues, and therefore, Petitioner's licensed attorney met the VAWA 2013 requirements.

The Amantonka Nation's licensing requirements for public defenders are nearly identical to those of most states. Amantonka Requires public defender attorneys to hold a JD degree from an ABA accredited law school, to pass the Amantonka Nation Bar Exam, to take the oath of office, and pass a background check. Amantonka Nation Code Title 2 Ch. 6 Sec. 607(b). Similarly, the state of Arizona, for example, requires attorneys to pass a character and fitness test, hold a JD degree, pass the Arizona state bar, and pass the MPRE. A.R.S. Sup.Ct.Rules, Rule 34. Additionally, like every state, the Amantonka Nation has its own set of rules of professional conduct that closely track the model rules of professional conduct. *See* Title 2 Ch. 7. The "Code of Ethics for Attorneys and Lay Counselors" laid out in the Amantonka Nation Code requires—among other things: competence, diligence, communication, and confidentiality. *Id.* There is an analogue for every Model Rule of Professional Conduct in the Amantonka Nation Code. The Amantonka Nation thereby ensures the competence and professional responsibility of all its attorneys.

3. Third, Petitioner's Representation was "at least equal to that guaranteed by the United States Constitution"

Section 1302(c)(1) of ICRA also provides that tribes "provide to the defendant the right to effective assistance of counsel at least equal to that guaranteed by the United States Constitution." Here, Petitioner does not contend the Amantonka Nation Code denied him the right to counsel. To the contrary, the Amantonka Nation Code expressly provides that any person "may have assistance of counsel in any proceeding before the District Court." Amantonka Nation Code Title 2 Ch. 5 Sec. 503(1).

Under the Sixth Amendment, "[i]n all criminal prosecutions, the accused shall enjoy the right to . . . have the assistance of counsel for his defense." U.S. Cons. Amend. VI. Additionally, federal and state governments must provide counsel to indigent defendants at public expense. *Gideon v. Wainwright*, 372 U.S. 335 (1963). However, the Sixth Amendment does not create a right to be represented by a preferred attorney. "[T]he essential aim of the Amendment is to guarantee an effective advocate for each criminal defendant rather than to ensure that a defendant will inexorably be represented by the lawyer whom he prefers." *Wheat v. United States*, 486 U.S. 153, 159 (1988). In *Wheat*, the district court refused to allow defendant to substitute his counsel for that of his co-defendant. *Id.* at 157. Defendant appealed, arguing his Sixth Amendment rights were violated. *Id.* This Court affirmed the district court, noting "the purpose of providing assistance of counsel is simply to ensure that criminal defendants receive a fair trial." *Id.* at 159.

Being a member of the Amantonka bar made Petitioner's public defender more qualified, not less, to represent him in an Amantonka court. The purpose of the Sixth Amendment is to ensure adequate representation and a fair trial. As noted above, Petitioner was appointed legal counsel who had adequate legal training and was a member of the Amantonka bar—the jurisdiction that was trying Petitioner. Just as attorneys must be members of their state bar, to ensure the attorney has the knowledge and skills to represent clients within that state, counsel certified by Amantonka bar are exclusively qualified to represent someone on matters of Amantonka law. For Petitioner to argue that he is entitled to an attorney with other legal qualifications is illogical, and in application could run afoul of the Sixth Amendment.

4. Finally, It Would Lead to Absurd Results if VAWA 2013 Required Attorneys to be Barred Only by States

It would lead to absurd results to accept Petitioner's argument that his attorney needed to be barred in a state, rather than the Amantonka Nation. VAWA 2013 explicitly allows for tribes to prosecute non-Indians within tribal legal systems. In doing so, Congress recognized the laws and legal systems of the tribes that meet the statute's requirements. It is worth noting that VAWA 2013 does so by incorporating the rights of defendants outlined in the constitutional rights under ICRA—which applies to Indians, as well as non-Indians. *See* 25 U.S.C. § 1304(d) (incorporating ICRA by reference). Also, both VAWA 2013 and ICRA embrace tribal self-governance. *See* 25 U.S.C. §§ 1302, 1304(b). Therefore, it contradicts the entire statutory scheme to read VAWA 2013 as mandating public defenders be barred by states rather than tribes. Also, requiring attorneys to be barred in a jurisdiction in which they are not practicing also serves to reduce the effectiveness of that attorney. It is illogical for a statute to acknowledge that an attorney will practice in one jurisdiction but require the attorney to pass a bar in another.

Petitioner's attorney held a JD degree from an ABA accredited law school and was barred by the Amantonka Nation. Petitioner has failed to present any facts to show the Amantonka Nation's barring procedures are ineffective in ensuring attorney competence. The Amantonka Nation is a jurisdiction envisioned in the statute and its barring procedures are sufficient to provide competent counsel to non-Indians. Therefore, Petitioner received legal counsel sufficient to meet all statutory and constitutional standards.

Petitioner received legal counsel certified by the Amantonka Nation to represent Indians and non-Indians alike. His counsel was best qualified to represent him in Amantonka court, and Petitioner has failed to raise any argument that his attorney actually failed him in any way. Petitioner's claims should be dismissed, because Petitioner received the legal counsel required by both federal and Amantonka law.

CONCLUSION

It is undisputed that Petitioner Robert R. Reynolds is a naturalized citizen of the Amantonka Nation who abused his wife. Thereafter, the Amantonka Nation exercised proper jurisdiction over him and provided him with legal counsel required by tribal and federal law. For the aforementioned reasons we ask this Court to deny Petitioner's writ of Habeas Corpus and affirm his conviction.