

IN THE
SUPREME COURT OF THE UNITED STATES
MARCH TERM 2019

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 U.S. COURT OF APPEALS FOR THE THIRTEENTH CIRCUIT

DISTRICT COURT FOR THE AMANTONKA NATION

AMANTONKA NATION,

v.

ROBERT R. REYNOLDS,
Defendant.

COMPLAINT

Case No. CR-17-021

On or about June 15, 2017, ROBERT R. REYNOLDS, did knowingly strike his wife, Lorinda Reynolds, causing her injury. The incident occurred at the apartment shared by Defendant and his wife, which was located in tribal housing on the Amantonka Reservation. Defendant's actions are in violation of Title 5 section 244 of the Amantonka Nation Code.

Dated: June 16, 2017.

Amanda Flores
Amanda Flores
Chief Prosecutor

DISTRICT COURT FOR THE AMANTONKA NATION

AMANTONKA NATION,

v.

ROBERT R. REYNOLDS
Defendant.

Case No. CR-17-021

Opinion and Order Denying Defendant’s Pretrial Motions

On June 16, 2017, the Chief Prosecutor, acting on behalf of the Amantonka Nation, filed criminal charges in this court against Defendant Robert R. Reynolds, accusing Defendant of domestic violence against his wife, Lorinda Reynolds. The charges arose out of an incident that occurred on June 15, 2017, at the Reynolds’ apartment. The apartment is part of tribal housing and is located on the Amantonka reservation.

Defendant has filed three pretrial motions, all three of which are denied for reasons stated in this Opinion and Order.

Defendant’s first pretrial motion seeks to have the charges dismissed on the grounds that he is a non-Indian and that the Amantonka Nation lacks criminal jurisdiction over non-Indians, pursuant to the U.S. Supreme Court’s decision in *Oliphant v. Suquamish Indian Tribe*, 435 US 191 (1978). That motion is DENIED, as Defendant is a citizen of the Amantonka Nation and is therefore an Indian.

Defendant’s second pretrial motion seeks to have an attorney appointed to him, alleging that as a non-Indian accused of domestic violence against an Indian within Indian country, he falls within the Amantonka Nation’s exercise of Special Domestic Violence Criminal Jurisdiction, as provided for in 25 USC Sec. 1302 et seq. That motion is DENIED, as Defendant is a member of the Amantonka Nation and is therefore an Indian. Since he is an Indian accused of committing a crime against another Indian, that crime does not fall within VAWA 2013’s Special Domestic Violence Criminal Jurisdiction.

Defendant’s allegations that he is a non-Indian stem from the fact that he is a naturalized citizen of the Amantonka Nation, pursuant to Title 3, Chapter 2 of the Amantonka Nation Code. Defendant’s decision to become a naturalized citizen was a voluntary act, and he cannot now change his mind and assert he is a non-Indian.

Defendant’s third pretrial motion alleges that his court-appointed counsel is insufficiently qualified to serve as his counsel, and that the assignment of this attorney violates the relevant

Equal Protection requirements. At his arraignment, Defendant requested and was appointed indigent defense counsel to represent him on the current charges. The attorney appointed to represent Defendant is qualified to do so under Title 2, Chapter 6 of the Amantonka Nation Code. Defendant argues that Equal Protection requires that his attorney possess the same qualifications as is required by law to represent non-Indians. According to Defendant's interpretation, VAWA 2013 requires that attorneys appointed to represent defendants charged under the Amantonka Nation's SDVCJ must be members of a state bar association. This Court does not find that argument persuasive, and accordingly finds no equal protection violation, as defense counsel is sufficiently qualified even if SDVCJ standards apply.

For the foregoing reasons, Defendant's pretrial motions are DENIED and this case is set for trial beginning August 14, 2017.

Elizabeth Nelson
Chief Judge Elizabeth Nelson

July 5, 2017
Date

DISTRICT COURT FOR THE AMANTONKA NATION

AMANTONKA NATION,

v.

ROBERT R. REYNOLDS
Defendant.

Case No. CR-17-021

Order Entering Judgment and Sentence

After the jury returned a verdict of guilty, Defendant, Robert R. Reynolds, made a motion to set aside the verdict, reiterating the same arguments he made in his pretrial motions. For the reasons set out in the order of July 5, 2017, I deny the motion.

Although this is the Defendant’s first conviction, given the serious nature of the injuries inflicted on his wife, I hereby sentence him to:

- Seven (7) month incarceration,
- \$5300 restitution to compensate the victim for the destruction of property, medical bills, and lost income from work as a result of her injuries;
- Batterer rehabilitation and alcohol treatment programs through Amantonka Nation Social Services Division; and
- \$1500 fine.

At the victim’s request, this Court is hereby dropping the protection order issued at the time of arraignment. Defendant and his wife are currently in counseling, and the counselor concurs with victim’s request. Defendant is hereby placed on notice, however, that his behavior is being monitored and further incidents of violence will not be tolerated.

Defendant also moved to continue his bond while his appeal is pending. The Amantonka Nation does not oppose the motion. This Court notes that Defendant has faithfully complied with the conditions of the bond before trial, but also notes that the presumption in favor of bail is reversed after a conviction. This Court hereby grants Defendant’s motion, on the condition that Defendant wears an ankle monitor and has regular appointments with the Amantonka Nation Probation Services office.

Elizabeth Nelson
Chief Judge Elizabeth Nelson

August 23, 2017
Date

THE SUPREME COURT OF THE AMANTONKA NATION

ROBERT R. REYNOLDS,
Appellant,

v.

AMANTONKA NATION,
Appellee.

Opinion

No. 17-198

MILLER, C.J. delivered the unanimous opinion of the Court.

Appellant, Robert R. Reynolds, was charged with violating Title 5 Section 244 of the Amantonka Nation Code. A jury found him guilty, and he now appeals.

I

The evidence produced at trial shows the following facts are not in dispute. Appellant Reynolds and his wife, Lorinda, met while they were both students at the University of Rogers. At the time, Reynolds was a non-Indian and Lorinda was (and still is) a citizen of the Amantonka Nation, which is a federally-recognized tribe. The Amantonka Nation’s reservation is located within the State of Rogers, the 51st state in the United States. After graduation, the two got married and both found jobs on the Amantonka Nation Reservation – Lorinda as an accountant at the Amantonka casino and Appellant as a manager at the Amantoka shoe factory. The couple moved into an apartment in the tribal housing complex and began saving to buy a house. Two years after the couple got married, Appellant applied to become a naturalized citizen of the Amantonka Nation. He successfully completed the process, took the oath of citizenship, and received his Amantonka Nation ID card.

One year after becoming a citizen of the Amantonka Nation, Appellant lost his job when the Amantonka shoe factory closed its doors and went out of business. Appellant was out of work for ten months, and during that ten months, the Reynolds’ marriage became increasingly troubled. (Appellant found a job in July 2017 when a warehouse distribution center opened on the Amantonka Nation’s reservation. According to the Amantonka Nation Probation Services, Appellant has been employed continuously as a manager at the distribution center from the time it opened until the present day).

During the ten months of his unemployment, Appellant began drinking heavily and became verbally abusive towards his wife. On June 15, 2017, Amantonka Nation police responded to a call at the Reynolds’ apartment. This was not the first time the police had been called to the apartment, but it was the first time the police saw evidence of physical abuse. According to the evidence presented at trial, Robert Reynolds struck his wife with an open palm across her face with enough force to cause her to fall to the ground. During the fall, her torso struck a coffee table, resulting in a cracked rib.

The responding officer arrested Appellant and transported him to the Amantonka Nation Jail. The next day, the Amantonka Nation’s chief prosecutor filed a complaint charging

Appellant with violating Title 5 Section 244 of the Amantonka Nation Code. The Amantonka Nation District Court denied Appellant's pretrial motions and set the case for trial. A jury found Appellant guilty, and this appeal ensued.

II

The arguments raised on appeal are the same arguments raised in Appellant's pretrial motions. Appellant first argues that he is a non-Indian for purposes of criminal jurisdiction. Appellant argues that for purposes of criminal jurisdiction, the federal definition of "Indian" controls, and that definition requires that a person possess some degree of Indian blood and be recognized as a member of a tribal community.

We reject Appellant's argument and find that, in light of the US Supreme Court's decision in *Santa Clara Pueblo v. Martinez*, 436 US 49 (1978), a tribe has the right to define and control its own membership. The Amantonka Nation has a long history of welcoming into the tribe those who marry tribal members. This longstanding custom and tradition is embodied in the Amantonka Nation's Naturalization process. Appellant voluntarily applied for and completed that process, the culmination of which is citizenship in the Amantonka Nation. Appellant took the oath of citizenship and carries an Amantonka Nation ID card. As a citizen of a federally-recognized tribe, Appellant is an Indian, and the Amantonka Nation therefore possesses criminal jurisdiction over him.

Appellant also contends that the attorney appointed to represent him was inadequate as a matter of law. Appellant's argument rests on two alternative bases. He first argues that, as a non-Indian, the Amantonka Nation's criminal jurisdiction over him must rest on the Nation's exercise of Special Domestic Violence Criminal Jurisdiction pursuant to the Violence Against Women Act of 2013. He argues that the attorney appointed to represent him must meet the standards established by VAWA 2013. We have already rejected Appellant's argument that he is a non-Indian.

Appellant argues in the alternative, that if he is classified as an Indian, the fact that the attorney he is entitled to is less qualified than the attorney to which a non-Indian is entitled to, is in and of itself a violation of equal protection. We reject this argument, as we do not find that the difference in qualifications is material or relevant. The attorney appointed to represent Appellant possessed a JD degree from an ABA accredited law school and was a member in good standing of the Amantonka Nation Bar Association.¹ Appellant's argument rests heavily on the minimum qualifications required by the Amantonka Nation's code and on the alleged difference between a state and a tribal bar exam. Appellant has produced no facts to support a difference between a state bar exam and the Amantonka Nation's bar exam. He has also not pointed to any errors allegedly committed by his defense counsel. We therefore find his argument without merit.

For the foregoing reasons, Appellant's conviction is AFFIRMED.

DATED: 27 November 2017

¹ We note that although not required by Title 2 Section 607 of the Amantonka Nation Code, all currently serving Amantonka Nation public defenders hold a JD degree from an ABA accredited law school.

U.S. DISTRICT COURT FOR THE DISTRICT OF ROGERS

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.

Opinion and Order
No. 17-895

Robert R. Reynolds has filed a petition in this Court for a Writ of Habeas Corpus under 25 USC §1303. Petitioner alleges that his conviction is in violation of his federal civil rights as guaranteed in the US Constitution’s Fifth Amendment, the Indian Civil Rights Act, and the Violence Against Women Act of 2013.

Federal law clearly limits criminal jurisdiction over “Indians” and provides a definition of “Indian” that requires some degree of Indian blood. It is undisputed that Petitioner possess no Indian blood. He therefore cannot be an “Indian” for purposes of criminal jurisdiction.

Although the Amantonka Nation has exercised its special domestic violence criminal jurisdiction, and petitioner falls within that jurisdiction, the Amantonka Nation failed to provide Petitioner with the indigent defense counsel required under VAWA 2013.

Accordingly, the petition for a writ of habeas corpus is hereby GRANTED.

Dated: March 7, 2018

U.S. COURT OF APPEALS FOR THE THIRTEENTH CIRCUIT

ROBERT R. REYNOLDS,
Petitioner-Appellee,

v.

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

Opinion
No. 18-344

Per Curiam

For the reasons articulated by the Amantonka Nation Supreme Court, this Court REVERSES the decision of the US District Court for the District of Rogers and REMANDS with instructions to DENY the petition for a writ of habeas corpus.

Dated: August 20, 2018

**THE SUPREME COURT
OF THE UNITED STATES
MARCH 2019 TERM**

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.

**Order Granting Petition
For Writ of Certiorari
No. 19-231**

Per Curiam

The petition for a Writ of Certiorari to the Supreme Court of the United States is hereby granted.

IT IS ORDERED that the above captioned cause be set down for argument in the March Term of 2019, with argument limited to the following issues:

1. Is Petitioner a non-Indian for purposes of Special Domestic Violence Criminal Jurisdiction?
2. Did Petitioner's court-appointed attorney satisfy the relevant legal requirements?

Dated: October 15, 2018

Selected Provisions of the Amantonka Nation Code

Title 2 - The Courts

Title 2, Chapter 1. The Amantonka Nation District Court

Sec. 101. Creation of the Court.

There is hereby established the Amantonka Nation District Court as a court of record.

Sec. 102. Composition of the Court.

The Court shall consist of one chief judge and two associate judges whose duties shall be regular and permanent. The judges shall be appointed for a term of four years. The Nation's Executive Board shall appoint special judges as needed.

Sec. 103. Records of the Court.

The Court shall keep a record of all proceedings of the Court, showing the title of the case, the names and addresses of the parties, attorneys and witnesses; the substance of the complaint; the dates of all hearings or trials; the name of the judge; the findings of the Court or verdict of the jury and judgment; the preservation of testimony for perpetual memory by electronic recording, or otherwise; together with any other facts or circumstances deemed of importance to the case. Unless specifically excepted by this Code, the records of the Courts shall be public. In criminal cases, upon inquiry by members of the public, the Court shall furnish the name of the offender, the offense, and the sentence imposed.

Sec. 104. Rules of Court.

The Chief Judge may prescribe written rules of court, consistent with the provisions of this Code, including rules establishing the time and place of court sessions.

Sec. 105. Criminal Jurisdiction of the Court.

(a) *Generally.* The Amantonka Nation District Court is vested with jurisdiction to enforce all provisions of this Code, as amended from time to time, against any person violating the Code within the boundaries of the Amantonka Nation's Indian country. The Court is also vested with the power to impose protection orders against non-Indians in accordance with the provisions of this Code.

(b) *Criminal jurisdiction over non-Indian domestic or dating violence.* The Amantonka Nation District Court is vested with jurisdiction to enforce all provisions of this Code against a non-Indian who has committed an act of dating violence or domestic violence against an Indian victim within the Amantonka Nation's Indian country provided the non-Indian has sufficient ties to the Amantonka Nation.

(1) A non-Indian has sufficient ties to the Amantonka Nation for purposes of jurisdiction if they:

- (A) Reside in the Amantonka Nation's Indian country;
- (B) Are employed in the Amantonka Nation's Indian country; or
- (C) Are a spouse, intimate partner, or dating partner of either:
 - (i) A member of the Amantonka Nation, or
 - (ii) A non-member Indian who resides in the Amantonka Nation's Indian country.

(c) *Criminal jurisdiction over non-Indian protection order violations.* The Amantonka Nation District Court is vested with criminal jurisdiction to enforce all provisions of this Code related to

violations of protection orders against a non-Indian who has sufficient ties to the Nation as identified in Section 105(b)(1) and who has violated a protection order within the Amantonka Nation's Indian country provided the protected person is an Indian, and the following conditions are met:

- (1) The protection order was issued against the non-Indian,
- (2) The protection order is consistent with 18 U.S.C. 2265(b), and
- (3) The violation relates to that portion of the protection order that provides protection against violent or threatening acts or harassment against, sexual violence against, contact or communication with, or physical proximity to, the protected person.

Sec. 106. Civil jurisdiction of the Court.

The Court shall have jurisdiction over any action where one party to the action shall be an Indian, or a corporation or entity owned in whole or in substantial part by an Indian or the Amantonka Nation or a corporation or entity chartered by the Amantonka Nation; and

- (a) The cause of action arises under the Constitution or laws of the Amantonka Nation; or
- (b) An Indian party to the action resides on the Amantonka Nation's Reservation.

Sec. 107. Jurisdiction over persons outside Reservation.

In a case where it otherwise has jurisdiction, the Court may exercise personal jurisdiction over any person who does not reside on the Amantonka Nation's Reservation if such person, personally or through an agent:

- (a) Transacts any business on the Reservation, or contracts or agrees anywhere to supply goods or services to persons or corporations on the Reservation; or
- (b) Commits an act on the Reservation that causes injury.

Sec. 108. Amantonka Nation immune from suit.

The Amantonka Nation shall be immune from suit. Nothing in the Code shall be construed as consent of the Amantonka Nation to be sued.

Sec. 109. Suits against Amantonka Nation officials.

The Court shall have jurisdiction over all suits in which Amantonka Nation officials or employees are defendants, except habeas corpus proceedings authorized by 25 U.S.C. 1303.

(a) Suits for money damages. No elected official or judge of the Amantonka Nation shall be subject to suit for any action taken in the course of his/her official duties, or in the reasonable belief that such action was within the scope of his/her official duties.

(b) No employee of the Amantonka Nation shall be subject to suit for money damages for any action taken in the course of his/her official duties, or in the reasonable belief that such action was within the scope of his/her official duties, unless it is clearly established that such action was taken with malicious intent and in bad faith. The Court shall have jurisdiction over actions seeking declaratory and equitable relief against tribal employees, but the Court shall not grant any relief against tribal employees except after service of process has been made as prescribed in this Code and proof of service has been received by the Court.

Title 2, Chapter 2. Amantonka Nation Supreme Court

Sec. 201. Creation of Supreme Court

There is hereby created an Amantonka Nation Supreme Court.

Sec. 202. Jurisdiction of Supreme Court.

The jurisdiction of the Supreme Court shall extend to all appeals from final orders and judgments of the District Court. The Supreme Court shall review de novo all determinations of the District Court on matters of law, but shall not set aside any factual determinations of the District Court if such determinations are supported by substantial evidence.

Sec. 203. Composition of Supreme Court.

The Amantonka Nation's Executive Board shall appoint a Chief Justice and two (2) associate justices, none of whom shall be judges of the District Court.

Sec. 204. Records of Supreme Court.

The Supreme Court shall keep a record of all proceedings of the Court, showing the title of the case, the name and addresses of all parties and attorneys, the briefs, the date of any oral argument, the names of the justices who heard and decided the case, and the judgment, together with any other facts and circumstances deemed of importance to the case.. Unless specifically excepted by this Code or rule of court, all decisions and opinions of the Court shall be published in a format that shall be available to the public at the Tribal Office.

Sec. 205. Right of Appeal.

(a) Criminal cases. The defendant in a criminal case shall have an appeal as of right from a judgment of conviction. The Nation shall have no right of appeal from a jury verdict of "not guilty" in criminal cases, but shall have a right of appeal from a judgment of "not guilty" rendered by the District Court without a jury.

(b) Civil cases. Any party who is aggrieved by a final order or judgment of the District Court may file a petition requesting the Supreme Court to review that order or judgment.

Sec. 206. Procedure on appeal of criminal cases.

(a) Time to appeal and how to appeal. An appeal must be taken within fifteen (15) days from the judgment appealed from by filing a written notice of appeal with the clerk of the Amantonka Nation District Court. No extension of the fifteen (15) day period shall be granted.

(b) Notice of appeal. The notice of appeal shall specify the party or parties taking the appeal, shall designate the judgment, or part thereof appealed from, and shall contain a short statement of reasons for the appeal. The clerk shall mail a copy of the notice of appeal to all parties other than parties taking the appeal.

(c) Designation of parties. The party taking the appeal is an appellant. All other parties are appellees.

(d) Release on bond pending appeal. In criminal cases the defendant may be continued on release or be released on bail, as provided by the District Court. The appellant may petition the Supreme Court, or Chief Justice thereof, to review any decision of the District Court taken under this Section.

Sec. 207. Record on appeal.

(a) Within 5 days after a notice of appeal is filed in a criminal case or a petition for review is filed in a civil case, the clerk of the District Court shall certify and file with the Supreme Court all papers comprising the record of the case.

(b) The transcript of the criminal or civil case will be produced in written or electronic format and available to the parties at a cost to be determined by the District Court Administrator.

Sec. 208. Briefs and memoranda.

Within thirty (30) days after the notice of appeal is filed, or a petition for review is granted, or within such other time as the Court allows, the appellant may file a written brief, memorandum or statement in support of his/her appeal. An original and one (1) copy for each appellee shall be filed with the clerk who shall mail one (1) copy, registered or certified mail, return receipt requested, to each appellee. The return receipt shall then be filed with the clerk. The appellee shall have fifteen (15) days after receipt of the appellant's brief, memorandum or statement, or such other time as the Supreme Court allows, within which to file an answer brief, memorandum or statement if he/she desires. An original and one (1) copy for each appellant shall be filed with the clerk who shall mail one (1) copy, registered or certified mail, return receipt requested, to each appellant. The return receipt shall be filed with the clerk. No further briefs, memoranda or statements shall be allowed without leave of Court.

Sec. 209. Oral argument.

The Supreme Court shall assign all criminal cases for oral argument. The Court may in its discretion assign civil cases for oral argument or may dispose of civil cases on the briefs without argument.

Title 2, Chapter 3. Justices and Judges

Sec. 301. Qualifications.

To be eligible to hold the office of justice or judge, a person must have an Associate of Arts degree or Bachelor of Arts or Science degree from an accredited college in law and criminal justice or similar field of study, or 4 years judicial experience; be at least 25 years of age; not have been convicted of a felony; not have been dishonorably discharged from the Armed Forces; be physically capable of carrying out the duties of the office; have successfully completed a judge's qualifying examination administered as prescribed by the Amantonka Nation Executive Board; and in the opinion of the Amantonka Nation Executive Board be of sound judgment and good character and possess a reputation for honesty, fairness and impartiality.

To be eligible to hold the position of Chief Judge of the District Court or Chief Justice of the Supreme Court, a person must also have a degree in law from an accredited law school and be a member in good standing of the bar of any state or federal court. Between equally qualified candidates for a position as judge or justice, preference shall be given to an Indian candidate.

Sec. 302. Terms, appointment and election.

Judges and Justices of the Amantonka Nation shall be appointed by a majority vote of the Nation's Executive Board and shall serve a term of 4 years unless removed for cause. Judicial appointments are renewable for an unlimited number of terms.

Sec. 303. Compensation and bond.

Compensation of all justices and judges shall be fixed by the Nation's Executive Board. Judges and justices shall receive compensation only for the days they sit as members of the Supreme Court or District Court or otherwise perform the duties of their office.

Sec. 304. Oath of office.

Before entering upon the duties of office, each judge and justice shall take the following oath or affirmation: "I, . . ., do solemnly swear (or affirm) that I will administer justice and do equal right

without respect to persons and will truly, faithfully, and impartially discharge and perform all duties incumbent upon me as (Justice)(Judge) according to the best of my abilities and understanding. So help me God."

Sec. 305. Judicial Conduct Commission.

There is created a Judicial Conduct Commission to protect the public from improper conduct or behavior of judges; preserve the integrity of the judicial process; maintain confidence in the judiciary; create a greater awareness of proper judicial conduct on the part of the judiciary and public; and provide for expeditious and fair disposition of complaints of judicial misconduct. The Judicial Conduct Commission shall consist of the three members of the Amantonka Supreme Court.

Sec. 306. Disqualification.

A justice or judge shall be disqualified in any proceeding in which his/her impartiality might reasonably be questioned, in which he/ she has any personal bias or prejudice concerning any party, in which he/she or a member of his/her immediate family might be a witness, has any interest, or has any personal knowledge of any disputed evidentiary facts concerning the proceeding, or has acted or is acting as a lawyer or lay counselor in the proceeding, or in which he/she might otherwise appear to be biased or prejudiced.

Title 2, Chapter 5. Attorneys and Lay Counselors

Sec. 501. Qualifications for admissions as attorney or lay counselor.

(a) Attorneys. No person may practice as an attorney before the District Court or Supreme Court unless admitted to practice and enrolled as an attorney of the District Court upon written application. Any attorney at law who is a member in good standing of the bar of any tribal, state, or federal court shall be eligible for admission to practice before the District Court upon approval of the Chief Judge, and successful completion of a bar examination administered as prescribed by the Amantonka Nation's Executive Board.

(b) Lay counselor. Any person who meets qualifications established in this Section shall be eligible for admission to practice before the Court as a lay counselor upon written application and approval of the Chief Judge. To be eligible to serve as a lay counselor, a person

- (1) Must be at least twenty-one (21) years of age;
- (2) Must be of high moral character and integrity;
- (3) Not have been dishonorably discharged from the Armed Services;
- (4) Must have successfully completed a bar examination administered as prescribed by the Amantonka Nation's Executive Board;

(5) Must not have been convicted of a felony in any jurisdiction.

(c) Any person whose application to practice as an attorney or lay counselor is denied by the Chief Judge may appeal that determination to the Amantonka Nation's Supreme Court within fifteen (15) days of the denial. The Supreme Court shall request a statement of the reasons for the denial from the Chief Judge, and after receiving such statement shall review the application and any other record which was before the Chief Judge and may, in its discretion, hear oral argument by the applicant. The Supreme Court shall determine de novo whether the applicant shall be admitted, and its determination shall be final.

Sec. 502. Roll of attorneys and lay counselors. A roll of attorneys and lay counselors admitted to practice before the Court shall be maintained by the clerk of court.

Sec. 503. Right to counsel.

- (1) Any person at his/her own expense may have assistance of counsel in any proceeding before the District Court.
- (2) Any non-Indian defendant accused of a crime pursuant to the Nation's criminal jurisdiction under Title 2 Section 105(b), who satisfies the Nation's standard for indigence, is entitled to appointment of a public defender qualified under Title 2 Section 607(b).
- (3) Any Indian defendant accused of a crime pursuant to the Nation's criminal jurisdiction, who satisfies the Nation's standard for indigence, is entitled to appointment of a public defender qualified under Title 2 Section 607(a).
- (4) The District Court in its discretion may appoint counsel to defend any person accused of a crime.

Sec. 504. Disbarment.

(a) The District Court or the Supreme Court may disbar an attorney or lay counselor from practice before the courts or impose suspension from practice for such time as the Court deems appropriate, pursuant to rules adopted by the Court, provided that the Court shall give such attorney or lay counselor reasonable prior notice of the charges against him/her and an opportunity to respond to them. The rules shall include significant violations of the Code of Ethics of the Amantonka Nation as grounds for disbarment.

(b) Any person who is disbarred or suspended by the District Court may appeal that determination to the Amantonka Nation Supreme Court within fifteen (15) days of the disbarment or suspension. The Supreme Court shall request a statement of the reasons for the disbarment or suspension from the Chief Judge, and after receiving such statement shall review the record which was before the District Court and may, in its discretion, hear oral argument by the applicant. The Supreme Court shall determine de novo whether the applicant shall be disbarred or suspended, and its determination shall be final.

(c) Any person who is disbarred or suspended by a justice of the Supreme Court may appeal that determination to the Amantonka Nation Supreme Court within fifteen (15) days of the disbarment or suspension. The appeal shall be determined by those justices of the Court not involved in the initial determination. The Court shall request a statement of the reasons for the disbarment or suspension from the justice who took the initial action, and after receiving such statement shall review the record which was before the justice and may, in its discretion, hear oral argument by the applicant. The Supreme Court shall determine de novo whether the applicant shall be disbarred or suspended, and its determination shall be final.

(d) Any person who has been disbarred or suspended in excess of one (1) year from the practice of law before the Amantonka Nation District Courts may reapply for admission before the Chief Judge of the Amantonka Nation District Court. If the Chief Judge had previously disbarred or suspended the applicant, then the application shall be filed with an Associate Judge of the District Court. The person must submit a statement for readmission to the appropriate judge of the District Court. After receiving such statement, the appropriate judge shall determine whether there is good cause for the applicant to be readmitted to practice before the Amantonka Nation District Court. If the applicant for readmission is denied by the judge, the applicant may appeal such decision to the Amantonka Nation Supreme Court within ten (10) working days from receipt of such denial in writing. The decision of the Supreme Court shall be final.

Sec. 505. Members of the Amantonka Nation Executive Board shall not practice as attorneys or lay counselors or attempt to influence District Court decisions.

No member of the Amantonka Nation Executive Board shall practice before or in any manner attempt to influence any decision of the District Court or Supreme Court during his/her term of office. Attempts to influence District Court decisions shall be grounds for removal from office.

Title 2, Chapter 6. District Court Prosecutor and Public Defender

Sec. 601. Office of Prosecutor.

There shall be an Office of the Prosecutor, staffed by a Chief Prosecutor and such assistant prosecutors as the Amantonka Nation's Executive Board may determine.

Sec. 602. Qualifications.

To be eligible to serve as chief prosecutor or assistant prosecutor, a person shall

- (1) Have an Associate of Arts degree or Bachelor of Arts degree from an accredited college in law and justice or similar field of study;
- (2) Be at least twenty-one (21) years of age;
- (3) Be of high moral character and integrity;
- (4) Not have been dishonorably discharged from the Armed Services;
- (5) Be physically able to carry out the duties of the office;
- (6) Have successfully completed a bar examination administered as prescribed by the Amantonka Nation's Executive Board; and
- (7) must have training in Amantonka Nation law and culture.

Sec. 603. Appointment and compensation.

The chief prosecutor shall be appointed by a two-thirds (2/3) vote of the Amantonka Nation's Executive Board taken at a meeting at which a quorum is present. Assistant prosecutors shall be appointed by a majority vote of those voting at a meeting of the Amantonka Nation's Executive Board at which a quorum is present. The Amantonka Nation's Executive Board shall establish rates of compensation of the chief prosecutor and any assistants.

Sec. 604. Oath of office.

Before entering upon the duties of office, the chief prosecutor and assistant prosecutors shall take the following oath of affirmation:

"I, . . . do solemnly swear (or affirm) that I will truly, faithfully and impartially discharge all duties of my office as prosecutor to the best of my abilities and understanding. So help me God."

Sec. 605. Duties.

The chief prosecutor and assistant prosecutors shall, in the name of the Amantonka Nation, prosecute criminal cases in Nation's courts. The prosecutors shall review and approve all criminal complaints, unless signed by a law enforcement officer having personal knowledge of the violation, shall supervise the gathering of evidence by law enforcement officers to make sure each case is promptly and fairly presented, shall represent the Nation at arraignments, and shall be authorized to dismiss any criminal complaint that is not supported by sufficient evidence or is improvidently brought. The prosecutors shall represent juveniles in Juvenile Court proceedings where parents or guardians are charged with neglect, abuse or abandonment, or where the custody of a child is

disputed. The chief prosecutor shall make recommendations from time to time to the Amantonka Nation's Executive Board on the administration of justice on the Reservation.

Sec. 606. Office of public defender.

The Amantonka Nation's Executive Board may appoint a public defender and any assistants it deems necessary by majority vote of those voting at a meeting of the Amantonka Nation's Executive Board at which a quorum is present.

Sec. 607. Qualifications.

- (a) To be eligible to serve as a public defender or assistant public defender, a person shall:
 - (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.
- (b) 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, is sufficiently qualified under the Indian Civil Rights Act to represent a defendant imprisoned more than one year and any defendant charged under the Nation's Special Domestic Violence Criminal Jurisdiction.

Sec. 608. Compensation.

The Amantonka Nation's Executive Board shall establish rates of compensation for the public defender and assistants.

Sec. 609. Oath of office.

Before entering upon the duties of office, the public defender and assistant defenders shall take the following oath or affirmation:

"I, . . . do solemnly swear (or affirm) that I will truly, faithfully and impartially discharge all duties of my office as defender to the best of my abilities and understanding. So help me God."

Title 2, Chapter 7 Code of Ethics for Attorneys and Lay Counselors

Canon 1. Competence.

An attorney shall provide competent representation to a client. Competent legal representation requires the legal knowledge, skill, thoroughness, and preparation reasonably necessary for the representation. As employed in this Code, the term "attorney" includes lay counselors.

Canon 2. Scope of Representation.

An attorney shall abide by a client's wishes concerning the goals of legal representation and shall consult with the client concerning the means of pursuing those goals. Attorneys should not pursue legal goals without their client's approval, nor should they assist a client in criminal or fraudulent activity.

Canon 3. Diligence.

An attorney shall act with reasonable diligence and promptness in representing a client. Unless the client agrees to modify the scope of representation, the attorney shall complete all matters undertaken on the client's behalf.

Canon 4. Communication.

An attorney shall keep a client well informed and shall respond promptly to requests for information. An attorney must fulfill reasonable client requests for information in order to help the client make intelligent decisions about his or her case.

Canon 5. Fees.

(1) An attorney's fees shall be reasonable. The determination of reasonable fees should include the following consideration:

- (a) The experience and ability of the attorney providing the legal services;
- (b) The time and skill involved in performing the service; and
- (c) The fee customarily charged on the Amantonka Nation's Reservation and surrounding communities for similar services.

(2) A fee may be contingent on the outcome of the representation. A contingent fee agreement should however, be in writing and state the method by which it shall be calculated. An attorney shall not enter into a fee arrangement contingent upon securing a divorce or upon the amount of support or property settlement thereof. Neither shall an attorney enter into a contingent fee arrangement for the representation of a defendant in a criminal case.

(3) Representation should not be denied people because they are unable to pay for legal services. The legal profession encourages provision of legal services at no fee or at a substantially reduced fee in these circumstances.

Canon 6. Confidentiality of Information.

An attorney shall not reveal information communicated by a client. However, an attorney may reveal information to the extent that attorney reasonably believes necessary to prevent a client from committing a criminal act likely to result in death or serious bodily harm. An attorney may also reveal information necessary to allegations in any proceedings concerning the attorney's representation of a client. An attorney, lay counselor, prosecutor or public defender shall not discuss any case, open or closed, with any member of the Amantonka Nation legislative or executive branches of government, except when a discussion is solicited by the legislative or executive branches of government. Attempts to discuss or discussion with said individuals shall result in sanctions, including disbarment, by the Amantonka Nation District Court.

Canon 7. Conflict of Interest.

(1) An attorney should not represent a client if that representation will be adverse to the interests of another client, or if the attorney's own interests conflict with those of a client, unless:

(a) The attorney reasonably believes the representation will not adversely affect his or her ability to represent each client fully and competently; and

(b) Each client consents after disclosure and consultation. Examples of conflict of interest between clients include: representing opposing parties in litigation, representing more than one defendant in a criminal case, and representing a client against a party who is a client in another case, even if the two cases are unrelated. Examples of conflicts of interest between a lawyer and client include: entering into any business transaction with a client and acquiring any financial interest adverse to the client.

(2) An attorney who had formerly represented a client shall not thereafter represent another client in a related matter in which that client's interest are adverse to the interests of the former client, unless the former client consents after consultation.

(3) An attorney shall not represent a client in a matter in which that attorney served as a judge or arbitrator without the consent of all parties to the proceeding.

Canon 8. Client under Disability.

When an attorney believes a client is incapable of acting in his or her own interest the attorney shall seek the appointment of a guardian for the client. Otherwise, the attorney shall as far as practicable maintain a normal attorney-client relationship with the client.

Canon 9. Safekeeping Property.

A client's property held by an attorney in connection with representation of that client shall be kept separate from the attorney's own property. Funds shall also be kept in separate accounts.

Canon 10. Declining or Terminating Representation.

(1) An attorney shall terminate representation if a client requests that the attorney engage in illegal or fraudulent conduct or conduct that violates the Amantonka Nation Code of Ethics.

(2) An attorney may withdraw from representing a client if withdrawal can be accomplished without adversely affecting the client's interests, or if:

(a) The client fails substantially to meet an obligation to the attorney regarding the attorney's services and the client has been notified that the attorney will withdraw if the obligation is not met;

(b) The representation will result in an unreasonable financial burden on the attorney or has been made unreasonably difficult by the client; or

(c) Other good cause for withdrawal exists. When the attorney is representing the client in a Court matter, withdrawal can only be accomplished upon motion to the Court. When ordered by a court of the Amantonka Nation to continue representation, an attorney shall do so despite good cause for terminating the representation. If termination of representation is granted, an attorney shall take reasonable steps to protect the client's interests. Such steps include giving reasonable notice and time to appoint new counsel and surrendering papers and property to which the client is entitled.

Canon 11. Advice and Meritorious Claims.

When representing a client an attorney shall give candid advice based on his or her best professional judgment. An attorney shall not raise or controvert issues without a substantial basis for doing so.

Canon 12. Expediting Litigation.

An attorney shall make reasonable effort to expedite litigation consistent with a client's interests. An attorney shall not engage in delay tactics designed solely to frustrate the opposing party's attempt to obtain a legal remedy.

Canon 13. Honesty toward The Amantonka Nation Courts.

An attorney shall act with honesty toward the Amantonka Nation Courts. An attorney shall not knowingly make false statements to the Courts or knowingly offer false evidence. Nor shall an attorney fail to disclose significant legal authority directly adverse to his or her client's position.

Canon 14. Fairness to Opposing Party.

An attorney shall act in a manner fair to the opposing party. In order that fair access to evidence be

maintained, an attorney shall not:

- (a) Destroy or conceal evidence, including documents or other materials of possible evidentiary value;
- (b) Falsify existing evidence or create new evidence; or
- (c) Influence a witness to give false or mis-leading testimony.

Canon 15. Impartiality and Decorum of The Amantonka Nation Courts.

An attorney shall not attempt to influence a judge or juror sitting on his or her case other than through authorized legal means. An attorney shall not privately confer with a judge concerning any case before that judge. Nor shall an attorney meet with a juror or prospective juror in a case that attorney is handling.

Canon 16. Conduct Before The Amantonka Nation Courts.

An attorney shall act with respect and courtesy toward the Amantonka Nation Courts. This requires that an attorney comply with rules established by the Court for courtroom demeanor and procedure.

Canon 17. Attorney as Witness.

An attorney shall not act as an advocate at a trial in which the attorney is likely to be a necessary witness except where:

- (a) The testimony relates to an uncontested issue;
- (b) The testimony relates to the nature and value of legal services rendered in the case; or
- (c) Disqualification of the attorney would substantially burden the client.

Canon 18. Special Responsibilities of a Prosecutor.

Prosecutors shall uphold their special responsibilities. It is a prosecutor's duty to ensure that a defendant in a criminal case is accorded justice as prescribed by the criminal procedure of the Amantonka Nation Code. In order to carry out this responsibility a prosecutor shall:

- (a) Not prosecute a charge the prosecutor knows is not supported by probable cause;
- (b) Make efforts to ensure that the accused has the opportunity to obtain counsel;
- (c) Not attempt to obtain waivers of important pretrial rights from an unrepresented accused;
- (d) Disclose to the defense all evidence and information known to the prosecutor tending to negate and mitigate the guilt of the accused;
- (e) Exercise care to prevent other persons associated with the prosecutor in a criminal case from talking publicly about the case prior to trial.

Canon 19. Communication with Person Represented By Counsel.

When representing a client, an attorney shall not communicate about that representation with a party the attorney knows to be represented by another attorney in the same proceedings, unless the attorney has the consent of the other attorney.

Canon 20. Communications Concerning an Attorney's Services.

An attorney shall not make false or misleading statements about his or her services. A communication is false or misleading if it contains a material misrepresentation of fact or law or is likely to create unreasonable expectations about the results an attorney can achieve.

Canon 21. Soliciting Clients.

An attorney shall not solicit employment from a prospective client through direct communications. Apart from family members, it is unethical for an attorney to contact in person, by phone or mail, prospective clients for the purpose of persuading them to accept legal assistance. This does not include mailings to persons not known to require legal services and which give general information about the attorney's services. An attorney may advertise through public media such as telephone directories, newspapers, and television.

Canon 22. Rule of Court for Handling Complaints against Attorneys and Lay Advocates.

The initial complaint must be written and submitted to the District Court Administrator. The District Court Administrator will review the complaint and request that the complaining party submit an affidavit to support the complaint. The District Court Administrator will forward the complaint to the respondent attorney/ lay advocate and request a response within 10 working days. The District Court Administrator will forward the written complaint, affidavit and response to the Tribal attorney for review. The Tribal attorney will investigate the complaint. If the Tribal attorney decides that the allegations lack probable cause, the complaint will be dismissed. If the Tribal attorney decides that there is probable cause, a hearing will be set. The Tribal attorney or his designee within the prosecutor's office, as long as there is no conflict between the parties, will prosecute the complaint, with all parties present, at a hearing before the Chief Judge. If the Chief Judge initiated the complaint, the judge with the most seniority as a tribal court judge will preside at the hearing. If the complaint is filed against the Tribal attorney, the Chief Prosecutor will investigate the complaint to determine if probable cause exists. If probable cause exists, the Chief Prosecutor or her designee will prosecute the complaint. A final decision by the Chief Judge can be appealed to the Amantonka Nation Supreme Court.

Title 3 - Citizenry

Title 3, Chapter 2 Naturalization

Section 201. Eligibility

In recognition of and accordance with the Amantonka Nation’s historical practice of adopting into our community those who marry citizens of the Amantonka Nation, the Amantonka National Council has hereby created a process through which those who marry a citizen of the Amantonka Nation may apply to become a naturalized citizen of the Amantonka Nation. Any person who has

- (a) Married a citizen of the Amantonka Nation, and
- (b) Lived on the Amantonka reservation for a minimum of two years

May apply to the Amantonka Citizenship Office to initiate the naturalization process.

Section 202. Process

To become a naturalized citizen of the Amantonka Nation, applicants must

- (a) Complete a course in Amantonka culture;
- (b) Complete a course in Amantonka law and government;
- (c) Pass the Amantonka citizenship test;
- (d) Perform 100 hours of community service with a unit of the Amantonka Nation government.

Section 203. Citizenship Status

Upon successful completion of the Naturalization process, the applicant shall be sworn in as a citizen of the Amantonka Nation. The name of each new citizen shall be added to the Amantonka Nation roll, and

the new citizen shall be issued an Amantonka Nation ID card. Each new citizen is thereafter entitled to all the privileges afforded all Amnatonka citizens.

Title 5 - Criminal code

Sec. 244. Partner or family member assault.

(a) A person commits the offense of partner or family member assault if the person:

- (1) intentionally causes bodily injury to a partner or family member;
- (2) negligently causes bodily injury to a partner or family member with a weapon; or
- (3) intentionally causes reasonable apprehension of bodily injury in a partner or family member.

(b) For the purpose of this section, the following definitions apply:

(1) *Family member* means mothers, fathers, children, brothers, sisters, and other past or present family members of a household. These relationships include relationships created by adoption and remarriage, including stepchildren, stepparents, in-laws, and adoptive children and parents. These relationships continue regardless of the ages of the parties and whether the parties reside in the same household.

(2) *Partners* means spouses, former spouses, persons who have a child in common, and persons who have been or are currently in a dating or ongoing intimate relationship.

(c) Violation of this section carries with it a penalty of

- a minimum of 30 days imprisonment and a maximum of three years imprisonment; and/or
- a fine of up to \$5000; and/or
- restitution in an amount determined by the District Court; and/or
- participation in a rehabilitation program; and/or
- a term of community service as established by the District Court.