S-22-653 *In re Interest of Manuel C. and Mateo S., Children Under Eighteen Years of Age, State of Nebraska* (Appellee) v. *Amber S.* (Appellant)

Appeal from Separate Juvenile Court for Lancaster County, Judge Shellie D. Sabata

Attorneys: Jacinta N. Dai-Klabunde (Legal Aid of Nebraska for Appellant, the mother), Joseph Plummer (Joseph Plummer for Appellee, Red Lake Band of Chippewa Indians), Maureen E. Lamski (Deputy Lancaster County Attorney for Appellee, State of Nebraska), and Allison N. Derr, Sarah C. Helvey, and Robert E. McEwen (Nebraska Appleseed Center for Law, Amicus Curiae Brief).

Juvenile: Indian Child Welfare Act

Proceedings below: Manuel C. and Mateo S. were found to be children that lacked proper parental care due to the faults of their mother under the Nebraska Juvenile Code. Sometime after the juvenile court made this finding, the Red Lake Band of Chippewa Indians filed a Motion to Intervene alleging that the minor children were Indian children within the meaning of the Federal and State Indian Child Welfare Acts [ICWA]. ICWA is a federal law that was passed in 1978 which allows an Indian Tribe to intervene in juvenile court, and Nebraska has passed a State version of ICWA. If granted, the Motion to Intervene allows the Tribe to participate in the proceedings as a legal party. The intent of ICWA is to keep Native American children placed with their families, their Tribes, or other Native American families. Although the juvenile court initially signed an order which allowed the Tribe to Intervene, the State asked the juvenile court to reconsider that order. After rehearing, the juvenile court set aside the order allowing the Red Lake Band of Chippewa Indians to intervene when it found that the children were not Indian children under ICWA. On its own motion, the Supreme Court ordered this case to be transferred from the docket of the Court of Appeals to its docket**.**

In her appeal, the mother, the Appellant, argued that the juvenile court made the following errors: 1) in finding that the Federal and State ICWA did not apply to Appellant and her children; and 2) in setting aside the order that allowed the Red Lake Band of Chippewa Indians to intervene. The mother raises the question of whether it is the courts have the exclusive authority to determine the meaning of Indian child under ICWA or whether it is the Tribe that has sovereign authority to determine who is an Indian child under ICWA. For its part, the State of Nebraska also argues that the juvenile court’s order setting aside the Tribe’s intervention is not a final, appealable order and thus is not subject to appellate review at this time.

The natural mother, the Tribe, and the State of Nebraska have had the opportunity to file briefs with the Nebraska Supreme Court, and the Nebraska Appleseed Center for the Law has filed an amicus curiae brief. Amicus curiae is Latin for “friend of the court” and these briefs are filed after obtaining the consent of the Supreme Court when a non-party has additional legal arguments that the Supreme Court may consider. The case is now ready to be argued before the Supreme Court.