

Turtle Talk

Indigenous Law and Policy Center Blog
Michigan State University College of
Law

Tribes' Statement re: Brackeen v. Zinke Decision

Posted on [October 5, 2018](#) by [Matthew L.M. Fletcher](#)

STATEMENT REGARDING RULING STRIKING DOWN THE INDIAN CHILD WELFARE ACT

We strongly disagree and are deeply disappointed with Judge O'Connor's decision in *Brackeen v. Zinke* in the U.S. District Court for the Northern District of Texas striking down the Indian Child Welfare Act, four decades after it was enacted. We remain steadfast in our commitment to defend the constitutionality of ICWA by all available means for one simple reason: If ICWA is struck down in whole or in part, the victims will be our children and our families, Native children and Native families.

The apparent goal of Plaintiffs' litigation is an extreme one — to separate children from their parents. Before ICWA, as many as one-third of all tribal children were forcibly removed from their families and their communities by state governments. Thorough and objective analysis of the systematic removal of Indian children from Indian homes found many removals were wholly unjustified. These policies devastated tribal communities and we refuse to go back to those darker days. We are heartened by the support of so many states that stand shoulder to shoulder with us in this litigation to protect families.

We are in consultation with our legal counsel and exploring all available options. Rest assured, we consider the trial level decision today as one part of a long process. In the interim, we will seek a stay of the decision until higher courts have an opportunity to review it. We will continue to work in state courts throughout the country to ensure the protections of ICWA for Native children, families, and tribes. We strongly believe that, in the end, our rights protected by the Indian Child Welfare Act will be affirmed and reinforced.

- **Principal Chief Bill John Baker, Cherokee Nation**
- **Chairman Robert Martin, Morongo Band of Mission Indians**
- **Chairman Tehassi Hill, Oneida Nation**
- **President Fawn Sharp, Quinault Indian Nation**



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[National Indian Law Library Bulletin \(9/12/2018\)](#)

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