

TUESDAY, FEBRUARY 12, 2008  
10:00 A.M.

NO. 2

#24546, #24547

DEANN LESLIE LANGDEAU,  
Plaintiff and Appellant,

vs.

JEFFREY JAY LANGDEAU,  
Defendant and Appellee.

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#24593

JEFFREY JAY LANGDEAU,  
Petitioner and Appellee,

vs.

DEANN LESLIE LANGDEAU,  
Respondent and Appellant.

Ms. Patricia A. Carlson  
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(FOR APPELLANT)

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(FOR APPELLEE)

The Honorable Lori S. Wilbur  
Sixth Judicial Circuit  
Lyman County

#24546--DIV 07-08  
#24547--TPO 07-012

The Honorable Lori S. Wilbur  
Sixth Judicial Circuit  
Hughes County

#24593--CIV 07-182

## LEGAL ISSUES PRESENTED FOR APPEAL BY APPELLANT

- I. WHETHER THE TRIAL COURT ERRED IN RULING THAT UNDER THE UNIFORM CHILD CUSTODY JURISDICTION ENFORCEMENT ACT THE LOWER BRULE SIOUX TRIBAL COURT HAD JURISDICTION IN THE DIVORCE ACTION BETWEEN THESE PARTIES ON THE BASIS OF INCONVENIENT FORUM IN SOUTH DAKOTA.
  - A. WHETHER THE NEW PROVISIONS OF THE UCCJEA REQUIRE THE COURT TO TAKE TESTIMONY AND MAKE FINDINGS WHERE A PRIMA FACIE CASE OF ABUSE HAS BEEN MADE BEFORE DECIDING WHETHER TO TRANSFER CUSTODY, VISITATION AND SUPPORT ISSUES TO ANOTHER STATE
  - B. WHETHER SDCL 25-5b-204(a) REQUIRES THE COURT TO TAKE EMERGENCY JURISDICTION AS TO THE CUSTODY ISSUE IF THE CHILDREN OR THE PARENT HAVE BEEN SUBJECTED TO ABUSE OR MISTREATMENT
  - C. WHETHER SDCL 25-5B-207(b)(1) REQUIRES THE COURT TO MAKE A FACTUAL FINDING REGARDING DOMESTIC VIOLENCE BEFORE DECIDING WHETHER IT IS APPROPRIATE FOR A COURT OF ANOTHER STATE TO EXERCISE JURISDICTION IN CHILD CUSTODY, VISITATION AND SUPPORT MATTERS

The trial court ruled that the Lower Brule Sioux Tribal Court was the appropriate forum for the divorce, custody, visitation, child support and protection order matters.

The most relevant cases as to this issue are: Lustig v. Lustig, 1997 SD 24, 560 NW2d 239 (SD 1997); In re M.C., 527 NW2d 290 (SD 1995); Zappitello v. The Hon. Scott C. Moses, 458 NW2d 784 (SD 1990); and Wells v. Wells, 451 NW2d 402 (SD 1990). Relevant statutory authority is SDCL §§ 25-4-30.1; 15-5-11; and 26-5B-201 through 26-5B-207; the Indian Child Welfare Act.

**24546/24547/  
24593**

LEGAL ISSUES PRESENTED FOR APPEAL BY APPELLANT

- I. WHETHER THE TRIAL COURT ERRED IN RULING THAT THE ORDERS OF THE LOWER BRULE SIOUX TRIBE DATED MAY 11, 2007 SHOULD BE RECOGNIZED AND ENFORCED UNDER SOUTH DAKOTA LAW.

The trial court ruled that the Lower Brule Sioux Tribal Court Orders dated May 11, 2007, should be recognized and enforced by the state court. [App. Ex. 3-6].

The most relevant cases regarding this issue are: Wharf Resources v. Farrier, 1996 SD 110, 552 NW2d 610 (SD 1994); Lustig v. Lustig, 1977 SD 24, 560 NW2d 239 (SD 1997); DeShanev v. Winnebago County Dept. Of Social Services, 109 Sct 998, 489 US 189, 103 Led2d 249 (1989); and Wells v. Wells, 451 NW2d 402 (SD 1990).

Relevant statutory authority is SDCL 1-1-25; the UCCJEA; and SDCL 25-5B.

- II. WHETHER APPELLANT'S CONSTITUTIONAL RIGHTS TO DUE PROCESS UNDER THE 14<sup>TH</sup> AMENDMENT OF THE UNITED STATES CONSTITUTION WERE VIOLATED BY THE DISMISSAL OF THE UNDERLYING ACTIONS AND RECOGNITION OF THE TRIBAL COURT ORDERS.

The most relevant cases as to this issue are: State ex rel. Baker v. Jameson, 72 SD 638, 28 N.W.2d 441 (1949); DeShanev v. Winnebago County Dept. Of Social Services, 109 Sct 998, 489 US 189, 103 Led2d 249 (1989). Relevant constitutional and statutory authority is Constitution S.D. art. 6, § 2; USCA Const. Amend. 14 and SDCL 1-1-25.