

DOLLAR GENERAL CORPORATION v. MISSISSIPPI BAND OF CHOCTAW INDIANS, 579 U. S. ____ (2016)(June 23, 2016)

A Case About Tribal Jurisdiction Over Non-Members

***QUICK OVERVIEW OF THE CASE:** This case arose as a civil damages claim by the family of an Indian boy who alleges that he was sexually abused by the manager of a Dollar General store operating tribal trust land within the Choctaw reservation in Mississippi. Lawsuit was filed in Tribal Court, but Dollar General argued that the Tribal Court had no jurisdiction to hear the case.

***KEY HOLDING:** The Supreme Court upheld the 5th Circuit Court of Appeals ruling that Dollar General had consented to Tribal Court jurisdiction, under the Montana v. United States test. The Tribal Court has jurisdiction.

***IMPACT OF THE CASE MOVING FORWARD:** “Sophisticated tribes and businesses will spend increasing amounts of energy at the bargaining table fashioning partnerships where consents to applicable law and forum are clear and express.” Gehres

NEBRASKA V. PARKER, 577 U. S. ____ (2016)(March 22, 2016)

A Case About (Non) Diminishment of Reservation Boundaries

*QUICK OVERVIEW OF THE CASE: City of Pender Nebraska challenged authority of the Omaha Tribe to enact a liquor control ordinance, claiming that the town was not within the Tribe's reservation. The town and State of Nebraska argued that Congress diminished the boundaries of the Omaha Indian Reservation by the Act of Aug. 7, 1882, which stated "the Secretary of the Interior [shall] be, and he hereby is, authorized to cause to be surveyed, if necessary, and sold, all that portion of their reservation in the State of Nebraska lying west of the [Railroad] right of way."

*KEY HOLDING: The 1882 Statute did NOT diminish the Omaha Reservation, but rather only authorized lands to be sold. Only Congress may diminish the boundaries of an Indian reservation, and its intent to do so must be clear. Hagen reaffirmed!

*IMPACT OF THE CASE MOVING FORWARD: Primarily reaffirms concepts announced in Hagen. Clarifies that "subsequent treatment" of the area by government officials (as well as subsequent demographics) are of limited value in determining whether Congress intended to diminish the Reservation.